

Terms of Assistance

June 11, 2024



Presented by:
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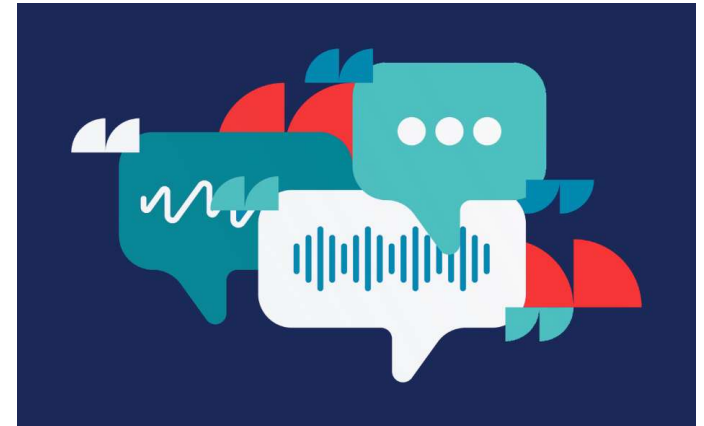
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Florida Housing Coalition Presenters



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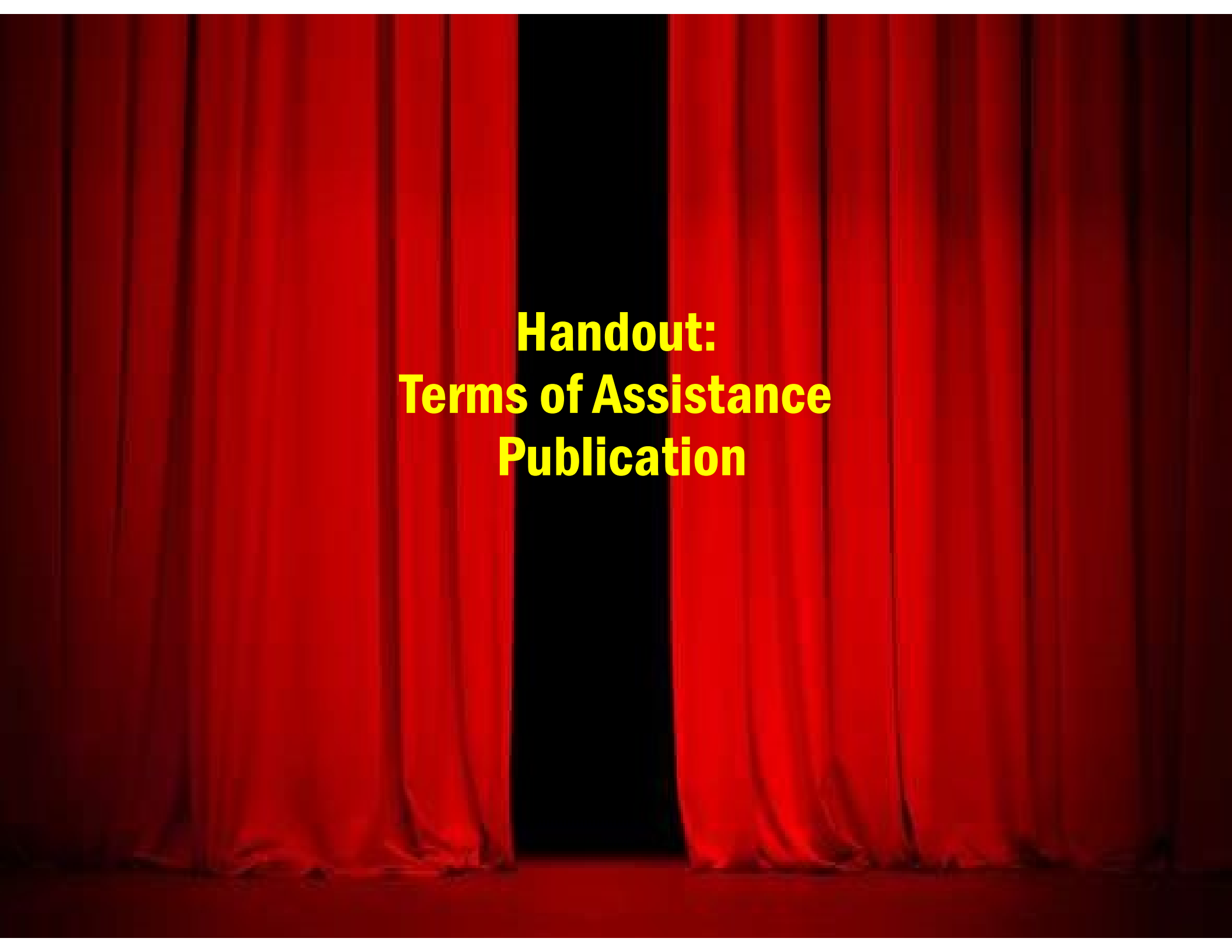


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Overview of the Training

- Terms Overview
- Homeownership Development
- Direct Loans
- Rental Assistance and Rental Development
- Community Land Trust
- Shared Equity
- Seller Financing

The background of the slide is a pair of red curtains, slightly parted in the center to reveal a black void. The text is centered within this opening.

**Handout:
Terms of Assistance
Publication**

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Types of Assistance Terms

- Grants (must be approved by FHFC)
- Deferred Payment Loans of Various Terms
- Direct Payment Loans at Various Terms
- Direct/Deferred Payment Loans at Various Terms

Types of Assistance Terms

Terms 1. Loan or Grant

The first section under terms requires the local government to state whether the assistance will be provided as a loan, deferred loan or grant.

Terms 2. Interest Rate

- Include interest rate for SHIP assistance if any
 - Avoid a range of rates (0% - 5%)
 - Be specific about why different recipients are charged different rates
 - If none state 0%. For grants, state N/A
 - Recorded document must be consistent with LHAP
 - Provide examples of when to offer different entities different interest rates. Pros and Cons of different interest rates.

Types of Assistance Terms

Terms 3. Years in Loan Term

- State number of years loan is secured
- For grants, state N/A
- Put maturity date on the RECORDED LOAN.
- Consistency with prior years helps when moving files in the annual report
- What is default # of years of vague mortgage, according to Statute 95.281 (1) (b)?

Types of Assistance Terms

Terms 4. Forgiveness

State if any portion of the loan will be forgiven

- Some never forgive - repaid at end of term
- Some forgive at end of term
- Some prorate forgiveness annually over the term
- Do not refer to default situations in this section
- This section describes what happens when everything goes according to plan

Types of Assistance Terms

Terms 5. Repayment

- State if payments are required during the term
- Another option: balloon payment at the end of the term
- Some forgive assistance, so no SHIP repayment is ever required.
- Example: No repayment required if the loan is in good standing
- Guidance on tracking of your outstanding loans:
 - Grants Management software
 - Methods for annually checking if homes are owner-occupied.

Types of Assistance Terms

Terms 6. Default

List situations where the loan does not remain in good standing through the term:

- Sale, transfer, loss of homestead
- Conversion to rental,
- Death of homeowner(s).
- Use "outstanding balance" rather than "full loan amount" when addressing repayments.
- What happens when SHIP recipient dies? Repayment or eligible heirs?
- Examples of default: if you require __, then look for __ to check compliance.

Sample Terms for Purchase Assistance

1. **Loan/grant:** Funds will be awarded as a deferred subordinate loan secured by a recorded mortgage and note.
2. **Interest Rate:** 0%
3. **Term:** 10 years (very low and low), 30 years (moderate)
4. **Forgiveness:** For very low and low income, funds will be forgiven on a prorated basis so that 10% of the principal is forgiven annually. For moderate, the loan will be due and payable at the end of the term.
5. **Repayment:** For very low and low income, no repayment of the assistance is required as long as the loan is in good standing. For moderate income repayment is due at the end of the loan term.
6. **Default:** The loan will be determined to be in default if any of the following occurs: sale, transfer, or conveyance of property; conversion to a rental property; loss of homestead exemption status; or failure to occupy the home as primary residence. If any of these occur, the outstanding balance will be due and payable.

Homeownership Development



Homeownership Development Strategies

Identify the SHIP Benefit to an Eligible Buyer

A new construction strategy must clearly state how the SHIP funds that are provided to the sponsor developer will benefit the homebuyer. The SHIP strategy should describe how the fund provided to the developer will in turn benefit the homebuyer. SHIP funds used to pay for land, developer fees, impact fees, hard construction, and soft costs can be used to reduce building costs to the developer and allow for the home to be sold at a lower purchase price. The SHIP-eligible homebuyer benefits from this reduced affordable purchase price.

Homeownership Development Strategies

Developer Pays Back Loan

The strategy must detail how SHIP funds are loaned to the sponsor/developer and when and how funds are paid back to the local government from the proceeds of the home sale. Often the developer borrows a large amount, pays back a lesser amount, and keeps a portion of the SHIP funds as a developer's fee.

FHFC Guidance

FHFC developed the 'LHAP Strategies Worksheet' which addresses the method for expending SHIP funds for homeownership development. This is labelled as "Method B. Homeownership awards to sponsors with a pass through to a home buyer".

Direct Loans



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Repayment of Assistance

- Direct loans require a SHIP recipient to make monthly repayments on assistance received
- Often \$30 to \$150 repaid monthly
- Payments are tracked and reported as Program Income



Sample Strategy Offered as Direct Loan

- e. Terms:
1. Repayment Loan/deferred loan/grant: Funds are awarded as a loan, secured by a recorded mortgage and note. This mortgage is a subordinate mortgage.
 2. Interest Rate: 0%
 3. Years in Loan term:

Loan Amount	Term
Up to \$5,000	10- years
\$5,001-15,000	15- years
\$15,001-25,000	30- years
 4. Forgiveness: Not applicable.
 5. Repayment: Moderate income amortized payback will begin immediately. For low and very low income, payback will be deferred for five years, after which amortized payback will begin.
 6. Default:
 - a. The loan will be determined to be in default if the any of the following occur: sale, transfer, or conveyance of property; conversion to rental property; loss of homestead exemption status; or home not owner-occupied status. The outstanding balance shall become due and payable; however, a modification of the loan may be possible; however no cash out will be permitted.
 - b. In cases where the qualifying homeowner(s) pass away during the loan term, the loan may be assumed by a SHIP eligible heir who will occupy the home as a primary residence. If the legal heir is not SHIP eligible or chooses not to occupy the home, the outstanding balance shall become due and payable.
 - c. If the home is being foreclosed by a superior mortgage, the county reserves the right to buy the property at foreclosure sale to protect its loan interest.

Assess a SHIP Recipient's Ability to Repay

- Based on Area Median Income
- Based on Lending Ratios
- Establish a System of Deferment
- Calculate Net Residual Income



Calculate Net Residual Income

Consider necessary living expenses not accounted for in the household's debt-to-income ratio

- Principal, interest, taxes, and insurance
- Homeowner's association dues
- Maintenance and utilities (\$.14 per sq ft of gross living area)
- Federal income and social security taxes
- Alimony/child support
- Childcare expenses
- Childcare expenses
- Job-related expenses (transportation, meals, etc.)
- Monthly fixed obligations (auto loans, revolving charge accounts, installment loans)
- Health insurance deductions
- Other

Address Payment Delinquency

- From 1st Meeting, stress importance of consistent repayment
- Consider offering an incentive to consistently repay. Example: recipients who repay regularly the first half of their loan have the remaining balance forgiven
- Some communities discontinue communication with borrower's delinquent for 1 year without responding to repayment reminders.
 - They do not initiate foreclosure since they have a secured loan against the property. Repayment will eventually be made upon transfer of the property

Alternatives to Foreclosure

One county's approach involves the Economic Development Division Director, County Administrator, and County Attorney, a process that takes an estimated 36 hours each month:

- Frequent Contact: Borrowers in default receive mail specific to their circumstances. Staff conduct physical inspections when confirming if borrower still resides in the unit
- Partial Payment: Does not fulfil payment requirement but staff document attempts to pay.
- Deferment: Month-to-month deferments determined by Division director as staff work on individual cases.
- Heirs: Explain to heirs the process for mortgage assumption or payoff.

Staffing a Direct Loan Program

Contract with a Servicer:

- Servicer's fees may be paid by the percentage of program income available to pay for administration

- *5 percent of program income* for Counties that are not a small county as defined in s. 120.52(19). "Small county" means any county that has an un-incarcerated population of 75,000 or less according to the most recent decennial census.
- *10 percent of program income* for small counties and eligible municipalities that receive a local housing distribution of up to \$350,000.

If this percentage of program income is insufficient to cover the servicer's fees, the remainder must be paid from a source other than SHIP, possibly city or county general revenue.

In-House Staffing:

- Implementing a direct loan program involves a significant amount of additional staff time that often cannot simply be added on top of current staff's responsibilities

- Receipt and deposit of monthly payments
- Follow up with delinquent buyers
- Legal action against significantly delinquent buyers
- Updating payment tracking spreadsheets
- Property inspections and case file notations for mortgages in default
- Letters prepared and sent to homeowners requesting payment, property tax payment or verification of an active homeowner's insurance policy
- Provide each new client with an upfront loan disclosure and a payment schedule
- Enter each new client into the local government's payment tracking system
- Provide all borrowers with a monthly or quarterly statement
- Each year, provide tax forms to all borrowers
- Monitoring to ensure property taxes are paid and homeowner's insurance policies are active
- For SHIP recipients with payment deferments, periodically reassess their ability to repay. SHIP staff work closely with legal department staff to address necessary local government first mortgage foreclosures, bank foreclosure lawsuits, bankruptcies, probate, tax deed sale, loan related judgments, and mortgage assignments.

Rental Assistance and Rental Development



Rental Assistance Guidance

HANDOUT: '**LHAP Strategies Worksheet**' created by FHFC

"Method C. Rental assistance awarded to or on behalf of tenants"

- Rent Deposit: first & last month's rent, security deposit, utility deposits
- Eviction Prevention: pay past due rent to avoid eviction
- Rent Subsidy: pay deposit and monthly rent for up to 12 consecutive months
 - Only for very low-income households who are experiencing homelessness, or in which at least one household member meets the definition of special needs

SHIP Available for Rental Assistance

100 % Allocation

- 75% Construction/ Rehab Set aside
- 10% Admin

**15% of Allocation Available for Rental Assistance
PLUS all Program Income**

SAMPLE Rental Assistance Terms

- e. Terms:
1. Repayment loan/deferred loan/grant: Funds will be awarded as a grant.
 2. Interest Rate: N/A
 3. Years in loan term: N/A
 4. Forgiveness: N/A
 5. Repayment: N/A
 6. Default: N/A

SHIP Funds May Be Paid To

- Landlord: SHIP office may work with property management staff on deposits, monthly rent, late fees, and utilities added to the rent.
- Service Provider: Move-in assistance may involve a moving company, also utility company deposits.
- Government Entity: Some have a municipal utility company.
- Direct to Tenant: Direct payments are uncommon. In 2020, SHIP Coronavirus Relief Funds (CRF) were spent on rental assistance, and some provided CRF directly to tenants for them to pay rent to their landlords.

Rental Development Guidance

'LHAP Strategies Worksheet' created by FHFC

"Method D. Awards to Developers of Rental Units"

- New Construction: SHIP-funded development projects may involve the construction of 50 rental units or more.
- Rental Repair: SHIP may also be used to rehabilitation of rental housing.
- SHIP Benefit: Funds are provided to a developer, but the benefit must flow to SHIP-eligible users.
- Agreement with Developer: there may be no lien recorded on the property. Instead, an agreement is the legal contract outlining compliance requirements.

SHIP Available for Rental Development

100 % Allocation

- 65% Homeownership Set aside
- 10% Admin

25% of Allocation Available for
Rental New Construction or Rehabilitation

PLUS all Program Income



SAMPLE Rental Development Terms

- d. Maximum award: \$5,000 maximum per rental unit
Project maximum: \$75,000 for developments over 50 units
\$150,000 for developments with 50 units or less that include Special Needs units.
- e. Terms:
 1. Repayment loan/deferred loan/grant: For for-profit developers, funds will be awarded as a loan secured by a recorded subordinate mortgage and note.
For non-profit developers, funds will be awarded as a forgivable loan secured by a recorded subordinate mortgage and note.
 2. Interest Rate: 0%.
 3. Years in loan term: 15 (*15 is minimum. Best practice: 30 – 50 years*)
 4. Forgiveness: Non-profits, the loan is forgiven on a prorated basis beginning in year six so that 10% of the loan is forgiven annually from years six through fifteen.
 5. Repayment: For-profits, the loan is due and payable at the end of the term unless the county negotiates an extended loan term to secure affordable rental units in the best interest of the county's residents.
 6. Default: For all awards, a default will be determined as: sale, transfer, or conveyance of property; conversion to another use; failure to maintain standards for compliance as required by any of the funding sources. If any of these occur, the outstanding balance will be due and payable.

Rental Housing First Right of Refusal



Ensure that rental units funded with SHIP remain affordable for at least the term of the agreement, which must be at least 15 years. The SHIP program states in Section 420.9075(5)(i):

(i)...Eligible sponsors that offer rental housing for sale before 15 years or that have remaining mortgages funded under this program must give a first right of refusal to eligible nonprofit organizations for purchase at the current market value for continued occupancy by eligible persons.

Elements of Monitoring

SHIP Requires Rental Monitoring

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

---SHIP Rule: 67-37.007(11), F.A.C.



SHIP Monitoring Rules



- Tenant income of projects that receive more than \$10,000 must be monitored annually.
 - Used to be \$3,000
- May rely on monitoring report of another entity even if periodic.

"...to the extent another governmental entity or corporation program provides periodic monitoring and determination, a municipality, county, or local housing financing authority may rely on such monitoring and determination of tenant eligibility."
- Does not require utility allowances

Rental Monitoring Plan

Who?

- 3rd party or internal staff

When?

- Annually unless FHFC monitors

What?

- Income Eligibility
- Rent Affordability
- Property condition
- Property performance





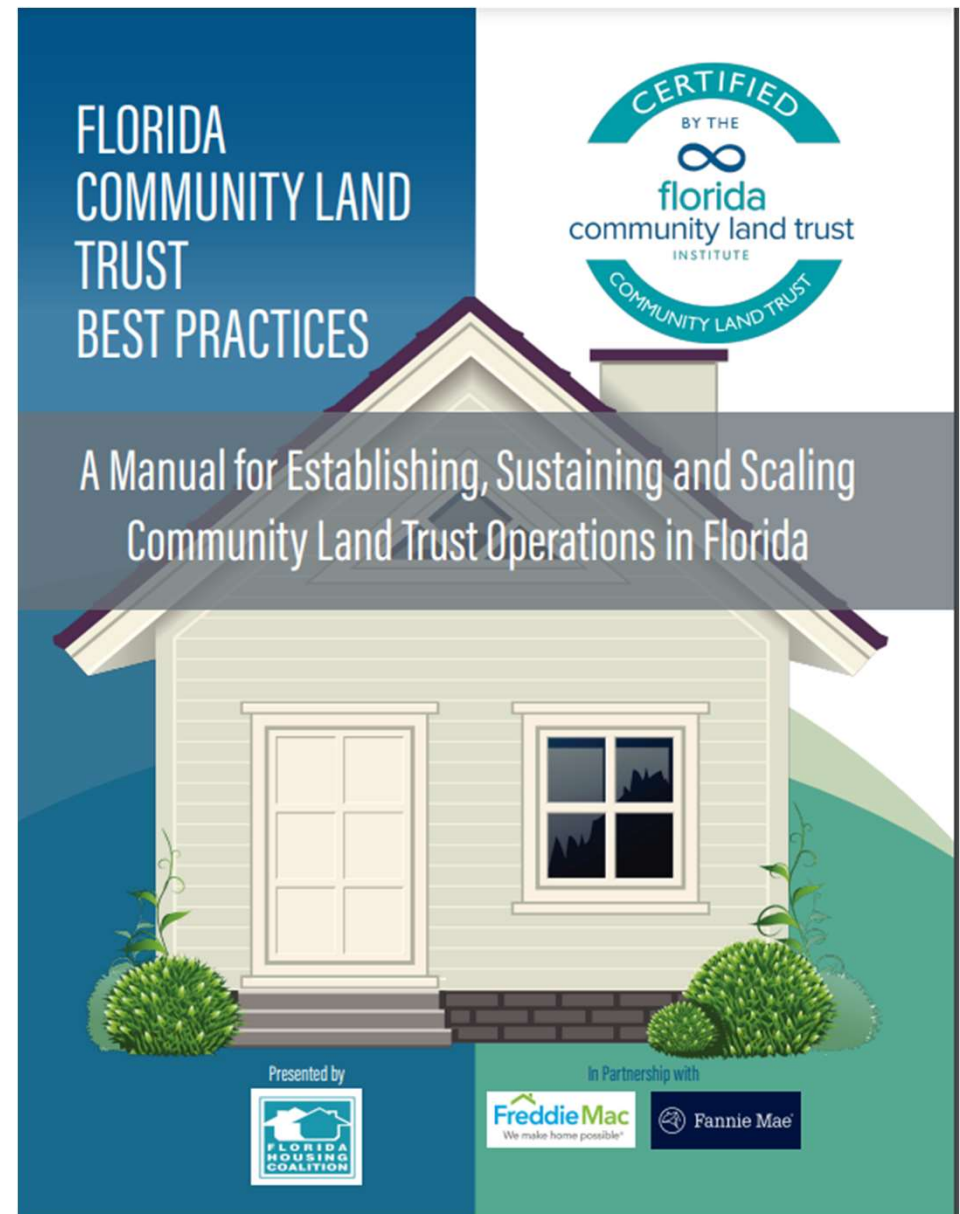
For more about Monitoring Rental Housing:
January 2024 Recording:
<https://vimeo.com/906991005>

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Community Land Trust

<https://flhousing.org/wp-content/uploads/2021/08/8-30-FL-CLT-Best-Practices-FINAL.pdf>



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What is a CLT?

- The vehicle of separating ownership of the land from the building
- Captures public investment and retains it with the housing unit for permanent affordability using a ground lease
- Also, nonprofit organization that holds title to the land, sells the home on the land, and administers the 99-year ground lease that keeps the home affordable for one family after the next.



1
Franklin County
Community Development
& Trust Corporation

2
Tallahassee
Lender's
Consortium CLT

3
City
of Jacksonville
CLT

4
City
of Gainesville
CLT

5
Communities that
Care Community
Land Trust

6
Habitat for
Humanity of
Marion County

7
Hannibal Square
Community
Land Trust

8
Housd (Regional
Housing Trust -
Orlando Metro)

9
Bright
Community
Trust

10
City of
Tampa
CLT

11
Hillsborough
County
CLT

12
Community
Housing Trust
of Sarasota

13
City of
Port St. Lucie
CLT

14
CLT of Palm
Beach County &
The Treasure Coast

15
Delray Beach
Community
Land Trust

16
South Florida
Community
Land Trust

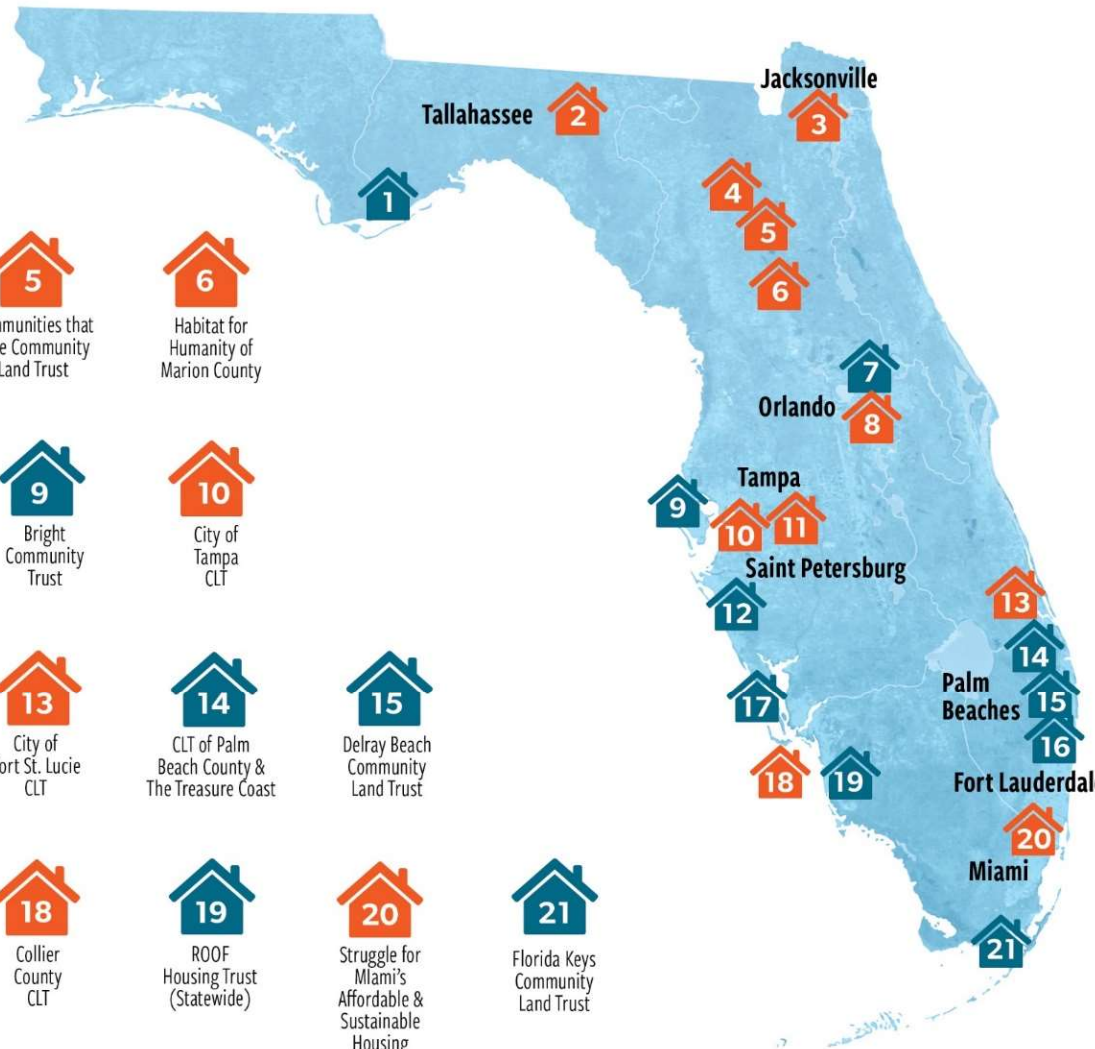
17
Community
Housing and
Resources
(Sanibel)

18
Collier
County
CLT

19
ROOF
Housing Trust
(Statewide)

20
Struggle for
Miami's
Affordable &
Sustainable
Housing
(SMASH CLT)

21
Florida Keys
Community
Land Trust



Community Land Trusts Throughout Florida



**Newly Formed
or Organizing**

florida
community land trust
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CLT Common Terms

1. To qualify, homes must be purchased from a city/county-approved community land trust (CLT).
2. The CLT will execute a 99-year ground lease with the homebuyer. A memorandum of that ground lease is recorded in the public records immediately following the deed. The terms of the ground lease restrict the resale of the property to an income eligible household and provide a right of repurchase to the CLT in the event of default.
3. The CLT must approve the subsequent homebuyer. In the event of a default, the CLT must notify the City/County whether it intends to exercise its right of repurchase.
4. In the event the CLT is not willing or able to exercise its right of repurchase, it shall transfer its right of repurchase to City/County, giving City/County the right, but not the obligation to purchase the property.

Benefits of CLT

- Remains affordable in perpetuity
- Sold to another low-income buyer at an affordable price
- Seller receives a reasonable return upon sale of property
- The SHIP subsidy continues to be used for each subsequent purchaser

SHIP and CLT

Terms for CLT home purchases: This SHIP assistance is **assumable** to an income-eligible purchaser. The terms of the Note and Mortgage shall allow **subsequent purchasers** to assume the loan with approval by the CLT. Otherwise, no repayment is required during the term of the loan, provided the loan remains in good standing.

Model Community Land Trust Add-On Language for Down Payment Assistance Strategies¹

Purchase Assistance

Code 1, 2

- a. Summary: Funds will be awarded for down payment and closing costs for new and existing homes, including homes purchased from a community land trust (CLT). Home rehabilitation is also an eligible use, as needed when purchasing existing homes. To be eligible, existing homes must be in need of and receive at least \$2,500 in rehabilitation paid within 12 months by SHIP, CDBG, HOME, the seller, the buyer or another source.

For more information on CLT's watch this video "Does your Community Need a CLT?": <https://vimeo.com/410376258> or contact the Florida Housing Coalition for technical assistance.

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Shared Equity



Shared Equity/Shared Appreciation

Terms of assistance can include Shared Equity/Appreciation upon repayment or upon default.

- Shared equity/appreciation **restricts the home value appreciation that flows to the homeowner on sale of the property**. The equity model provides an opportunity not only to **recapture the initial investment** by the local government, but **additional equity** that would be solely received by the owner of the property.
- In hot real estate markets, both the owner and the LG can increase their net proceeds.

Benefits of Shared Equity in Purchase Assistance Strategies

- The LG can use these **additional resources** as program income that can be used to serve new buyers in the current market or other strategies where financial resources are needed.
- Rather than **charge an interest rate or require monthly repayment** to increase program income, the shared equity model requires no upfront work from the LG or monthly payments from the homeowner.

Simple to Administer

Shared Equity Example: City of Miami

This is the prorated share portion that is in the LHAP for the Home Buyer Program: In the case of sale or transfer of the property, the borrower will be required to repay the original amount given as assistance and the City will share in the equity earned by the borrower according to the following schedule:

- 0 to 3 years – 100% of the equity generated.
- Over 3 – 20 years – After the 3rd year, City receives 85% of the equity generated and borrower receives 15%. Thereafter, the borrower receives additional 5% of the City's prorated share per year reducing the City's share by the same percentage.
- Over 20 and above: The borrower receives 100% of the equity.

Scenario: Calculate the Prorated Share Portion to the City

- Original Sales Price: \$200,000
- City's Down-payment Assistance: \$60,000
- Clients Equity per original Closing Statement: \$2,500

- New Sales Price: \$280,000
- 1st mtg balance \$138,000
- Year being sold from Purchase: 5 years

Based on spreadsheet attached the City's prorated share portion is \$17,887.50

The total amount due to the City is \$77,887.50 (Original DPA and prorated share portion)

Calculating Pro Rated Share for Sale of Property

City %	Clients %	Years			
100	0	Years 0-3	Sales Price Original @closing		As per table City's to receive
85	15	Year 3+	\$ 200,000.00		75.0%
80	20	Year 4			
75	25	Year 5	City's Downpayment Assistance	\$ 280,000.00	Current sales Price
70	30	Year 6	\$ 60,000.00	\$ 2,500.00	Clients equity per HUD
65	35	Year 7		\$ 138,000.00	1st Mtg Payoff and second mortgage payoff
60	40	Year 8	City's Participation	\$ 60,000.00	City of Miami Mtg
55	45	Year 9		\$ 79,500.00	Full Gain
50	50	Year 10			
45	55	Year 11	Current Sales Price		
40	60	Year 12	\$ 280,000.00	\$ 23,850.00	Full Gain @ 30%
35	65	Year 13			
30	70	Year 14		\$ 17,887.50	75% of the City Transaction full gain
25	75	Year 15		\$ 60,000.00	City's Downpayment
20	80	Year 16			
15	85	Year 17		\$ 77,887.50	Total Owed to City
10	90	Year 18			
5	95	Year 19			
0	100	Year 20	Highlighted cells are not to be modified		

City of Miami Example

For more information:

Sergio Garcia

Principal Housing Specialist

City of Miami

Dept. of Housing and Community Development

(305) 416-2149

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Seller Financing

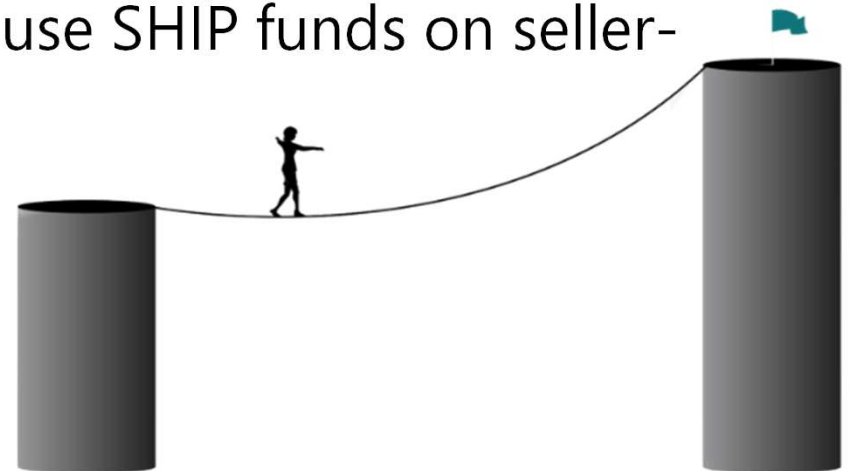


Seller Financing

- Another possible method of providing assistance to homebuyers includes seller financing. The most typical form of seller financing is the **Habitat for Humanity** model.
- Habitat will provide first mortgage financing to its buyers similar to an institutional lender. In addition to Habitat for Humanity, there may be **other opportunities for other private seller financed mortgages**.
- A seller financing agreement, also called a “**purchase money mortgage**,” is a real estate agreement in which the **seller finances the purchase of property for the buyer instead of a third-party lender**.
- Instead of applying for a conventional bank loan, **the buyer signs a mortgage and promissory note with the seller**. Seller financing can help buyers purchase a home who may have **difficulty qualifying** for a conventional loan.

Risk of Seller Financing

- Seller-financing has **inherent risks**, especially for homebuyers who may not understand the full details of the transaction.
- It is recommended that guidelines be established to **protect homebuyers** from common pitfalls such as balloon payments and excessively high interest rates.
- Administrators should consult with their **City or County Attorney** prior to assisting seller-financed transactions and should follow recommended guidelines, at a minimum and in addition all other state or local SHIP requirements, to use SHIP funds on seller-financed affordable units.



Recommended Requirements for Seller Financed Mortgages

- Fixed-Rate: The seller-financed mortgage must provide for equal monthly payments on principal and interest for a term of up to 30-years. No balloon payments are allowed, and there cannot be prepayment penalties.
- Interest rate: A local government must set a reasonable maximum interest rate based on an established index such as but not limited to the 30-Year Fixed-Rate published by Fannie Mae, the Wall Street Journal Prime Rate, or the MIRS Transition Index for the most recent month prior to closing as published by the Federal Housing Finance Agency.
- Ability to repay: The local government must document that the buyer has the ability to repay the loan. The SHIP file must provide assurances that the buyer can repay the loan pursuant to local SHIP policies.
- Deed conveyed at closing: The seller must convey the deed to the buyer at closing. SHIP assistance is not available for transactions involving land installment contracts, contract for deeds, or similar legal mechanisms that only convey legal title to the buyer upon full satisfaction of the mortgage.

Recommended Requirements for Seller Financed Mortgages

- Property must be sold as fee simple: Fee simple is a legal term that means full and irrevocable ownership of land, and any buildings on that land. The land is owned outright, without any limitations or restrictions, other than local zoning ordinances. However, a house purchased with financing from a Community Land Trust, where the land is leased and only title to the house is transferred, would be an exception.
- Taxes and Insurance: Local government must identify which party is responsible for paying any applicable taxes or insurance. Local policies will dictate whether escrow is required and what process is taken to confirm that taxes and insurance are paid in a timely manner.
- Communication of the nature of the transaction: Local government must ensure the buyer and seller understand the nature of the transaction. The SHIP office could show this by requiring the transaction to occur at a title company or real estate attorney's office with real estate professionals present to ensure both parties understand the nature of the transaction.
- Financing compliance: The parties must confirm that the financing complies with the Dodd-Frank Wall Street Reform and Consumer Protection Act requirements related to seller financing of residential dwellings and relevant Florida laws regarding loan origination.

Recommended Requirements for Seller Financed Mortgages

- No liens or encumbrances: At time of closing, the property must be free and clear of all outstanding liens and encumbrances. This is to protect a buyer from purchasing property that the seller has encumbered.
- Maximum purchase price: The purchase price cannot exceed the current purchase price limits in the Local Housing Assistance Plan (LHAP).
- Eligible housing: The property must meet the definition of “eligible housing” in section 420.9071, Florida Statutes. The SHIP office must ensure the assisted units are safe and sanitary based on local policies and in accordance with SHIP requirements.
- Purchase agreement: The purchase agreement must expressly denote the terms of financing. This includes the interest rate, term, payment, and default provisions.



Questions?



Please Complete the Evaluation!



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