

CHAPTER 67-32

ELDERLY HOUSING COMMUNITY LOAN PROGRAM

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67-32.002 Definitions.

~~For the purposes of this rule the following definitions shall apply:~~

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

~~(2) "Affordability Period" means compliance with the provisions of Rule Chapter 67-32, F.A.C., and the EHCL Application instructions for the term of the loan or 15 years, whichever is longer.~~

~~(3) "Applicant" means any person or legally formed entity that provides Housing for the Elderly who is requesting funding from the Elderly Housing Community Loan Program (EHCL).~~

~~(4) "Application" means the completed forms together with all exhibits submitted to the Corporation in accordance with this rule chapter for the purpose of requesting funds from the EHCL Program.~~

~~(5) "Application Package" means the forms, threshold requirements, instructions and other information necessary for submission of an Application to the Corporation for the EHCL Program.~~

~~(6) "Corporation" means the Florida Housing Finance Corporation.~~

~~(7) "Development" means the rental housing unit or units to be repaired or improved by the funds received from the EHCL Program.~~

~~(8) "EHCL" or "EHCL Program" means the Elderly Housing Community Loan Program created pursuant to Section 420.5087(3)(d), F.S.~~

~~(9) "Elderly" means elderly as defined in Section 420.503, F.S.~~

(10) ~~“ELI Persons” or “Extremely Low Income Persons” means Extremely low income persons as defined in Section 420.0004(8), F.S., as outlined in the ELI County Chart included in the Application instructions.~~

(11) ~~“ELI Set Aside” or “Extremely Low Income Set Aside” means the number of units designated to serve ELI Households.~~

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

(13) ~~“Received” means delivery by hand, U.S. Postal Service, or other courier service, unless otherwise indicated, to the offices of the Corporation no later than 5:00 p.m., Eastern time, on the day of the Application deadline.~~

(14) ~~“Review Committee” means a committee of Corporation staff who will make recommendations to the Corporation’s Board of Directors regarding EHCL Program participation.~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History--New 10-2-89, Amended 2-25-96, Formerly 9I-32.002, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, 5-5-03, 2-16-05, 2-20-07, 1-17-08, Repealed _____.

67-32.0035 Applicant Administrative Appeal Procedures.

(1) ~~At the conclusion of the review and scoring process established by this rule chapter, each Applicant will be provided with the final ranking scores and a notice of rights, which shall constitute the point of entry to contest any issue related to Applications for the EHCL Program.~~

(2) ~~Each Applicant that wishes to contest the final scores must file a petition with the Corporation within 21 Calendar Days after the date the Applicant receives its notice of rights. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue and score sought to be challenged. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer or administrative law judge which will then be considered by the Board.~~

(3) ~~Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding in which it is a party shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double spaced with margins no less than one inch in either Times New Roman 14 point or Courier New 12 point font and may not exceed five (5) pages, not~~

~~including caption and certificate of service. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, no later than five (5) Calendar Days from the date of issuance of the recommended order.~~

~~Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will be permitted to make oral presentations to the Board regarding recommended orders only in response to questions from the Board.~~

~~(4) If any Petitioner ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, the Corporation shall provide the requested funding from the next available funding, whether in the current year or a subsequent year.~~

Specific Authority 420.5095 FS. Law Implemented 420.5095 FS. History--New 1-17-08, Repealed.

67-32.004 General Program Restrictions.

~~(1) The proceeds of all loans shall be used for life safety, health, sanitation, or security related repairs or improvements which result in making the Development safe and secure, and meeting requirements of state, federal, or local regulation.~~

~~(2) Funding provided under the EHCL Program may not exceed \$750,000 per Housing Community for the Elderly.~~

~~(3) Loan proceeds shall not be used to pay for administrative costs, routine maintenance or new construction.~~

Rulemaking Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History--New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.004, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated 5-5-03, Amended 1-26-06, 4-7-09, Repealed.

67-32.005 Application Procedures.

~~(1) The Corporation hereby adopts and incorporates by reference the EHCL Program Application Package EA0703 (1/09).~~

~~(2) Application Packages may be obtained from the Corporation located at Suite 5000, City Centre Building, 227 North Bronough Street, Tallahassee, Florida 32301-1329 or at Florida Housing's website: <http://www.floridahousing.org/Home/Developers/MultifamilyPrograms/EHCLProgram.htm>.~~

~~(3) All Applications must be complete, accurate, legible and timely when submitted.~~

~~(4) An original and two photocopies of the original Application must be submitted on or before the Application deadline noticed in a publication of general circulation throughout the state.~~

~~(5) Any Application which is not Received with the appropriate fee and number of copies by the Application deadline will be rejected and no action will be taken to score the Application.~~

Rulemaking Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History—New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.005, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated 5-5-03, Amended 2-16-05, 1-26-06, 2-20-07, 1-17-08, 4-7-09, Repealed.

67-32.006 Terms and Conditions of Loan.

~~(1) The loan shall be in compliance with this rule chapter and the Act, and loan documents shall, at a minimum, contain the following terms and conditions:~~

~~(a) The loan shall be non-amortizing and shall have an interest rate of one percent;~~

~~(b) Repayment of principal and interest may be deferred until maturity of the note, as determined by the credit underwriter based on the debt service coverage ratio for the EHCL Loan, including all superior mortgages not exceeding a 1.50 debt service coverage ratio;~~

~~(c) The loan term shall not exceed fifteen years but may be for a shorter period of time as requested by Applicant or recommended by the credit underwriter. However, if the lien of the Corporation's encumbrance is subordinate to the lien of another mortgage, then the term may be made co-terminus with the longest term of the superior lien if requested by the Borrower and approved by the credit underwriter based on debt service coverage ratio, loan to value ratio, and other factors pertaining to the loan.~~

~~(d) The Applicant shall certify annually to the Corporation that the Development is providing Housing for the Elderly as defined herein.~~

~~(2) Unless otherwise approved by the Corporation, the loan must close within 6 months of the date of issuance of the firm EHCL loan commitment.~~

~~(3) The Corporation shall forgive the portion of loan attributable to the units in a project reserved for Extremely Low Income (ELI) Persons for non-profit organizations, where the project will provide affordable housing to the Elderly for 15 years or more. The portion of the loan that may be forgiven shall not exceed 25 percent.~~

~~(4) The loan shall not be assumable upon Development sale, transfer or refinancing of the Development, unless~~

~~approved by the U.S. Department of Housing and Urban Development (HUD).~~

~~(5) If the loan is repaid due to sale, transfer, or refinancing of the Development, all available proceeds shall be applied to pay the following items in order of priority:~~

~~(a) First mortgage debt service and fees;~~

~~(b) Any other superior debt service and fees;~~

~~(c) Expenses of the sale;~~

~~(d) EHCL principal and accrued interest.~~

~~(6) The Corporation or an authorized representative of the Corporation shall monitor compliance of all terms and conditions of the loan as provided in the loan documents.~~

~~(7) Insurance shall be maintained on the Development as determined by the first mortgage lender, but which shall, in any case, include fire and hazard insurance, with the Corporation listed as a loss payee, in an amount sufficient to cover the amount of the EHCL loan and all superior mortgage loans and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective November 3, 2003, which is adopted and incorporated herein by reference. A copy may be obtained by visiting our website at:~~

~~<http://www.floridahousing.org/Home/Developers/MultifamilyPrograms/EHCLProgram.htm>.~~

~~(8) Any violation of the terms and conditions required by Rule Chapter 67-32, F.A.C., or the loan documents constitutes a default under the loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History--New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.006, Amended 11-9-98, Repromulgated 1-2-00, Amended 12-31-00, 3-17-02, 5-5-03, 2-16-05, 1-26-06, 2-20-07, 1-17-08, Repealed _____.

67-32.007 Scoring, Ranking, and Funding Guidelines.

~~(1) Each Application received by the Application deadline shall be scored by Corporation staff based on the factors specified in the Application Package. Preliminary scores shall be transmitted to all Applicants.~~

~~(2) Failure to submit an Application following instructions provided in the Application Package and this rule chapter will result in rejection of the Application or a score less than the maximum available.~~

~~(3) With the exception of those items specified in the Application as mandatory elements which cannot be changed once the Application deadline has passed, Applicants will have 15 days from the date the Corporation sends~~

~~the preliminary scores to the Applicant to submit additional documentation, revised pages, and any such information the Applicant deems appropriate to address issues raised during scoring that could result in rejection of the Application or a score less than the maximum available. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except those documents signed by third parties shall be submitted in their entirety.~~

~~(4) Following the receipt and review of the documentation described in subsection (3) above, the Corporation shall then prepare final scores. In determining the final scores, no Application shall be rejected or receive a point reduction as a result of any issues not previously identified in the preliminary scores transmitted to the Applicant.~~

~~(5) The Review Committee shall prepare a scoring and ranking recommendation based on final scores and submit it to the Corporation's Board of Directors for approval.~~

~~(6) Following the Board's action regarding the scoring and ranking, the Corporation will transmit the scoring and ranking to each Applicant along with a notice of appeal rights.~~

~~(7) Eligible Applications shall be funded in the order of their scoring and ranking until all allocated funding has been awarded.~~

~~(8) After all eligible Applications have been funded, any funds which have not been awarded shall be made available to Applicants either through an EHCL supplemental cycle, to applicants under the State Apartment Incentive Loan Program, or both.~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History--New 10-2-89, Formerly 9I-32.007, Amended 11-9-98, 1-2-00, Repromulgated 12-31-00, Amended 3-17-02, 5-5-03, 2-16-05, 1-26-06, 1-17-08, Repealed.

67-32.009 EHCL Credit Underwriting Procedures.

~~(1) Following the appeals process, the Corporation shall issue preliminary commitment letters to those Applicants whose Developments were awarded final scores and ranking which placed them into the funding range.~~

~~(a) The preliminary commitment shall be subject to a positive recommendation by the Corporation's Credit Underwriter and approval by the Corporation's Board of Directors.~~

~~(b) The invitation to credit underwriting shall require that the Applicant submit the credit underwriting fee to the Credit Underwriter within 7 calendar days of the date of the invitation. The Corporation will, within the specified 7 calendar days, submit a copy of the Applicant's Application to the Credit Underwriter. Unless a written extension is obtained from the Corporation, failure to submit the fee by the specified deadline shall result in rejection of the Application.~~

~~(2) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer and Contractor.~~

~~(a) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting. If the Board determines at any time that the changes made are prejudicial to the Development or if any discrepancy or misrepresentation is found, the Application will be rejected.~~

~~(b) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of the Credit Underwriter's expertise, the fee for such services shall be borne by the Applicant.~~

~~(3) The Credit Underwriter shall make a written report and recommendation to the Corporation.~~

~~(4) After approval of the Credit Underwriter's recommendation by the Board of Directors or a committee appointed by the Board, the Corporation shall issue a firm EHCL loan commitment.~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History--New 5-5-03, Amended 2-16-05, Repealed

67-32.011 Fees.

~~(1) The following fees are required in conjunction with the EHCL Program:~~

~~(a) Application fee of \$50 payable to the Corporation for each Application submitted.~~

~~(b) Credit underwriting fee pursuant to contract between the Corporation and the credit underwriter payable to the credit underwriter on or before the seventh calendar day following issuance of the preliminary commitment letter. The Credit Underwriter will not begin credit underwriting until this fee has been paid. If a Development involves units at scattered sites within a single county, a single credit underwriting fee shall be charged.~~

~~(c) A non-refundable commitment fee of \$250.00 payable to the Corporation upon acceptance of the firm commitment. Applicants who provide a letter signed by the Applicant with an explanation of why funds will not be available prior to closing shall be permitted to pay the commitment fee at closing.~~

~~(d) Loan Servicing fees to be paid by the Applicant to the servicer pursuant to contract between the Corporation and the servicer.~~

~~(2) Fees are part of Development cost and may be included as an eligible expense in determining total cost of the repairs or improvements.~~

~~(3) Failure to pay any fee shall cause the firm commitment to be terminated or shall constitute a default on the~~

~~loan~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.507(19), 420.5087(3)(d) FS. History--New 10-2-89, Amended 2-25-96, Formerly 9I-32.011, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated 5-5-03, Amended 2-16-05, Repealed
