

Multifamily Development Updates for Change in 50% Bond Test

Background

Historically, Florida Housing has used its rental private activity bond (PAB) allocation for programs to finance both new construction with competitive gap loan funding, as well as rehabilitation through a rolling noncompetitive application. This is due to market conditions requiring more gap funding to produce new construction units, while moderate rehabilitation can be achieved without the need for competitive loan resources.

Currently, Florida Housing prioritizes almost all of its rental bond allocation to complement its new construction State Apartment Incentive Loan (SAIL) programs, as well as new construction disaster recovery programs through CDBG-DR and the Rental Recovery Loan Program (RRLP) programs. The funding in these gap loan programs has increased over the past few years, resulting in reservations of bond allocation through the competitive programs that exceed Florida Housing's private activity bond annual allocation, as well as available carryforward. Due to this constraint of available bond allocation, in the past few years Florida Housing has closed the noncompetitive application for bond financing for periods of time, thereby prioritizing new construction. This has resulted in less financing of acquisition and rehabilitation rental developments with Florida Housing bond allocation.

Accordingly, Florida Housing has been supportive of recent efforts to decrease the private activity bond financing threshold from 50% of aggregate basis (land and building costs) to 25% for developments to qualify for 4% Low Income Housing Tax Credits (LIHTC). Ideally, the reduction will relieve Florida Housing's constrained private activity bond allocation. In theory, this reduction should have the effect of increasing new unit production and increase rehabilitation and preservation of existing affordable developments.

Present Situation

The 2025 fiscal reconciliation bill (H.R. 1), signed on July 4, 2025, which repeals and replaces 26 USC 42(h)(4)(B) and adds 26 USC 42(h)(4)(c), lowered the 50% private activity bond financing threshold test to 25%. This means there is an opportunity to finance more new units and preserve more existing affordable units than ever before because less bond allocation is required to be committed to the financing of a transaction. Ideally, this opportunity will also allow Florida Housing to reopen its rolling noncompetitive bond application because bond volume cap will no longer be constrained.

Florida Housing acknowledges there are some challenges with utilizing less bond allocation to produce new units because the decrease in private activity bond allocation

likely leaves a financing gap that can only be solved with taxable debt. Florida Housing is in the process of determining how to maximize the increase in the number of units potentially financed with bond allocation, while understanding there must be a thoughtful approach to the gap in resources created by this adjustment to the bond program.

Florida Housing's goal in developing practices to implement the new 25% test is to incentivize developers to request less bond allocation in competitive gap loan programs and provide a path for meaningful rehabilitation of existing affordable units to achieve preservation goals, while ensuring developments are financially feasible.

Approaches

A. Current 2025 competitive loan applications including request for bond allocation

Because much of the current bond allocation is committed to competitive resources, as referenced above, Florida Housing has not changed the current standards for maximum bond request amounts for the 2025 RFA funding cycle. This approach recognizes that many developers have been working through application preparation over the past few months and financial pro formas reflect the predictable assumption for developers, financing partners, and local government partners in competitive programs that applicants would be held to the 50% test.

B. Applications with bond allocation currently in the development pipeline

Any development in the pipeline with Florida Housing PAB allocation (that have not closed) may request an adjustment to reduce bond allocation but is not required to do so. Florida Housing is currently surveying those developments to determine intent for any adjustment to bond allocation request and understand any incentives that may be helpful to encourage a reduction in bond allocation request. Based on the type of request, the applicant may be required to undergo an updated underwriting.

C. Future competitive loan applications including request for bond allocation

Florida Housing intends to workshop processes to implement the following concepts, including that private activity bond financing on any development must reflect a floor of at least 27.5% PAB financing (10% buffer to the 25% minimum), and a ceiling of financing for new construction applications may be the greater of 30% of aggregate basis or the amount required for maximum permanent supportable debt on the development, not to exceed 50% of aggregate basis. For acquisition rehabilitation developments the maximum would be limited to 30% of aggregate basis.

Florida Housing recognizes that allowing a maximum request to rise to the level of supportable debt may have the result of a lower number of new units being produced than

if there is a hard maximum request limit; however, Florida Housing is also reviewing potential incentives and/or consequences for developments that exceed the 30% level of bond financing, such as:

- Limitation on priority applications submission in future corresponding RFA if exceeds 30% of aggregate basis.
- Provide additional priority application submission in future corresponding RFA if request is limited to 30% or below of aggregate basis.

These proposals will be publicly workshopped for stakeholder feedback, and to seek other ideas and implementation proposals.

D. Status of noncompetitive application in the future

Upon confirmation of the above referenced approaches, Florida Housing intends to open the rolling noncompetitive application in the first half of 2026. The opening of the rolling noncompetitive application may include conditions such as a limitation on total resources to be allocated, credit underwriting and closing deadlines, development categories, etc. However, at a minimum we expect that the process for the noncompetitive application for acquisition and rehabilitation would reflect a floor of at least 27.5% PAB financing (10% buffer to 25% minimum) with a ceiling of 30% of aggregate basis, and that the ceiling of financing for new construction applications may be the greater of 30% of aggregate basis or permanent supportable debt on the development, not to exceed 50% of aggregate basis. This would occur in conjunction with the traditional administrative rule development process and include public workshopping for stakeholder feedback. If pending transactions can close on financing prior to the effective date of rule development, Florida Housing will consider requests to process a waiver of the current rules.

E. Rule Development

Florida Housing intends to proceed with rule development in the noncompetitive application and Rule 67-21, F.A.C. to implement the process reflected above, specifically in Rule 67-21.028(1)(a), (2)(a), (f), (g), F.A.C., among other relevant administrative rules.