

Notice of Proposed Rulemaking

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-48.002: Definitions

PURPOSE AND EFFECT: The purpose of this Rule is to establish the definitions used in Rule Chapter 67-48, F.A.C., which includes by reference the Qualified Allocation Plan.

SUMMARY: Prior to the opening of a funding process, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior competitive funding processes to determine what changes or additions should be added to the Rule, competitive solicitations, and the Qualified Allocation Plan (QAP). The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply under these funding programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this 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 a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: April 18, 2024, beginning at 10:00 a.m., Eastern Time

PLACE: The hearing will take place by webinar and the instructions for accessing the webinar will be posted on the Corporation's website <https://www.floridahousing.org/programs/developers-multifamily-programs/competitive/current-rules-and-rule-development-process/2024-rule-development-process>. Interested parties may also attend in person at the offices of Florida Housing Finance Corporation, 227 N. Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Melissa Levy, Managing Director of Multifamily Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850) 488-4197.

THE FULL TEXT OF THE PROPOSED RULE IS:

PART I ADMINISTRATION

67-48.002 Definitions.

(1) “ACC” or “Annual Contributions Contract” means a contract between HUD and a Public Housing Authority containing the terms and conditions under which HUD assists in providing for development of housing units, modernization of housing units, operation of housing units, or a combination of the foregoing.

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

(3) “Address” means the address number, street name and city or, at a minimum, the street name, closest designated intersection, and whether or not the Development is located within a city or in the unincorporated area of the county. If located within a city, include the name of the city.

(4) “Adjusted Income” means, with respect to a HOME Development, the gross income from wages, income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, adjusted for family size, minus the deductions allowable under 24 CFR §5.611.

(5) “Affiliate” means any person that:

(a) Directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant or Developer;

(b) Serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer;

(c) Directly or indirectly receives or will receive a financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C., or

(d) Is the spouse, parent, child, sibling, or relative by marriage of a person described in paragraph (a), (b) or (c), above.

(6) “ALF” or “Assisted Living Facility” means a Florida licensed living facility that complies with Sections 429.01 through 429.54, F.S., and Chapter 58A-5, F.A.C.

(7) “Allocation Authority” means the total dollar volume of the state of Florida’s Housing Credit ceiling available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

(8) “Applicable Fraction” means Applicable Fraction as defined in Section 42(c)(1)(B) of the IRC.

(9) “Applicant” means any person or legal entity of the type and with the management and ownership structure described herein that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to rule Chapter 67-60, F.A.C., for one or more of the Corporation’s programs. For purposes of Rules 67-48.0105, 67-48.0205 and 67-48.031, F.A.C., Applicant also includes any assigns or successors in interest of the Applicant. Unless otherwise stated in a competitive solicitation, as used herein, a ‘legal entity’ means a corporation, limited partnership or limited liability company legally formed as of the Application deadline.

(10) “Application” means the sealed response submitted to participate in a competitive solicitation for funding pursuant to rule Chapter 67-60, F.A.C.

(11) “Binding Commitment” means, with respect to a Housing Credit Development, an agreement between the Corporation and an Applicant by which the Corporation allocates and the Applicant accepts Housing Credits from a later year’s Allocation Authority in accordance with Section 42(h)(1)(C) of the IRC.

(12) “Board of Directors” or “Board” means the Board of Directors of the Corporation.

(13) “Building Identification Number” means, with respect to a Housing Credit Development, the number assigned by the Corporation to describe each building in a Housing Credit Development, pursuant to Internal Revenue Service Notice 88-91.

(14) “Calendar Days” means, the seven (7) days of the week.

(15) “Carryover” means the provision under Section 42 of the IRC and Rule 67-48.028, F.A.C., which allows a Development to receive a Housing Credit Allocation in a given calendar year and be placed in service by the close of the second calendar year following the calendar year in which the allocation is made.

(16) “Catchment Area” means the geographical area covered under a Local Homeless Assistance Continuum of Care Plan, as designated and revised as necessary by the State Office on Homelessness, in accordance with Section 420.624, F.S.

(17) “CHDOs” or “Community Housing Development Organizations” means Community housing development organizations as defined in Section 420.503, F.S., and 24 CFR Part 92.

(18) “Commercial Fishing Worker” means Commercial fishing worker as defined in Section 420.503, F.S.

(19) “Commercial Fishing Worker Household” means a household of one or more persons wherein at least one member of the household is a Commercial Fishing Worker at the time of initial occupancy.

(20) “Competitive Housing Credits” or “Competitive HC” means those Housing Credits which come from the Corporation’s annual Allocation Authority.

(21) “Compliance Period” means a period of time that the Development shall conform to all set-aside requirements as described further in the rule chapter and agreed to by the Applicant in the Application.

(22) “Consolidated Plan” means the plan prepared in accordance with 24 CFR Part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs, including the HOME Program.

(23) “Contact Person” means the person with whom the Corporation will correspond concerning the Application and the Development. This person cannot be a third-party consultant.

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

(25) “Credit Underwriter” means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting services.

(26) “DDA” or “Difficult Development Area” means areas designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income in accordance with Section 42(d)(5)(B), of the IRC.

(27) “Department” means the Department of Economic Opportunity as defined in Section 420.503, F.S.

(28) “Developer” means any individual or legal entity which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application. Unless otherwise stated in a competitive solicitation, as used herein, a ‘legal entity’ means a corporation, association, joint venturer, or partnership legally formed as of Application deadline.

(29) “Developer Fee” means the fee earned by the Developer.

(30) “Development” means Project as defined in Section 420.503, F.S.

(31) “Development Cash Flow” means, with respect to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a Multifamily Mortgage Revenue Bond (MMRB) Loan (as defined in rule Chapter 67-21, F.A.C.), cash transactions of the Development as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles (“GAAP”), as adjusted for any cash transactions that are subordinate to the SAIL loan interest payment including any distribution or payment to the Applicant or Developer, Principal(s) of the Applicant or Developer or any Affiliate of the Principal(s) of the Applicant or Developer, or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining the annual debt service coverage in the Board approved final credit underwriting report.

(32) “Development Cost” means the total of all costs incurred in the completion of a Development excluding Developer Fee, operating deficit reserves, and total land cost as typically shown in the Development Cost line item on the development cost pro forma.

(33) “Development Expenses” means, with respect to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a MMRB Loan (as defined in rule Chapter 67-21, F.A.C.), usual and customary operating and financial costs, such as the compliance monitoring fee, the financial monitoring fee, replacement reserves, the servicing fee and the debt service reserves. As it relates to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a MMRB Loan (as defined in rule Chapter 67-21, F.A.C.) and to the application of Development Cash Flow described in subsections 67-48.010(5) and (6), F.A.C., as it relates to SAIL Developments or in paragraph 67-48.020(3)(b), F.A.C., as it relates to HOME Developments, the term includes only those expenses disclosed in the operating pro forma on an annual basis included in the final credit underwriting report, as approved by the Board, and maximum of 20 percent Developer Fee per year.

(34) “Development Location Point” means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. For a Development which consists of Scattered Sites, this means a single point on the site with the most units that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development.

(35) “Document” means electronic media, written or graphic matter, of any kind whatsoever, however produced or reproduced, including records, reports, memoranda, minutes, notes, graphs, maps, charts, contracts, opinions, studies, analysis, photographs, financial statements and correspondence as well as any other tangible thing on which information is recorded.

(36) “Domestic Violence” means Domestic violence as defined in Section 741.28, F.S.

- (37) “Draw” means the disbursement of funds to a Development.
- (38) “EHCL” or “EHCL Program” means the Elderly Housing Community Loan Program.
- (39) “Elderly” means Elderly as defined in Section 420.503, F.S.
- (40) “ELI Household” or “Extremely Low Income Household” means a household of one or more persons wherein the annual adjusted gross income for the Family is equal to or below the percentage of area median income for ELI Persons.
- (41) “ELI Loan” means the loan made by the Corporation for the Applicant’s ELI Set-Aside commitment, based on terms and conditions outlined in a competitive solicitation.
- (42) “ELI Persons” or “Extremely Low Income Persons” means Extremely low income persons as defined in Section 420.0004(9), F.S., or in a competitive solicitation.
- (43) “ELI Set-Aside” or “Extremely Low Income Set-Aside” means the number of units designated to serve ELI Households.
- (44) “Eligible Persons” means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the Corporation to be of Low Income or Very Low Income, as further described in Rule 67-48.0075, F.A.C.
- (45) “EUA” or “Extended Use Agreement” means, with respect to the HC Program, an agreement which sets forth the set-aside requirements and other Development requirements under the HC Program.
- (46) “Executive Director” means the Executive Director of the Corporation.
- (47) “Family” means a household composed of one or more persons.
- (48) “Farmworker” means Farmworker as defined in Section 420.503, F.S.
- (49) “Farmworker Household” means a household of one or more persons wherein at least one member of the household is a Farmworker at the time of initial occupancy.
- (50) “Final Housing Credit Allocation” means, with respect to a Housing Credit Development, the issuance of Housing Credits to an Applicant upon completion of construction or Rehabilitation of a Development and submission to the Corporation by the Applicant of a completed and executed final cost certification process as required by Section 42, IRC.
- (51) “Financial Beneficiary” means any Principal of the Developer or Applicant entity who receives or will receive any direct or indirect financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C.
- (52) “Financial Institution” means Lending institution as defined in Section 420.503, F.S.
- (53) “Florida Keys Area” means all lands in Monroe County, except:
- (a) That portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;
 - (b) All lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments; and,
 - (c) Federal properties.
- (54) “General Contractor” means a person or entity duly licensed in the state of Florida with the requisite skills, experience and credit worthiness to successfully provide the units required in the Application, and which meets the criteria described in Rule 67-48.0072, F.A.C.
- (55) “Geographic Set-Aside” means the amount of Allocation Authority or funding which has been designated by the Corporation to be allocated for Developments located in specific geographical regions within the state of Florida.
- (56) “HC” or “Housing Credit Program” means the rental housing program administered by the Corporation pursuant to Section 42 of the IRC and Section 420.5099, F.S., under which the Corporation is designated the Housing Credit agency for the state of Florida within the meaning of the following:
- (a) Section 42(h)(7)(A) of the IRC;
 - (b) This rule chapter regarding Competitive Housing Credits; and,
 - (c) Rule Chapter 67-21, F.A.C., regarding Non-Competitive Housing Credits.
- (57) “HOME” or “HOME Program” means the HOME Investment Partnerships Program administered by the Corporation pursuant to 24 CFR Part 92 and Section 420.5089, F.S.
- (58) “HOME-Assisted Unit” means the specific units that are funded with HOME funds. HOME units shall adhere to rent controls and income targeting requirements pursuant to 24 CFR §92.252.
- (59) “HOME Development” means any Development which receives financial assistance from the Corporation under the HOME Program.

(60) “HOME Rental Development” means a Development proposed to be constructed or rehabilitated with HOME funds.

(61) “HOME Rent-Restricted Unit” means the maximum allowable rents designed to ensure affordability on the HOME-Assisted Units.

(62) “Homeless” means Homeless as defined in Section 420.621, F.S.

(63) “Housing Credit” means the tax credit issued in exchange for the development of rental housing pursuant to the following:

(a) Section 42 of the IRC;

(b) The provisions of this rule chapter regarding Competitive Housing Credits; and,

(c) The provisions of rule Chapter 67-21, F.A.C., regarding Non-Competitive Housing Credits.

(64) “Housing Credit Allocation” means the amount of Housing Credits determined by the Corporation as necessary to make a Development financially feasible and viable throughout the Development’s Compliance Period pursuant to Section 42(m)(2)(A) of the IRC.

(65) “Housing Credit Development” means the proposed or existing rental housing Development(s) for which Housing Credits have been applied or received.

(66) “Housing Credit Extended Use Period” means, with respect to any building that is included in a Housing Credit Development, the period that begins on the first day of the Compliance Period in which such building is part of the Development and ends on the later of:

(a) The date specified by the Corporation in the Extended Use Agreement, or

(b) The date that is the fifteenth anniversary of the last day of the Compliance Period, unless earlier terminated as provided in Section 42(h)(6) of the IRC.

(67) “Housing Credit Period” means with respect to any building that is included in a Housing Credit Development, the period of 10 years beginning with:

(a) The taxable year in which such building is placed in service, or

(b) At the election of the Applicant, the succeeding taxable year.

(68) “Housing Credit Rent-Restricted Unit” means, with respect to a Housing Credit Development, a unit for which the gross monthly rent shall not exceed 30 percent of the imputed income limitation applicable to such unit as committed to by the Applicant in its Application and shall be determined in a manner consistent with Section 42(g)(2) of the IRC.

(69) “Housing Credit Set-Aside” means the number of units in a Housing Credit Development necessary to satisfy Section 42(g) of the IRC and the percentage of units set-aside by the Applicant in the Application.

(70) “Housing Credit Syndicator” means a person, partnership, corporation, trust or other entity that regularly engages in the purchase of interests in entities that produce Qualified Low Income Housing Projects [as defined in Section 42(g) of the IRC].

(71) “Housing for the Elderly” or “Housing Community for the Elderly” means any housing community as defined in Section 420.503, F.S.

(72) “Housing Provider” means, with respect to a HOME Development, Local Government, consortia approved by HUD under 24 CFR Part 92, for-profit and Non-Profit Developers, and qualified CHDOs, with demonstrated capacity to construct or rehabilitate affordable housing.

(73) “HUD” means the United States Department of Housing and Urban Development.

(74) “IRC” means 26 CFR Section 42 and subsections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, together with corresponding and applicable final, temporary or proposed regulations, notices, and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States.

(75) “Lead Agency” means a Local Government or non-profit serving as the point of contact and accountability to the State Office on Homelessness with respect to the Local Homeless Assistance of Continuum of Care Plan, in accordance with Section 420.624, F.S.

(76) “Local Government” means Local government as defined in Section 420.503, F.S.

(77) “Local Homeless Assistance Continuum of Care Plan” means a plan for developing and implementing a framework for a comprehensive and seamless array of housing and services to address the needs of homeless persons and persons at risk for homelessness, in accordance with Section 420.624, F.S.

(78) “Low Income” means the Adjusted Income for a Family which does not exceed 80 percent of the area median income.

(79) “LURA” or “Land Use Restriction Agreement” means an agreement which sets forth the set-aside requirements and other Development requirements under a Corporation program.

(80) “Match” means non-federal contributions to a HOME Development eligible pursuant to 24 CFR Part 92.

(81) “Moderate Rehabilitation” means, with respect to the SAIL Program, Moderate rehabilitation as defined in Section 420.503, F.S.

(82) “Mortgage” means Mortgage as defined in Section 420.503, F.S.

(83) “Non-Competitive Housing Credits” means the Housing Credits which qualify to be used with Tax-Exempt Bond-Financed Developments and do not come from the Corporation’s annual Allocation Authority.

(84) “Non-Profit” unless otherwise set forth in a competitive solicitation, means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer Fee, and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing, as further described in Rule 67-48.0075, F.A.C.

(85) “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 Mortgage.

(86) “PBRA” or “Project-Based Rental Assistance” means a rental subsidy through a contract with HUD or RD for a property.

(87) “Person with a Disability” means, pursuant to Section 3 of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, an individual to which both of the following apply:

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

(b) The individual is currently or was formerly regarded as having an existing record of such an impairment.

(88) “Person with a Disabling Condition” means a person with a Disabling condition as defined in Section 420.0004(7), F.S.

(89) “Persons with Special Needs” means Person with special needs as defined in Section 420.0004(13), F.S.

(90) “PHA” or “Public Housing Authority” means a housing authority under Chapter 421, F.S.

(91) “Portfolio Diversification” means a distribution of SAIL and HOME Program loans to Developments in varying geographic locations with varying design structures and sizes and with different types and identity of Sponsors.

(92) “Preliminary Allocation” means a non-binding reservation of Housing Credits issued to a Housing Credit Development which has demonstrated a need for Housing Credits and received a positive recommendation from the Credit Underwriter.

(93) “Preservation” unless otherwise stated in a competitive solicitation, means Rehabilitation of an existing development that is at least 20 years old as of an Application Deadline in a competitive solicitation and has an active contract through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515, or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), 811 of the U.S. Housing Act of 1937 (42 U.S.C. §1437), or either has PBRA or is public housing assisted through ACC. If funded through the Corporation, the Development must maintain at least the same number of PBRA or ACC units. Such developments must not have closed on funding from HUD or RD within the 20 years prior to an Application Deadline in a competitive solicitation where the budget was at least \$10,000 per unit for rehabilitation in any year.

(94) “Principal” has the meanings set forth below and any Principal other than a natural person must be a legally formed entity as of the Application deadline:

(a) For a corporation, each officer, director, executive director, and shareholder of the corporation.

(b) For a limited partnership, each general partner and each limited partner of the limited partnership.

(c) For a limited liability company, each manager and each member of the limited liability company.

(d) For a trust, each trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline.

(e) For a Public Housing Authority, each officer, director, commissioner, and executive director of the Authority.

(95) “Project” or “Property” means Project as defined in Section 420.503, F.S.

(96) “QAP” or “Qualified Allocation Plan” means, with respect to the HC Program, the 2024 ~~2023~~ Qualified

Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on the Corporation's website under the Multifamily Programs link or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or from http://www.flrules.org/Gateway/reference.asp?No=Ref_15419.

(97) "QCT" or "Qualified Census Tract" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50 percent or more of the households at an income which is less than 60 percent of the area median gross income, or a poverty rate of at least 25 percent, in accordance with Section 42(d)(5)(B) of the IRC.

(98) "RD" or "Rural Development" means the Rural Development (RD), Rural Housing Service (RHS) agency, within the United States Department of Agriculture (USDA), or any successor agency, department, entity or instrumentality designated by law to administer the programs or exercise the powers of the USDA RD RHS.

(99) "Redevelopment" unless otherwise stated in a competitive solicitation means:

(a) With regard to a proposed Development that involves demolition of multifamily rental residential structures currently or previously existing that are at least 30 years old as of an Application Deadline in a competitive solicitation and either originally received financing or are currently financed through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515, or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), 811 of the U.S. Housing Act of 1937 (42 U.S.C. §1437), or have PBRA; and new construction of replacement structures on the same site maintaining at least the same number of PBRA units, or

(b) With regard to proposed Developments that involve demolition of public housing structures currently or previously existing on a site with a Declaration of Trust are at least 30 years old as of an Application Deadline in competitive solicitation and that are assisted through ACC; and new construction of replacement structures on the same site, providing at least 25 percent of the total new units with PBRA, ACC, or both, after Redevelopment.

(100) "Rehabilitation" means, with respect to the HOME and Housing Credit Program(s), the alteration, improvement or modification of an existing structure where less than 50 percent of the proposed construction work consists of new construction, as further described in Rule 67-48.0075, F.A.C.

(101) "Review Committee" or "Committee" means a committee established pursuant to rule Chapter 67-60, F.A.C.

(102) "SAIL" or "SAIL Program" means the State Apartment Incentive Loan Program created pursuant to Sections 420.507(22) and 420.5087, F.S.

(103) "SAIL Development" means a residential Development comprised of one (1) or more residential buildings proposed to be constructed or rehabilitated with SAIL funds for Eligible Persons.

(104) "SAIL Minimum Set-Aside Requirement" means the least number of set-aside units in a SAIL Development which must be held for Very Low-Income persons or households pursuant to the category (i.e., Family, Elderly, Homeless, Persons with Special Needs, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, F.A.C.

(105) "SAIL Rent-Restricted Unit" means with respect to a SAIL Development, a unit for which the gross monthly rent shall not exceed 30 percent of the imputed income limitation applicable to such unit as committed to by the Applicant in its Application and shall be determined in a manner consistent with Section 42(g)(2) of the IRC.

(106) "Scattered Sites," unless otherwise stated in a competitive solicitation, as applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site that contains, or will contain upon completion of the Development, at least one residential building within a Scattered Site Development, is considered to be a "Scattered Site"). For purposes of this definition "contiguous" means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement, provided the easement is not a roadway or street. All of the Scattered Sites must be located in the same county.

(107) "Section 8 Eligible" means a Family with an income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937.

(108) "Special Needs Household" means a household consisting of a Family that is considered to be Homeless, a survivor of Domestic Violence, a Person with a Disability, or Youth Aging Out of Foster Care. These households require initial, intermittent or on-going supportive services from one or more community based service providers to obtain and retain stable, adequate and safe housing in their communities.

(109) “Special Needs Household Referral Agency” means an organization that is designated and authorized by legislative mandate or the responsible federal or state agency to plan, coordinate and administer the provision of federal or state supportive services or long-term care programs for at least one Special Needs Household population.

(110) “Sponsor” means Sponsor as defined in Section 420.503, F.S.

(111) “State Office on Homelessness” means the office created within the Department of Children and Family Services under Section 420.622, F.S.

(112) “Substantial Rehabilitation” means, with respect to the SAIL Program, to bring a Development back to its original state with added improvements, where the value of such repairs or improvements (excluding the costs of acquiring or moving a structure) exceeds 40 percent of the appraised as is value (excluding land) of such Development before repair and less than 50 percent of the proposed construction work consists of new construction. For purposes of this definition, the value of the repairs or improvements means the Development Cost. To be considered “Substantial Rehabilitation,” there must be at least the foundations remaining from the previous structures, suitable to support the proposed construction.

(113) “Tax-Exempt Bond-Financed Development” means a Development which has been financed by the issuance of tax-exempt bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the IRC.

(114) “Total Development Cost” means the total of all costs incurred in the completion of a Development, all of which shall be subject to the review and approval by the Credit Underwriter and the Corporation pursuant to this rule chapter, and as further described in Rule 67-48.0075, F.A.C.

(115) “Treasury” means the United States Department of Treasury or other agency or instrumentality created or chartered by the United States to which the powers of the Department of Treasury have been transferred.

(116) “Very Low-Income” means:

(a) With respect to the SAIL Program,

1. If using tax-exempt bond financing for the first mortgage, income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, as in effect on the date of this rule chapter, or

2. If using taxable financing for the first mortgage, total annual gross household income which does not exceed 50 percent of the median income adjusted for family size, or 50 percent of the median income adjusted for family size for households within the metropolitan statistical area (MSA), within the county in which the Family resides, or within the state of Florida, whichever is greater, or

3. If used in a Development using Housing Credits, income which meets the income eligibility requirements of Section 42 of the IRC, or

(b) With respect to the HOME Program, income which does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for family size, except that HUD may establish income ceilings higher or lower than 50 percent of the median for the area on a basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(117) “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

(118) “Youth Aging Out of Foster Care” means youth or young adults who are eligible for services under Section 409.1451(2), F.S.

(119) “Zero Bedroom Unit” means a single person occupancy unit of at least 350 square feet that includes a private full bathroom and a vertical closet for clothing. The unit shall include a kitchen with a refrigerator, stove and sink.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5087, 420.5089(2) FS. History—New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 91-48.002, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, 3-30-08, 8-6-09, 11-22-11, 10-9-13, 10-8-14, 9-15-16, 5-24-17, 7-8-18, 7-11-19, 6-23-20, 5-18-21, 7-6-22, 6-28-23, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Melissa Levy, Managing Director of Multifamily Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850) 488-4197

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Ryan Benson, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850) 488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 26, 2024

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 50, Number 24, February 5, 2024