regarding any additional methodologies for determining appropriate usual and customary charges for hospital outpatient care provided by Florida hospitals. In addition, the purpose of the workshop is to assist the Department and the Three-Member Panel in determining maximum reimbursement allowances for inpatient hospital care based on a schedule of per diem rates, excluding a stop-loss provision, for inclusion in the Florida Workers' Compensation Reimbursement Manual for Hospitals, adopted through Rule 69L-7.501, F.A.C. Florida Administrative Code. The Department will take testimony regarding the following per diem reimbursement methodologies: a straight per diem rate, in that the hospital is reimbursed a set amount for each day the patient remains in the hospital; per diem by service type, where the per diem rate varies based upon the type of clinical service provided; and a per diem rate indexed to length of stay, where the per diem rate is based on the patient's length of stay. The Department solicits comments to be made at the workshop by interested parties regarding any additional methodologies for determining appropriate maximum reimbursement allowances for inpatient hospital care based on a schedule of per diem rates, excluding a stop-loss provision. The effect of the workshop is to lead to development of revised reimbursements for hospital inpatient and outpatient care for inclusion in the Florida Workers' Compensation Reimbursement Manual for Hospitals.

SUBJECT AREA TO BE ADDRESSED: Reimbursements to hospitals for care provided to workers' compensation patients pursuant to the Florida Workers' Compensation Reimbursement Manual for Hospitals.

SPECIFIC AUTHORITY: 440.13(14), 440.591 FS.

LAW IMPLEMENTED: 440.13(7), (12), (14) FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: Thursday, February 14, 2008, 9:30 a.m. – 12:00 p.m.

PLACE: 104J Hartman Bldg., 2012 Capital Circle Southeast, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Andrew Sabolic. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Andrew Sabolic, Assistant Director, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)413-1600

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-149.0025	Definitions
69O-149.006	Actuarial Memorandum

PURPOSE AND EFFECT: To answer questions on health rate filings.

SUBJECT AREA TO BE ADDRESSED: Rate Filing Procedures.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 627.410 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: January 31, 2008, 10:30 a.m.

PLACE: 116 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Gerry Smith, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Gerry Smith, Office of Insurance Regulation, E-mail gerry.smith@fldfs.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

Section II
Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.0014	Comprehensive Management Information System

PURPOSE AND EFFECT: The purpose of the amendment is to incorporate revisions to selected data elements, procedures and timelines for state reporting, local recordkeeping, and statewide records transfer which are to be implemented by each school district and the Department of Education within

the automated statewide comprehensive management information system. This amendment will ensure compatibility among state and local information system components.

SUMMARY: The purpose of this amendment is to revise existing requirements of the statewide comprehensive management information system which are necessary in order to implement changes recommended by school districts and to make changes in state reporting and local recordkeeping procedures for state and/or federal programs. The rule contains the security, privacy and retention procedures to be used by the Department of Education for school district, student, staff and finance records collected and maintained at the state level.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.02(1), 1008.385(3) FS.

LAW IMPLEMENTED: 1001.23, 1002.22(3)(d)3., 1008.385(2) FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Laven Dukes, Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0014 Comprehensive Management Information System.

(1) No change.

(2) The data elements, procedures and timelines for state reporting, local recordkeeping and statewide records transfer to be implemented by each school district and the Department within its automated information system component as prescribed in the publications entitled "DOE Information Data Base Requirements: Volume I – Automated Student Information System, 2007 ~~2006~~," "DOE Information Data Base Requirements: Volume II – Automated Staff Information System, 2007 ~~2006~~," and "DOE Information Data Base Requirements: Volume III – Automated Finance Information System, 1995." These publications which include the Department procedures for the security, privacy and retention of school district student and staff records collected and maintained at the state level are hereby incorporated by reference and made a part of this rule. Copies of these publications may be obtained from Education Information and Accountability Services, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399~~, at a cost to be established by the Commissioner not to exceed actual cost~~.

Specific Authority 1001.02(1), 1008.385(3) FS. Law Implemented 1001.23, 1002.22(3)(d)3., 1008.385(2) FS. History–New 2-19-87, Amended 12-21-87, 12-13-88, 3-25-90, 3-24-91, 3-17-92, 12-23-92, 2-16-94, 3-21-95, 7-3-96, 5-20-97, 10-13-98, 10-18-99, 10-17-00, 5-19-03, 7-20-04, 4-21-05, 3-1-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laven Dukes, Education Information and Accountability Services Section

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jay Pfeiffer, Deputy Commissioner, Assessment, Research, and Measurement

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-1.0451 Florida Education Finance Program Student Membership Surveys

PURPOSE AND EFFECT: The purpose of the rule amendment is to revise the schedule for district submission of amendments to student membership survey data via the statewide comprehensive management information system in order to allow data values to be finalized in a more timely manner. The effect is to establish firm calendared deadlines for amendments, and allow for final reporting of Florida Education Finance Program Student Membership Survey data in a shorter time period. Additionally, former subsection (8) requiring all students in a course to be eligible exceptional students in order for the student to be reported in a special program cost factor has been deleted as this requirement became obsolete with the implementation of the matrix of services authorized in Section 1011.62(1)(c), Florida Statutes. The effect of the amendments will be consistency between rule and governing statutes.

SUMMARY: This rule provides for uniform dates for completing and reporting full-time equivalent student membership surveys in each school district for the Florida Education Finance Program. The language includes uniform dates for each survey and instructions for reporting the data to the Department. The amendment revises the timelines for districts to finalize the data for each survey period and removes obsolete language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.02(1) FS.

LAW IMPLEMENTED: 1011.61, 1011.62(1), 1011.68 FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ruth Jones, Education Information and Accountability Services Section, Department of Education, 325 West Gaines Street, Room 852, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0451 Florida Education Finance Program Student Membership Surveys.

(1) through (3) No change.

(4) During the year, at least four (4) full-time equivalent student membership surveys shall be conducted under the administrative direction of and on a schedule provided by the Commissioner. The second period and the third period full-time equivalent student membership survey for students in a program scheduled for one hundred eighty (180) school days shall each be equal to ninety, one hundred eightieths (90/180) of the school year. Students in a program scheduled for less than one hundred eighty (180) school days in any full-time equivalent student membership survey shall be a fraction of a full-time equivalent member as provided in Section 1011.61(1) ~~236.013(2)(c)2.~~, Florida Statutes. The four (4) survey periods, insofar as practicable, shall be scheduled to take the extended school year, staggered school year, and other variations of the regular one hundred eighty (180) day school year into consideration. School districts may submit amendments to student membership survey data in accordance with the following schedule: Survey Period 1 (July) may not be amended after September 30 following the survey; Survey Period 2 (October) may not be amended after March 31 following the survey; Survey Period 3 (February) may not be amended after July 31 following the survey; Survey Period 4 (June) may not be amended after August 31 following the survey ~~for a period of nine (9) months from the due date of the membership survey being amended~~, or until a membership survey audit as required by Rule 6A-1.0453, F.A.C., has been completed, whichever shall take place first. Such amendments which are submitted too late to be reviewed and included in the last membership data determining the earnings of Florida education finance program funds for the given year shall be treated as prior year adjustments.

(5) For purposes of transportation, ~~physically handicapped~~ students with disabilities under Section 1011.68(5) ~~236.083~~, Florida Statutes, shall be those students defined by Rule 6A-6.0301, F.A.C., as trainable or profoundly handicapped, hearing impaired, visually impaired or physically impaired who have been appropriately identified under the district procedures for providing special education for exceptional students.

(6) When passengers other than public school students in membership, grades K-12 and exceptional, are transported on a school bus at the same time public school students are transported to or from school, the bus route mileage required to transport students as authorized in Section 1011.68(2) ~~236.083(2)~~, Florida Statutes, shall be computed as follows:

(a) If the number of passengers other than public school students in membership, grades K-12 and exceptional, transported on a bus route exceeds five (5) percent of the manufacturer's rated seating capacity of the bus, the loaded bus route miles for that trip shall be adjusted by the percentage of passengers that are not public school students in membership, grades K-12 and exceptional.

(b) Bus miles traveled over a side route to load or unload passengers other than public school students in membership, grades K-12 and exceptional, and miles traveled transporting exclusively other passengers shall not be reported to or counted by the Department for the purpose of FEFP. transportation funding.

(7) For students in all special programs, a student's full-time equivalent membership shall be reported in the respective special program cost factor prescribed in Section 1011.62(1)(c) ~~236.081(1)(c)~~, Florida Statutes, when the student is eligible and is attending a class, course, or program which has met all of the criteria for the special program cost factor. In addition, when reporting program membership, each student shall be reported in the same special program category as reported in the full-time equivalent membership survey.

~~(8) For a student to be reported for a special program cost factor for exceptional students, all students in membership and attending an exceptional student class, course or program shall be eligible exceptional students as defined in Rule 6A-6.0301, F.A.C.~~

(8)~~(9)~~ ESE 135, Department of Juvenile Justice FTE School Funding Certification is~~; ESE 233, FEFP Transportation Survey; ESE 693, School Funding Certification Supplemental FTE Information; ESE 909, Automated Format for FTE Membership Survey; EJE 059, School Funding Certification, Adult FTE Information; and ELS 329, School Funding Certification, Supplemental FTE Information, effective October 1994, are~~ hereby incorporated by reference and made a part of this rule. This ~~These~~ form~~s~~ may be obtained from the Bureau of School Business Services, Office of

Funding and Financial Reporting, ~~Division of Public Schools, The Florida Education Center,~~ Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 1001.02(1) ~~229.053(1)~~ FS. Law Implemented 1011.61, 1011.62(1), 1011.68 ~~236.013(2), (3), (4), (5), (6), (7), 236.081(1), 236.083(1), (2)~~ FS. History–New 4-19-74, Amended 10-31-74, Repromulgated 12-5-74, Amended 6-1-75, 1-29-76, 4-12-78, 8-2-79, 2-4-81, 7-28-81, 4-27-82, 7-13-83, 7-10-85, Formerly 6A-1.451, Amended 3-12-86, 9-30-87, 10-31-88, 12-5-90, 10-26-94, 12-15-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ruth Jones, Education Information and Accountability Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jay Pfeiffer, Deputy Commissioner, Accountability, Research, and Management

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-1.09401 Student Performance Standards

PURPOSE AND EFFECT: The purpose of the rule amendment is to amend the standards relating to science to align with current benchmarks and grade levels. The effect is consistency within standards, benchmarks, and grade levels.

SUMMARY: The rule is amended to provide consistency within current benchmarks and grade levels.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.02 FS.

LAW IMPLEMENTED: 1001.03 FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mary Jane Tappen, Executive Director, Office of Mathematics and Science, Department of Education, 325 West Gaines Street, Tallahassee, Florida; (850)245-0834

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09401 Student Performance Standards.

(1) Standards to benchmark student achievement serve as guides to best practices for local curriculum designers to help schools implement school improvement strategies to raise student achievement. Beginning with the 2007-2008 school year, the reading and language arts benchmarked standards for reading and language arts referenced below in paragraph (1)(a), describe what students should know and be able to do at grade level progression. Beginning with the 2008-2009 school year, the mathematics and science benchmarked standards for mathematics and science referenced below in paragraphs (1)(b) and (c), describe what students should know and be able to do at grade level progression from kindergarten to grade 8 and for each of the mathematics content areas of: algebra, calculus, discrete mathematics, financial literacy, geometry, probability, statistics, and trigonometry, and each of the science content areas of: earth and space science, life sceince, physical science, and nature of science for grades 9-12. The benchmarked standards in paragraphs (1)(d)~~(b)~~ (g) of this rule describe what students should know and be able to do at four progression levels (grades Pre-K-2, 3-5, 6-8, 9-12) in the subjects of the arts, health/physical education, foreign languages, ~~mathematics, science,~~ and social studies. Sunshine State Standards for Special Diploma as incorporated by reference in paragraph (1)(h) of this rule describe what certain students with a disability should be able to do at three (3) proficiency levels (independent, supported, and participatory). Public schools shall provide appropriate instruction to assist students in the achievement of these standards. These standards and benchmarks are contained in the following publications and are hereby incorporated by reference and made a part of this rule.

(a) Sunshine State Standards – Reading and Language Arts, July 2007,

(b) Sunshine State Standards – Mathematics, 2007,

(c) Sunshine State Standards – Science, 2008 ~~1996~~,

(d) Sunshine State Standards – Social Studies, 1996,

(e) Sunshine State Standards – Foreign Languages, 1996,

(f) Sunshine State Standards – The Arts, 1996, and

(g) Sunshine State Standards – Health/Physical Education, 1996, and

(h) Sunshine State Standards for Special Diploma, 1999.

Copies of these publications may be obtained from the Division of Public Schools, Department of Education, 325 West Gaines St., Tallahassee, Florida 32399-0400.

(2) Each district school board shall incorporate the Sunshine State Standards contained herein into the district Pupil Progression Plan.

(3) The Sunshine State Standards shall serve as the basis for statewide assessments.

Specific Authority 1001.02 FS. Law Implemented 1001.03 FS. History–New 6-18-96, Amended 9-28-99, 3-1-07, 7-25-07, 11-25-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jane Tappen, Executive Director, Office of Mathematics and Science, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mary Jane Tappen, Executive Director, Office of Mathematics and Science, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.09412	Course Requirements – Grades 6-12 Basic and Adult Secondary Programs

PURPOSE AND EFFECT: The purpose of this rule amendment is to approve course descriptions for math courses which have been updated to reflect the action taken by the State Board of Education when adopting the new mathematics Sunshine State Standards in 2007. In addition, courses are added in Language Arts, Humanities, Science (marine, environmental management, food studies), physical education, social studies, and fine arts as options for those schools which offer the Advanced International Certificate of Education Diploma. The effect is the adoption of updated course descriptions.

SUMMARY: The 2008 Supplement to the 2007-2008 Florida Course Descriptions for Grades 6-12/Adult, Basic Education includes updated mathematics course descriptions and additional courses for those schools electing to offer the Advanced International Certificate of Education Diploma.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.03(1), 1011.62(1)(r) FS.

LAW IMPLEMENTED: 1001.42(7), 1003.42, 1011.62(1)(r), FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Heather Sherry, Director of K-20 Articulation, Department of Education, 325 West Gaines Street, Suite 1401, Tallahassee, Florida 32399; (850)245-0427

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09412 Course Requirements – Grades 6-12 Basic and Adult Secondary Programs.

A course description directs district personnel by providing the essential content and course requirements for each course in grades 6-12 contained in the "Course Code Directory and Instructional Personnel Assignments" adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publications "2007-2008 Florida Course Descriptions for Grades 6-12/Adult, Basic Education, and 2008 Supplement to the 2007-2008 Florida Course Descriptions for Grades 6-12/Adult, Basic Education" which are ~~is~~ hereby incorporated by reference and made a part of this rule. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description. Copies of approved course descriptions may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 1001.03(1), 1011.62(1)(r) FS. Law Implemented 1001.42(7), 1003.42, 1011.62(1)(r) FS. History–New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-15-01, 12-17-02, 7-26-05, 11-21-05, 7-27-06, 1-18-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Keith Sheets, Jr., Office of K-20 Articulation, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Heather Sherry, Director, Office of K-20 Articulation, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 9, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 28, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.09441	Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the 2008-2009 Course Code Directory and Instructional Personnel Assignments to include new and updated courses. The effect is the inclusion in the Course Code Directory courses for which students may receive credit toward high school graduation.

SUMMARY: The Course Code Directory and Instructional Personnel Assignments is updated to include new courses which students may apply toward high school graduation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.02(1), 1009.53(3), 1011.62(1)(r) FS.

LAW IMPLEMENTED: 1009.531, 1009.534, 1009.535, 1009.536, 1011.62(1) FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Heather Sherry, Director of K-20 Articulation, Department of Education, 325 West Gaines Street, Suite 1401, Tallahassee, Florida 32399; (850)245-0427

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09441 Requirements for Programs and Courses Which are Funded Through the Florida Education Finance Program and for Which the Student May Earn Credit Toward High School Graduation.

For student membership in a program or course to generate funding through the Florida Education Finance Program and for the student to receive elective or required credit toward high school graduation for such a program or course, the following conditions shall be met:

(1) through (4) No change.

(5) The "Course Code Directory and Instructional Personnel Assignments <u>2008-2009</u> ~~2007-2008~~," is hereby incorporated by reference and made a part of this rule. The Commissioner may publish the document in appropriate and useful formats such as printed copy, electronic database access, or electronic disc. The directory may be obtained from K-12 Public Schools, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399. The Commissioner of Education may approve additional courses for which funding could be generated through the Florida Education Finance Program. Such additional course listings will be made available as approved.

Specific Authority 1001.02(1), <u>1009.53(3),</u> 1011.62(1)(r) FS. Law Implemented <u>1009.531, 1009.534, 1009.535, 1009.536,</u> 1011.62(1) FS. History–New 12-20-83, Formerly 6A-1.9441, Amended 2-6-86, 12-28-86, 4-4-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 7-13-93, 10-18-94, 8-28-95, 4-18-96, 7-17-97, 8-12-98, 5-3-99, 5-3-01, 10-15-01, 7-30-02, 4-21-05, 11-21-05, 7-27-06, 1-18-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Keith Sheets, Jr., Office of K-20 Articulation, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Heather Sherry, Director, Office of K-20 Articulation, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 9, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 28, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-1.094221	Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion

PURPOSE AND EFFECT: The purpose of this rule revision is to provide guidelines relating to the statewide public school student progression law eliminating social promotion, by including the Stanford Achievement Test (SAT)-10 as an alternative assessment for students scoring at Level 1 on the grade three Florida Comprehensive Assessment Test (FCAT). Since the original rule adoption, the FCAT Norm Referenced Test (NRT) has changed from SAT-9 to SAT-10. The effect of this rule revision will be that students who score at Level 1 on the grade three FCAT Reading may be promoted to grade four if an acceptable level of performance is demonstrated on the alternative assessment, SAT-9 or SAT-10.

SUMMARY: This rule provide guidelines for utilizing the options of Alternative Standardized Reading Assessment and the Student Portfolio for Good Cause Promotion with regard to third grade students who score at Level 1 on the grade three FCAT Reading.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1008.25(9)(b) FS.

LAW IMPLEMENTED: 1008.25(6)(b)3. FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Evan Lefsky, Executive Director, Office of Just Read, Florida, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.094221 Alternative Standardized Reading Assessment and Use of Student Portfolio for Good Cause Promotion.

(1) Pursuant to Section 1008.25(6), Florida Statutes, relating to the statewide public school student progression law eliminating social promotion, students who score at Level 1 on the grade three ~~reading~~ Florida Comprehensive Assessment Test (FCAT) Reading may be promoted to grade four if the student demonstrates:

(a) An acceptable level of performance on the FCAT Norm Referenced Test (NRT) in Reading ~~portion of the FCAT~~ or the Reading SAT-9 or Reading SAT-10 alternative assessment; or

(b) Reading on grade level as evidenced through mastery of the Sunshine State Standards in reading equal to at least Level 2 performance on the grade three ~~reading~~ FCAT Reading.

(2) The acceptable levels of performance on the alternative assessment for grade three ~~for the 2003-2004 school year~~ are as follows:

(a) To promote a student using the grade three FCAT ~~reading~~ NRT In Reading ~~portion of the FCAT~~ as an alternative assessment good cause exemption, the grade three student scoring at Level 1 ~~Reading~~ FCAT Reading must score at or above the 45th ~~51st~~ percentile on the grade three FCAT NRT in Reading ~~reading NRT portion of the FCAT~~.

(b) To promote a student using the SAT-9 or SAT-10 as an alternative assessment good cause exemption, the grade three student scoring at Level 1 on ~~Reading~~ FCAT Reading must score at or above the 51st percentile on ~~a parallel form of~~ the SAT-9 or at or above the 45th percentile on the Reading SAT-10. The SAT-9 or SAT-10 may only be administered one (1) time.

(c) The earliest the alternative assessment may be administered for student promotion purposes is following the receipt of the grade three student ~~reading~~ FCAT Reading scores or during the last two (2) weeks of school, whichever occurs first.

(3) To promote a student using a student portfolio as a good cause exemption there must be evidence that demonstrates the student's mastery of the Sunshine State Standards in reading equal to at least a Level 2 performance on the grade three ~~reading~~ FCAT Reading. Such evidence shall be an organized collection of the student's mastery of the Sunshine State Standard Benchmarks for Language Arts that are assessed by the grade three ~~reading~~ FCAT Reading. The student portfolio must meet the following criteria:

(a) Be selected by the student's teacher,

(b) Be an accurate picture of the student's ability and only include student work that has been independently produced in the classroom,

(c) Include evidence that the benchmarks assessed by the grade three ~~3 reading~~ FCAT Reading have been met. Evidence is to include multiple choice items and passages that are approximately sixty (60) percent literary text and forty (40) percent information text, and that are between 100-700 words with an average of 350 words. Such evidence could include chapter or unit tests from the district's/school's adopted core reading curriculum that are aligned with the Sunshine State Standards or teacher-prepared assessments.

(d) Be an organized collection of evidence of the student's mastery of the Sunshine State Standard Benchmarks for Language Arts that are assessed by the grade three ~~3 reading~~ FCAT Reading. For each benchmark, there must be at least five (5) examples of mastery as demonstrated by a grade of "C" or above, and

(e) Be signed by the teacher and the principal as an accurate assessment of the required reading skills.

Specific Authority 1008.25(8)(b) FS. Law implemented 1008.25(6)(b)3. FS. History–New 5-19-03, Amended 7-20-04,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Melinda Webster, Elementary Reading Specialist, Office of Just Read, Florida

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Evan Lefsky, Executive Director, Office of Just Read, Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 7, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-4.0243	Specialization Requirements for Certification in Foreign Language (Grades K-12) – Academic Class

PURPOSE AND EFFECT: The rule amendment is proposed to provide for acceptance of written and oral proficiency scores earned from the American Council on the Teaching of Foreign Languages (ACTFL) as one option for satisfying the foreign language specialization requirements for foreign languages for which there are no Florida developed subject area exams. It is also proposed that the languages for which certification is offered be expanded to add Arabic, Hindi, Farsi, and Haitian Creole.

SUMMARY: The rule is amended to propose that a score above the intermediate level on the ACTFL oral proficiency interview and the written proficiency test for the specific foreign language for which there is no Florida developed

subject area exam be accepted to establish subject area specialization requirements for initial certification in the foreign language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1001.02, 1012.55, 1012.56 FS.

LAW IMPLEMENTED: 1001.02, 1012.54, 1012.55, 1012.56 FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Beverly Gregory, Chief, Bureau of Educator Certification, Department of Education, 325 West Gaines Street, Room 201, Tallahassee, Florida 32399-0400; (850)245-0431

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.0243 Specialization Requirements for Certification in Foreign Language (Grades K-12) – Academic Class.

(1) Specialization requirements for the following world ~~modern~~ languages: Arabic, Chinese, Farsi, French, German, Greek, Haitian Creole, Hebrew, Hindi, Italian, Japanese, Portuguese, Russian, and Spanish.

(a) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in one of the world ~~modern~~ languages listed in subsection (1) of this rule, or

(b) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in one of the world ~~modern~~ languages listed in subsection (1) of this rule to include credit in the areas specified below:

1. History or culture of the people who speak the language as their native language,

2. Literature in the language, and

3. Applied linguistics or second language acquisition, or

(c) Plan Three. A bachelor's or higher degree with specialization requirements completed in one (1) of the world ~~modern~~ languages as specified in paragraph (1)(a) or (b) of this rule, and twenty-one (21) semester hours in another one of the modern languages listed in subsection (1) of this rule to include credit in the areas specified below:

1. History or culture of the people who speak the language as their native language, and

2. Literature in the language, or

(d) Plan Four. A bachelor's or higher degree and official documentation of successful completion of the Basic Program of the Defense Language Institute of the United States Department of Defense in one of the world ~~modern~~ languages listed in subsection (1) of this rule or,~~-~~

(e) Plan Five. A bachelor's or higher degree and official documentation of an American Council on the Teaching of Foreign Languages (ACTFL) oral proficiency interview score earned above the intermediate level and a written proficiency test score earned above the intermediate level in one of the world languages for which there is no Florida developed certification subject area examination.

(2) Specialization requirements for Latin.

(a) Plan One. A bachelor's or higher degree with an undergraduate or graduate major in Latin, or

(b) Plan Two. A bachelor's or higher degree with thirty (30) semester hours in Latin to include credit in the areas specified below:

1. Latin vocabulary, grammar, and composition,

2. Latin literature, and

3. Roman culture, or

(c) Plan Three. A bachelor's or higher degree with specialization requirements completed in one (1) of the modern languages as specified in paragraph (1)(a) or (b) of this rule, and twenty-one (21) semester hours in Latin to include credit in the areas specified below:

1. Latin vocabulary, grammar, and composition,

2. Latin literature, and

3. Roman culture.

Specific Authority 1001.02, 1012.55, 1012.56 FS. Law Implemented 1001.02, 1012.54, 1012.55, 1012.56 FS. History–New 7-1-90, Amended 7-17-00, 4-17-02, 6-20-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Beverly Gregory, Chief, Bureau of Educator Certification, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Pamela Stewart, Deputy Chancellor, K-12 Educator Quality, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 16, 2007

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:

6A-6.025 Use of Epinephrine Auto-Injectors

PURPOSE AND EFFECT: The purpose of this rule is to implement the requirements of Section 1002.30(3)(i), Florida Statutes, relating to the use of epinephrine auto-injectors. The effect is the adoption of a rule consistent with governing legislation.

SUMMARY: This rule is proposed to specify school district requirements regarding the use of epinephrine auto-injectors in school, school sponsored activities, or in transit to or from school.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 1002.20(3)(i) FS.

LAW IMPLEMENTED: 1002.20(3)(i) FS.

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

DATE AND TIME: February 19, 2008, 8:30 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bambi Lockman, Chief, Bureau of Exceptional Education and Student Services, K-12 Public Schools, Department of Education, 325 West Gaines Street, Room 614, Tallahassee, Florida 32399; (850)245-0475

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.025 Use of Epinephrine Auto-Injectors.

(1) Definitions.

(a) Self-Administration. Self-administration shall mean that the student is able to utilize the epinephrine auto-injector in the manner directed by the licensed healthcare provider without additional assistance or direction.

(b) Anaphylaxis. Anaphylaxis is a medical term for the life-threatening allergic reactions that may occur when allergic individuals are exposed to specific allergens. Anaphylaxis is a collection of symptoms affecting multiple systems in the body.

(c) Epinephrine Auto-injector. Epinephrine auto-injector is a prescription medication (epinephrine) in a specific dose-for-weight device that is packaged for self-delivery in the event of a life-threatening allergic reaction.

(d) Emergency Action Plan. Emergency action plan is a child-specific action plan that is developed for an anticipated health emergency in the school setting. The Emergency Action Plan (EAP) is a component of the Individual Health Care Plan (IHCP) developed in accordance with Section 1006.062, Florida Statutes, and Rule 64F-6.004, F.A.C.

(2) A written authorization is required from the physician and parent/guardians for a student to carry an epinephrine auto-injector and self-administer epinephrine by auto-injector in accordance with Section 1002.20, Florida Statutes.

(3) In accordance with subsection 64F-6.004(4), F.A.C., the school nurse shall develop an annual IHCP that includes an EAP, in cooperation with the student, parent/guardians, healthcare provider, and school personnel for the student with life-threatening allergies.

(4) The IHCP shall include provisions for child-specific training in accordance with Section 1006.062(4), Florida Statutes, to protect the safety of all students from the misuse or abuse of auto-injectors. The EAP component shall specify that the emergency number (911) will be called immediately for an anaphylaxis event and describe a plan of action if the student is unable to perform self-administration of the epinephrine auto-injector.

Specific Authority 1002.20(3)(i) FS. Law Implemented 1002.20(3)(i) FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bambi Lockman, Chief, Bureau of Exceptional Education and Student Services, K-12 Public Schools, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Pam Smith, Deputy Chancellor, Curriculum, Instruction, and Student Services, K-12 Public Schools, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 7, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2007

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to http://www.dep.state.fl.us/ under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

Suwannee River Water Management District

RULE NO.:	RULE TITLE:
40B-1.901	General

PURPOSE AND EFFECT: The purpose of the rule development is to update this section of Chapter 40B-1, Florida Administrative Code, to adopt the most current version of the Application for General Works of the District Development Permit, incorporated by reference. The effect of the rule will incorporate the updated Application for General Works of the District Development Permit, to conform to Chapter 40B-4, Florida Administrative Code, which was updated in August 2007.

SUMMARY: This proposed rule development will incorporate by reference the updated Application for General Works of the District Development Permit.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 FS.

LAW IMPLEMENTED: 373.118, 373.413, 373.416, 373.426 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULE IS:

40B-1.901 General.

(1) through (10) No change.

(11) Application for General Work of the District Development Permit, Effective _____ ~~January 29, 2001~~;

(12) through (17) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.118, 373.413, 373.416, 373.426 FS. History–New 9-15-81, Amended 3-17-88, 12-21-88, 10-8-89, 6-17-93, 10-3-95, 1-3-96, 6-22-99, 1-29-01, 5-15-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 8, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 21, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.:	RULE TITLE:
61A-1.010	Approved Advertising and Promotional Gifts; Recordkeeping Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify and reformat the rules addressing advertising and promotional gifts as they pertain to the sale of alcoholic beverages.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, 414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.010 Approved Advertising and Promotional Gifts; Recordkeeping Requirements.

(1) Manufacturers and distributors are prohibited from providing any forms of assistance not included in the exceptions specified in Chapter 61A-1, F.A.C., or specifically authorized by Florida Statutes, to vendors and their employees or agents. In addition, vendors, their employees or agents are prohibited from accepting any such forms of assistance. ~~The division hereby adopts the "Approved Advertising and Promotional Gifts Chart," herein incorporated by reference and effective 6/5/97. This chart, produced by the division, provides for the description, special conditions, and restrictions on items which shall not be considered unlawful gifts, loans of money or property, or rebates for purposes of Section 561.42, F.S. This~~

~~chart is available from the Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, FL 32399-1020.~~

~~(2) Any other gifts, loans of money or property, or rebates not included in the "Approved Advertising and Promotional Gifts Chart", or specifically authorized by Florida Statutes, shall not be provided to a vendor.~~

(2)~~(3)~~ Manufacturers and distributors shall keep and maintain records for a three-year period on their licensed premises, or other division-approved location, of any permitted form of assistance provided to vendors under the Beverage Law ~~all product displays, equipment and supplies, samples, consumer coupon promotions, participation in retailer association activities, and the acquisition or production cost and selling cost of merchandise items given, sold, or loaned to vendors~~.

These records shall show:

(a) The name and address of the vendor, vendor's employee or agent;

(b) The vendor's license number;

(c) The date furnished;

(d) The ~~A~~ description and quantity of assistance furnished ~~of the item~~;

(e) The cost of the manufacturer or distributor's form of assistance ~~(~~determined by the original purchaser's invoice price~~)~~. This information is not required if no value restrictions exist; ~~and~~

(f) The charges to the vendor ~~retailer~~ for the assistance, if any ; and ~~applicable~~

(g) The amount of any coupon, electronic or otherwise.

(3)~~(4)~~ Vendors shall keep and maintain records for a three-year period on their licensed premises, or other division-approved location, of any permitted form of assistance provided by manufacturers or distributors under the Beverage Law. ~~Pursuant to Florida Statutes Section 561.42(8), vendors shall keep and maintain any record for a 3-year period on their licensed premises, or other division approved location, of any credits or other forms of assistance provided to the vendor under subsection (3) of this rule.~~

These records shall show:

(a) The name and address of the manufacturer or distributor providing the credit, cash, or other form of assistance.

(b) A description of the form of assistance received and quantity received, if applicable.

Specific Authority 561.11, 561.42 FS., Law Implemented 561.08, 561.42 FS, History–Repromulgated 12-19-74, Amended 3-1-76, Formerly 7A1.10, Formerly, 7A-1.010, Amended 6-5-97, Formerly 61A-1.010, Amended_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Division of Alcoholic Beverages and Tobacco

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0101 Product Displays

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide product displays to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0101 Product Displays.

(1) Manufacturers and distributors may give or sell product displays to vendors, for use in the interior of a vendor's licensed premises, to include wine racks, bins, barrels, casks, and shelving used exclusively to hold and display factory sealed products of the provider for sale to customers at room temperature or cold. Manufacturers or distributors may require a minimum purchase to provide vendors with a display.

(2) Manufacturers and distributors may transport, install, and disassemble their own product displays on a vendor's premises.

(3) The value of the product display, excluding transportation, installation, and disassembly costs, shall not exceed $300 per brand at any one time on any one vendor's premises. Manufacturers and distributors shall not pool or combine dollar limitations in order to provide a vendor a product display valued in excess of $300 per brand.

(4) The product display shall bear conspicuous, permanently inscribed or securely affixed product information. The vendor's name, business name and address may be part of the product display.

(5) Payments of slotting fees shall not be made to vendors. A slotting fee is defined as any form of assistance given by a manufacturer or distributor to a vendor to purchase or rent additional, particular, favorable, or dedicated display, shelf, cooler, storage or warehouse space.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.:	RULE TITLE
61A-1.0103	Consumer Advertising Specialty Items

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how and what consumer advertising specialty items manufacturers and distributors may provide to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0103 Consumer Advertising Specialty Items.

(1) Manufacturers and distributors of wine or spirits may give or sell to a vendor consumer advertising items, designed to be carried away by the consumer, including trading stamps, nonalcoholic mixers, pouring racks, ashtrays, bottle or can openers, cork screws, shopping bags, matches, printed recipes, pamphlets, cards, leaflets, blotters, post cards, pencils, shirts, caps, and visors.

(2) Manufacturers or distributors of malt beverages must sell items advertising malt beverages, designed to be carried away by the consumer, including ashtrays, T-shirts, bottle openers, shopping bags, and the like, to vendors at no less than the actual cost of the industry member who purchased them, unless the manufacturer or distributor gives the items directly to consumers on the vendor's licensed premises.

(3) Manufacturers and distributors shall not pay a vendor for allowing them to give items directly to consumers on the vendor's licensed premises.

(4) The vendor's name, business name and address may be printed on these items.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0104 Alcoholic Beverage Samples

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify amounts of beverage samples that manufacturers and distributors may provide to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0104 Alcoholic Beverage Samples.

(1) A distributor may furnish or give a sample of distilled spirits, wine, or malt beverages to a vendor if that vendor has not purchased the brand from that distributor within the last twelve months. However, if ownership of a distributor or vendor is transferred to a new entity, the distributor is eligible to give, and the vendor is eligible to receive, new samples.

(2) Samples of malt beverages shall not exceed three gallons to each licensed premises; samples of wine shall not exceed three liters to each licensed premises; and samples of spirits shall not exceed three liters to each licensed premises.

(3) If a particular product is not available in a size within the quantity limitations of this section, a manufacturer or distributor may furnish to a vendor the next larger size.

Specific authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0105 Brand Images

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify what brand images manufacturers and distributors may provide to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. to 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0105 Brand Images.

A manufacturer or distributor may provide to all vendors without conditions copy-ready images of alcoholic beverage brands, logos, or products including newspaper cuts, mats, or engraved blocks, electronic or otherwise.

Specific authority 561.11 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0106 Cooperative Advertisements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that cooperative advertising is not permitted and to state the requirements for manufacturers and distributors to use vendor names in an advertisement.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional

Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0106 Cooperative Advertisements.

(1) Manufacturers and distributors shall not enter into cooperative advertising with vendors or underwrite any vendor's electronic or printed communications or events through the purchase of advertising.

(2) Manufacturers and distributors may use vendors' names in brand advertisements if the advertisement includes two or more vendors without common ownership from whom consumers may purchase the advertised product.

(3) Identification of vendors shall be relatively inconspicuous in relation to the total size of the advertisement.

Specific authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0107 Inside Signs Advertising Brands

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how and when manufacturers and distributors may provide inside signs advertising brands to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0107 Inside Signs Advertising Brands.

(1) Manufacturers and distributors may give, sell, lend, or furnish inside signs advertising brands to vendors such as neon or electric signs, window painting and decalcomanias, posters, placards, and other advertising material herein authorized to be displayed or used in the interior of a licensed vendor's business. The signs must advertise brands sold by the vendor.

(2) The signs may include the vendor's name, business name and address; however, identification of vendors shall be relatively inconspicuous in relation to the total size of the advertisement. Signs may include the price or space for the price of the alcoholic beverage product advertised on the signs. Signs shall not include any reference to a vendor's promotion or event. Vendors shall not add anything other than price to any inside sign given them by manufacturers or distributors.

(3) Vendors shall not have more than one neon or electric sign per manufacturer in their window or windows.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0108 Combination Packages

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide combination packages to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0108 Combination Packages.

Manufacturers and distributors may package and distributors may offer and sell to vendors, non-alcoholic beverages or products packaged with alcoholic beverages at the non-combination package price or higher.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.0109 Point of Sale Coupons

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide point of sale coupons to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.0109 Point of Sale Coupons.

(1) Coupons include both paper and electronic forms of discounts and rebates. At a vendor's request, paper coupons must be made available in place of electronic coupons. A purchase is required in order for the consumer to receive the discount or rebate.

(2) Coupon promotions may be offered to on-premises or off-premises licensed vendors only, or to both, and must be offered to all vendors in a defined market area. A defined market area is an area no smaller than a 5-digit ZIP code.

(3) All coupons shall have a specific monetary value and shall be offered to vendors in similar quantities, at the same time, based on the vendor's inventory of the promotion products and the promotion products ordered.

(4) When an electronic-form coupon is offered to a consumer, there must be a conspicuous sign or notice of the discount and its amount on the vendor's licensed premises for the duration of the coupon promotion.

(5) Vendors shall seek and accept reimbursement only from a manufacturer or distributor, or their designated agent, for a consumer purchase of the product.

(6) Reimbursement to vendors shall not exceed the face value of the coupon and the customary handling charge, which shall be the same charge for all vendors during the coupon period.

(7) Malt beverage distributors shall not provide malt beverage coupons to vendors; however, they may deliver manufacturer's coupons to vendors.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01010 Premium Offers

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide premium offers to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

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PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

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(850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01010 Premium Offers.

(1) "Premium Offer" means value-added merchandise, travel, or services held out to consumers in exchange for their purchase of an alcoholic product, sometimes referred to as "product gift" or "gift with sales promotion."

(2) Manufacturers and distributors may furnish premium offers on products to consumers with proof of purchase and may provide vendors with point-of-sale advertising and order forms.

(3) Premium offers shall be made available to all vendors who wish to participate. The premiums shall be offered in similar quantities at the same time; however, the premiums shall not be given or loaned to the vendor for display.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01011 Sweepstakes, Drawings, or Contests

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide sweepstakes, drawings, or contests to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01011 Sweepstakes, Drawings, or Contests.

(1) Manufacturers and distributors may provide entry forms, rules, and point-of-sale advertising pieces to vendors. These materials must be offered to all vendors who wish to participate in similar quantities at the same time.

(2) Sweepstakes, drawings, and contests shall not require proof of purchase to enter and shall be open for the general public to participate; however, no vendor or vendor's employee shall be eligible to participate or win.

(3) Vendors shall not collect completed entry forms and the selection of winners shall not occur at a vendor's place of business. Live or electronic contests sponsored by manufacturers or distributors shall not be held at a vendor's place of business.

(4) Section 849.094, F.S. requires registration of consumer games where prizes are awarded in excess of $5,000 with the Florida Department of Agriculture and Consumer Affairs.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.:	RULE TITLE:
61A-1.01012	Vendor's Property Included in Contests or Sweepstakes

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may include a vendor's property in contests or sweepstakes.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01012 Vendor's Property Included in Contests or Sweepstakes.

(1) Manufacturers and distributors may administer consumer contests and sweepstakes that include a vendor's property as the prize. However, the contest or sweepstakes shall not be a joint venture with a vendor. Any contest or sweepstakes prizes purchased by the manufacturer or distributor shall be purchased at the same cost as charged to the general public. Any room rental fee paid by the manufacturer or distributor to the vendor shall be at the vendor's normal rate.

(2) Manufacturers and distributors may use the names and pictures of the vendor's properties related to prizes awarded to consumers. Any reference to a vendor shall be relatively inconspicuous in relation to the total size of the advertisement or entry form.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:
61A-1.01013 Vendor-Sponsored Tournaments

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may participate in vendor-sponsored tournaments.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01013 Vendor-Sponsored Tournaments.

Manufacturers and distributors may participate in vendor-sponsored tournaments and contests and must pay normal entry fees. Manufacturers and distributors shall not advertise, co-sponsor, underwrite, or contribute in time, money, or gifts.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:
61A-1.01014 Gifts to Those Who Are Not Licensed Vendors

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide gifts to those who are not licensed vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01014 Gifts to Those Who Are Not Licensed Vendors.

Manufacturers and distributors may give gifts to manufacturer's and distributor's employees, charitable organizations, market testers, and non-profit civic organization permittees. Alcoholic beverage products shall be invoiced to the individual or organization as a no-charge invoice. Individuals or organizations may arrange for delivery of alcoholic beverage products to their function in care of a licensed vendor's place of business provided the alcoholic beverage products do not become the property of the vendor.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01015 Private Labels

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how vendors may sell and manufacturers and distributors may provide private labels.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01015 Private Labels.

(1) Beer, wine, and spirituous liquors may be manufactured under a vendor's trademark. The vendor may be the exclusive outlet for the product if the vendor maintains ownership of the trademark. The vendor shall not set the price of private label products with the manufacturer, importer, or distributor. Pricing shall be independently established by the manufacturer or importer and the distributor.

(2) The vendor may petition the division for an exception to the outside sign prohibition when their business name is the same as the private label name. The petition shall be granted if the purpose is clearly to promote the business name and not the alcoholic beverage brand.

(3) The vendor may be paid royalties and other contractual payments if the right to the trademark is sold by the vendor.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01016 Shelf Plans

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide shelf plans to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01016 Shelf Plans.

Manufacturers and distributors may give vendors layouts or designs of the vendors' shelves or coolers. The shelf plans must be used solely for the purpose of providing vendors with information regarding placement of alcoholic beverage products on shelves and in coolers. There shall be no requirement for a vendor to purchase anything to receive a shelf plan.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01017 Educational Seminars

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide educational seminars to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01017 Educational Seminars.

Manufacturers and distributors may host instructional programs relating to alcoholic beverage products, alcoholic beverage laws and regulations, or responsible service and sales of alcoholic beverages. During seminars, manufacturers and distributors may give vendors and vendor's employees or agents, instructional materials, snacks, beverages, meals, and tours of a manufacturer or distributor's facility. Manufacturers and distributors shall not pay for or provide lodging or transportation to or from seminars to any vendor, vendor's employee or agent.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01018 Trade Shows and Conventions

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may participate in non-profit retailer trade shows and conventions.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01018 Trade Shows and Conventions.

(1) Manufacturers and distributors may participate in non-profit vendor association trade shows and conventions.

Participation may include:

(a) Displaying products;

(b) Renting display space at normal trade show rates;

(c) Paying normal registration fees;

(d) Purchasing tickets to functions;

(e) Providing samples to attendees;

(f) Conducting tastings for attendees;

(g) Providing hospitality independent of sponsored activities by the association or any member vendors; and

(h) Purchasing advertisements in publications distributed during conventions and trade shows. Payments for all such advertisements shall not exceed $300 per year to any retail association.

(2) Malt beverage manufacturers and distributors shall not provide any gifts to vendor associations that advertise malt beverages.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01019 Proof of Insurance Coverage

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify what type of proof of insurance coverage manufacturers and distributors may provide to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01019 Proof of Insurance Coverage.

Manufacturers and distributors may provide vendors proof of insurance for manufacturers or distributors personnel, equipment, and products; however they may only issue "hold harmless" or "indemnity" agreements involving product liability or copyright and patent infringement for acts or omissions of the manufacturer or distributor. Manufacturers or distributors shall not issue "hold harmless" or "indemnity" agreements directly or indirectly insuring or co-insuring acts or omissions of vendors.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:
61A-1.01020 Draft Cleaning

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify that manufacturers and distributors may provide draft cleaning to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01020 Draft Cleaning.

Distributors may clean malt beverage draft equipment utilizing or dispensing their product to ensure quality control.

Specific Authority 561.11 FS. Law Implemented 561.423, 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:
61A-1.01021 Returns of Damaged Products

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how vendors may return damaged products to manufacturers and distributors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01021 Returns of Damaged Products.

(1) Vendors may return damaged products to distributors. Vendors shall notify distributors of damaged products received from the distributor within ten days after delivery in order to obtain a credit or exchange. Damaged products shall be verified by the distributor's representative prior to issuing a credit or exchange. Damaged products shall be exchanged in exact quantities with products of near or equal value made by the same manufacturer and in the same size containers unless a credit or cash is issued at the time of the return with supporting documentation. Products damaged by vendors shall not be returned to the distributor for credit or exchange and will be the vendor's liability.

(2) Distributors shall maintain records of vendor requests for return of damaged products with reference made to the original invoice showing the delivery date and any credit memo issued. Distributors shall make and keep a transaction record of all exchanges detailing the date, the licensed vendor, business name and address, the vendor's license number, and the product exchanged for products, cash, or credit.

(3) No return of the product shall be permitted if the vendor's request is made more than ten days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective 6/5/97.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01022 Returns of Undamaged Products

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how vendors may return undamaged products to manufacturers and distributors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01022 Returns of Undamaged Products.

(1) Distributors shall not make consignment sales to vendors. Vendors who make a request for return of undamaged products within five days after delivery shall be entitled to cash or a credit within ten days after the request and at the same time the distributor picks up the products. The distributor shall document the request on the credit or refund memo. The five day requirement excludes days that either the vendor or the distributor are closed for business.

(2) No return of the product shall be permitted if the vendor's request is made more than five days after the delivery date, unless the division has granted permission on DBPR form 4000A-015, Application to Return Alcoholic Beverages, incorporated herein by reference and effective 6-5-97.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01023 Warehousing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide warehousing to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01023 Warehousing.

Distributors of wine and spirituous liquors may deliver those products during the same calendar week, which shall begin on Sunday, as the products are ordered. The product prices shall be set at the time of the order and may not be adjusted based on additional products ordered during the same calendar week as the original order after the first delivery is loaded.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE NO.: RULE TITLE:

61A-1.01024 Split Cases

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify how manufacturers and distributors may provide split cases to vendors.

SUMMARY: This rule is part of a large set being promulgated to implement statutory provisions relating to approved advertising and promotional gifts, including coupons, as they pertain to the sales of alcoholic beverages.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 561.11, 561.42 FS.

LAW IMPLEMENTED: 561.08, 561.42 FS.

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

DATE AND TIME: Wednesday, February 13, 2008, 9:00 a.m. – 5:00 p.m. or until completion of business, whichever is earlier, at which time the record will close

PLACE: Professions Boardroom, Northwood Centre, 1940 N. Monroe Street, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: DeeAnna Owens, Administrative Assistant, (850)414-8125. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lisa Livezey Comingore, Assistant General Counsel, Department of Business and Professional Regulation, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)487-9677

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-1.01024 Split Cases.

Distributors may offer split cases containing more than one brand or more than one size of the same brand of alcoholic beverage to vendors. Distributors must have a written policy applying to all vendors if an add-on fee is charged for any split cases.

Specific Authority 561.11, 561.42 FS. Law Implemented 561.08, 561.42 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Cynthia Hill, Director, Division of Alcoholic Beverages and Tobacco

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ralf Michels, Chief Attorney, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Office of the General Counsel, 1940 North Monroe Street, Suite 42, Tallahassee, Florida 32399, (850)488-0062

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 28, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Auctioneers

RULE NO.:	RULE TITLE:
61G2-3.001	Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify fees for reinstatement of void license.

SUMMARY: The rule amendment will add new language to clarify fees for reinstatement of void license.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 455.2281, 455.271, 468.384(2), 468.386(1), 468.393(1) FS.

LAW IMPLEMENTED: 455.217(2), 455.2171, 455.219(6), 455.2281, 455.271, 468.385(2), (4), (6), (7), 468.3851, 468.386(1), 468.387, 468.393(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Board of Auctioneers, 1940 North Monroe Street, Tallahassee, Florida 32399-0762

THE FULL TEXT OF THE PROPOSED RULE IS:

61G2-3.001 Fees.

(1) through (11) No change.

(12) Fees for Reinstatement of a Void License:

(a) Non refundable Application fee of $150.00.

(b) Non refundable Renewal fee of $150.00 – $300.00 for each biennium when timely renewal was missed, as set forth in Rule 61G2-2.006, F.A.C., and

(c) Fee for unlicensed activity and recovery fund of $105.00 – $210.00 for each biennium when timely renewal was missed, as set forth in Rule 61G2-2.006, F.A.C.

Specific Authority 455.2281, 455.271, 468.384(2), 468.386(1), 468.393(1) FS. Law Implemented 455.217(2), 455.2171, 455.219(6), 455.2281, 455.271, 468.385(2), (4), (6), (7), 468.3851, 468.386(1), 468.387, 468.393(1) FS. History–New 9-18-07, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Auctioneers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Auctioneers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:

61G5-20.002 Salon Requirements

PURPOSE AND EFFECT: The purpose of the rule amendment is to retain the requirement that a salon comply with local building and fire codes, however, it also makes it possible for a salon to submit an application online. The existing rule requires a salon to submit proof of compliance. The amended rule still requires compliance, however, it does not require the applicant to submit proof along with its application.

SUMMARY: The purpose of the rule amendment is to retain the requirement that a salon comply with local building and fire codes, however, it also makes it possible for a salon to submit an application online. The existing rule requires a salon to submit proof of compliance. The amended rule still requires compliance, however, it does not require the applicant to submit proof along with its application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 477.016, 477.025(2) FS.

LAW IMPLEMENTED: 477.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-20.002 Salon Requirements.

(1) Prior to opening a salon, the owner shall:

(a) through (c) No change.

(d) Comply with all local building and fire codes. These requirements shall continue in full force and effect for the life of the salon. ~~Submit proof of compliance with all local building and fire codes.~~

(2) through (6) No change.

Specific Authority 477.016, 477.025(2) FS. Law Implemented 477.025 FS. History–New 4-22-81, Amended 9-11-81, 1-17-83, 8-10-83, 6-28-84, 10-6-85, Formerly 21F-20.02, Amended 6-18-86, 10-18-87, 8-20-90, 5-19-91, 1-30-92, 5-11-92, 4-15-93, 5-31-93, Formerly 21F-20.002, Amended 1-9-95, 4-5-95, 8-8-95, 2-28-96, 6-16-97, 8-27-98, 4-13-99, 8-1-05, 9-6-06, 2-25-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:

61G5-20.004 Display of Documents

PURPOSE AND EFFECT: The Board proposes the rule amendment requiring all cosmetology or specialty salon licensees to display the Consumer Protection Notice.

SUMMARY: The Board proposes the rule amendment requiring all cosmetology or specialty salon licensees to display the Consumer Protection Notice.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 477.016, 477.025(2) FS.

LAW IMPLEMENTED: 477.025 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-20.004 Display of Documents.

(1) through (2) No change.

(3) By July 1, 2008, all holders of a cosmetology or specialty salon license shall display at each footbath a copy of the Consumer Protection Notice regarding footbaths, sanitation, and safety. Copies of this notice (revised 10/15/07, and incorporated herein by reference) may be obtained from the Department of Business and Professional Regulation at 1940 North Monroe St., Tallahassee, FL 32399-0783, and the Call Center by calling (850)487-1395.

Specific Authority 477.016, 477.025(2) FS. Law Implemented 477.025 FS. History–New 11-2-80, Amended 10-10-82, 6-28-84, 10-6-85, Formerly 21F-20.04, 21F-20.004, Amended 3-22-00, 12-6-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Cosmetology

RULE NO.: RULE TITLE:

61G5-32.001 Continuing Education

PURPOSE AND EFFECT: Continuing education providers are required to submit proof electronically to DBPR that a licensee has taken a course. Section 455.2178(1), Florida Statutes, was recently amended to provide a specific time period within which the providers must submit the proof. The amendment conforms the rule to the specific time period provided by the statute.

SUMMARY: Continuing education providers are required to submit proof electronically to DBPR that a licensee has taken a course. Section 455.2178(1), Florida Statutes, was recently amended to provide a specific time period within which the providers must submit the proof. The amendment conforms the rule to the specific time period provided by the statute.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 455.2178, 455.2179, 455.219(3), 455.2228, 477.016, 477.019(7) FS.

LAW IMPLEMENTED: 455.2178, 455.2179, 455.219(3), 455.2228, 477.019(7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Board of Cosmetology, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G5-32.001 Continuing Education.

(1) through (5) No change.

(6) PROVIDER APPROVAL AND REQUIREMENTS.

(a) through (d) No change.

(e) ~~Beginning November 1, 2001,~~ Ceontinuing education providers shall electronically provide to the Department the list of attendees at each of its offered courses within 30 business days of the completion of the course~~, or prior to the end of the renewal cycle, whichever occurs first~~. However, the continuing education provider shall electronically report to the Department completion of a licensee's course within 10 business days beginning on the 30th day before the renewal deadline or prior to the renewal date, whichever occurs sooner. For home study courses, the provider shall electronically supply the list of those individuals successfully completing the course by the 5th of the month following the calendar month in which the provider received documentation and was able to determine the successful completion of the course by the individual. This list shall include the provider's name and provider number, the name and license or registration number of the attendee, the date the course was completed, and the course number. All documents from the provider shall be submitted electronically to the Department and must be in a form as agreed to by the Department with the provider. Failure to comply with the time and form requirements will result in disciplinary action taken against the provider and the course approval. Each continuing education provider shall maintain records of attendance or completion for all continuing education courses offered or taught by the provider for a period of not less than four years following the offering of each course or the receipt of documentation of completion of a home study course. Upon request, these records shall be made available for inspection by the Department or its agent, or the private entity contracted with by the Department to administer the continuing education program at such reasonable time and location as determined by the Department or its agent, or the private entity. The list of attendees submitted electronically to the Department shall not include the names of applicants taking the course for initial licensure pursuant to Rule 61G5-18.011, F.A.C.

(f) through (j) No change.

(7) through (8) No change.

Specific Authority 455.2178, 455.2179, 455.219(3), 455.2228, 477.016, 477.019(7) FS. Law Implemented 455.2178, 455.2179, 455.219(3), 455.2228, 477.019(7) FS. History–New 3-25-99, Amended 2-28-00, 7-27-00, 7-29-01, 7-1-02, 12-6-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Cosmetology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Cosmetology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 15, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to http://www.dep.state.fl.us/ under the link or button titled "Official Notices."

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:

64B3-12.001 Disciplinary Guidelines

PURPOSE AND EFFECT: The purpose of this notice is to amend the disciplinary guidelines pertaining to a violation of Section 483.825(1)(h), F.S.

SUMMARY: The disciplinary guidelines pertaining to a violation of Section 483.825(1)(h), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 456.079, 483.805(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 483.825 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-12.001 Disciplinary Guidelines.

(1) No change.

(2)(a) through (g) No change.

(h) Section 483.825(1)(h), F.S.: Reporting a test result when no laboratory test was performed on a clinical specimen – ~~from a minimum fine of $500 and/or six months of probation to a maximum fine of $2,000 and one year of suspension. For a second offense, from a minimum fine of $1,000 and six months of probation to a maximum fine of $7,500 and/or up to three years suspension. After the second offense, up to a maximum~~ fine of $10,000 and~~/or~~ revocation.

(i) through (y) No change.

(3) through (6) No change.

Specific Authority 456.079, 483.805(4) FS. Law Implemented 456.072, 456.079, 483.825~~, 483.827~~ FS. History–New 8-3-93, Formerly 61F3-12.001, Amended 2-7-95, 5-3-95, 12-4-95, Formerly 59O-12.001, Amended 3-19-98, 9-20-98, 10-6-02, 2-23-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Board of Clinical Laboratory Personnel

RULE NO.: RULE TITLE:

64B3-13.001 Responsibilities of Directors

PURPOSE AND EFFECT: The purpose of this notice is to update the citations within subsection 64B3-13.001(3), F.A.C., so that the subsection conforms to the proposed amendments to Rule 64B3-5.007, F.A.C.

SUMMARY: The responsibilities associated with directing a clinical laboratory performing highly complex testing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 483.805(4) FS.

LAW IMPLEMENTED: 483.800, 483.813, 483.823, 483.825 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Clinical Laboratory Personnel, 4052 Bald Cypress Way, Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B3-13.001 Responsibilities of Directors.

(1) through (2) No change.

(3) A director not certified by the American Board of Pathology in clinical pathology ~~qualified pursuant to paragraph 64B3-5.007(2)(a), F.A.C.,~~ or by the American Board of Oral Pathology, the American Board of Pathology, or the American Osteopathic Board of Pathology ~~subsection 64B3-5.007(3), F.A.C.,~~ who is directing a clinical laboratory performing highly complex testing, shall ensure a co-director certified by the American Board of Pathology in clinical pathology ~~qualified under paragraph 64B3-5.001(1)(a), F.A.C.,~~ or by the American Board of Oral Pathology, the American Board of Pathology, or the American Osteopathic Board of Pathology ~~subsection 64B3-5.001(3), F.A.C.,~~ is available to provide clinical consultation and technical supervision consistent with the scope and volume of highly complex testing being performed as defined in 42 C.F.R. 493.10 and 42 C.F.R. 493.17 which are incorporated by reference. Directors certified by the American Board of Oral Pathology, the American Board of Pathology, or the American Osteopathic Board of Pathology ~~qualifying pursuant to subsection 64B3-5.001(3), F.A.C.,~~ shall provide clinical consultation only in the specialty area(s) for which they are board certified or have 4 years of pertinent clinical laboratory experience.

(4) through (7) No change.

Specific Authority 483.805(4) FS. Law Implemented 483.800, 483.813, 483.823, 483.825 FS. History–New 12-6-94, Amended 3-28-95, Formerly 59O-13.001, Amended 4-7-02, 5-24-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Clinical Laboratory Personnel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Clinical Laboratory Personnel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 16, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:	RULE TITLE:
64B5-16.005	Remediable Tasks Delegable to Dental Assistants

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add language to clarify remediable tasks that can be delegated to Dental Assistants.

SUMMARY: The rule amendment will delete unnecessary language and to add language to clarify remediable tasks that can be delegated to Dental Assistants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 466.004(4), 466.024(3) FS.

LAW IMPLEMENTED: 466.024 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.005 Remediable Tasks Delegable to Dental Assistants.

(1) The following remediable tasks may be performed by a dental assistant who has received formal training and who performs the tasks under direct supervision:

~~(a) Removing sutures;~~

(a)~~(b)~~ No change.

(b)~~(c)~~ Polishing dental ~~amalgam~~ restorations of the teeth when not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – burnishers, slow-speed hand pieces, rubber cups, and bristle brushes;

(d) through (f) renumbered (c) through (e) No change.

(g) Applying sealants;

(f)~~(h)~~ No change.

(g)~~(i)~~ Selecting and pre-sizing orthodontic bands, including the selection of the proper size band for a tooth to be banded which does not include or involve any adapting, contouring, trimming~~, cementing~~ or otherwise modifying the band material such that it would constitute fitting the band;

(j) through (k) renumbered (h) through (i) No change.

~~(l) Placing or removing prescribed pre-treatment separators;~~

(m) through (p) renumbered (j) through (m) No change.

~~(q) Securing or unsecuring an archwire by attaching or removing the fastening device;~~

(r) through (u) renumbered (n) through (q) No change.

(r) Taking impressions for passive appliance, occlusal guards, space maintainers and protective mouth gaurds;

(2) The following remediable tasks may be performed by a dental assistant who has received formal training and who performs the tasks under indirect supervision:

(a) No change.

(b) Making impressions to be used for creating opposing models or the fabrication of bleaching stents and surgical stents to be used for the purpose of providing palatal coverage as well as impressions used for fabrication of topical fluoride trays for home application;

(c) through (g) No change.

(h) Applying topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes; and

(i) Positioning and exposing dental and carpal radiographic film and sensors;.

(j) Applying sealants;

(k) Placing or removing prescribed pre-treatment separators;

(l) Securing or unsecuring an archwire by attaching or removing the fastening device; and

(m) Removing sutures.

(3) through (5) No change.

Specific Authority 466.004(4), 466.024(3) FS. Law Implemented 466.024 FS. History–New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.005, Amended 3-30-94, Formerly 61F5-16.005, Amended 1-9-95, 9-27-95, 6-12-97, Formerly 59Q-16.005, Amended 1-8-01, 4-22-03, 7-13-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2007

DEPARTMENT OF HEALTH

Board of Dentistry

RULE NO.:	RULE TITLE:
64B5-16.006	Remediable Tasks Delegable to a Dental Hygienist

PURPOSE AND EFFECT: The Board proposes the rule amendment to remove unnecessary language and to add language to clarify remediable tasks that can be delegated to Dental Hygienists.

SUMMARY: The rule amendment will remove unnecessary language and to add language to clarify remediable tasks that can be delegated to Dental Hygienists.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 466.004(4), 466.023, 466.024 FS.

LAW IMPLEMENTED: 466.023, 466.024 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-16.006 Remediable Tasks Delegable to a Dental Hygienist.

(1) The following remediable tasks may be performed by a dental hygienist who has received formal training and who performs the tasks under direct supervision:

(a) through (f) No change.

~~(g) Placing or removing prescribed pre-treatment separators;~~

(g)~~(h)~~ Preparing a tooth surface by applying conditioning agents for orthodontic appliances by conditioning or placing of sealant materials which does not include placing brackets;

(i) through (k) No change.

~~(l) Securing or unsecuring an archwire by attaching or removing the fastening device;~~

(l)~~(m)~~ No change.

~~(n) Making impressions for study casts which are being made for the purpose of fabricating orthodontic retainers.~~

(2) The following remediable tasks may be performed by a dental hygienist who has received training in these procedures in pre-licensure education or who has received formal training and who performs the tasks under indirect supervision:

(a) through (d) No change.

(e) Making impressions to be used for creating opposing models or the fabrication of bleaching stents and surgical stents to be used for the purpose of providing palatal coverage as well as impressions used for fabrication of topical fluoride trays for home application;

(f) through (h) No change.

(i) Placing or removing prescribed pre-treatment separators;

(j) Securing or unsecuring an archwire by attaching or removing the fastening device;

(k) Taking impressions for passive appliances, occlusal guards, space maintainers and protective mouth guards;

(3) The following remediable tasks may be performed by a dental hygienist who has received training in these procedures in pre-licensure education or who has received formal training as defined by Rule 64B5-16.002, F.A.C., and who performs the tasks under general supervision:

(a) Polishing ~~amalgam~~ restorations which is not for the purpose of changing the existing contour of the tooth and only with the following instruments used with appropriate polishing materials – burnishers, slow-speed hand pieces, rubber cups, and bristle brushes;

(b) No change.

(c) Applying of topical fluorides which are approved by the American Dental Association or the Food and Drug Administration, including the use of fluoride varnishes;

(d) through (h) No change.

(4)(a) through (h) No change.

(5) No change.

Specific Authority 466.004, 466.023, 466.024 FS. Law Implemented 466.023, 466.024 FS. History–New 1-18-89, Amended 11-16-89, 3-25-90, 9-5-91, 2-1-93, Formerly 21G-16.006, Amended 3-30-94, Formerly 61F5-16.006, Amended 1-9-95, 6-12-97, Formerly 59Q-16.006, Amended 1-25-98, 9-9-98, 3-25-99, 4-24-00, 9-27-01, 7-13-05, 2-14-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 21, 2007

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:

64B8-4.025 Licensure Under Supervision

PURPOSE AND EFFECT: The proposed rule amendments are intended to address licensure under supervision.

SUMMARY: The proposed rule amendments clarify the criteria for those physicians who are granted a license to practice medicine with the requirement that the physician practice under the direct or indirect supervision of another licensed physician.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 458.309 FS.

LAW IMPLEMENTED: 458.311, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-4.025 Licensure Under Supervision.

When an applicant is certified for licensure, but said licensure is restricted in such a manner as to require a period of practice under supervision of another licensee approved by the Board, the applicant's license shall not be issued ~~activated~~ until a supervisor is approved by the Board. However, unless provided otherwise in the Board's Order, the person who is certified for licensure must have a supervisor approved ~~and must activate the license~~ within 12 months of the date the Board certifies the applicant for licensure. If the person certified for licensure does not obtain an approved supervisor ~~activate the license~~ within that 12 month period, the certification for licensure expires and the person must reapply for licensure.

(1) If an applicant is required to work under the direct supervision of another physician, "direct supervision" shall require the physical presence of the supervising physician on the premises so that the supervising physician is immediately available when needed.

(2) If an applicant is required to work under the indirect supervision of another physician, "indirect supervision" shall mean the responsible supervision of the licensee by a supervising physician, approved by the board, which supervision shall not require the physical presence of the supervising physician when procedures are performed, but shall require the supervisor to be reasonably available, so as to be physically present to provide consultation or direction in a timely fashion as required for appropriate care of the patient.

(3) The proposed supervisor, practice plans, and designation of an area of practice shall be reviewed by the Probation Committee which shall make recommendations to the Board. The Chairman of the Probation Committee may grant temporary approval of the proposed supervisor, practice plan, and designation of an area of practice. Final approval may not be granted until the proposed supervisor and the applicant appear before the Probation Committee unless the appearance requirement is waived by the Probation Committee.

Specific Authority 458.309 FS. Law Implemented 458.311, 458.313, 458.3145, 458.315, 458.316, 458.3165, 458.317 FS. History–New 9-21-93, Formerly 61F6-22.025, 59R-4.025, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Credentials Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:
64B8-5.001 Examinations

PURPOSE AND EFFECT: The proposed rule amendments are intended to address applicants who passed Step 2 of the USMLE prior to June 2004.

SUMMARY: The proposed rule amendment exempts applicants who passed Step 2 of the USMLE prior to June, 2004, from the requirement for completion of the Clinical Skills portion of Step 2.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 456.017(1), 458.309, 458.311(1)(h), 458.313(4) FS.

LAW IMPLEMENTED: 456.017(1), (2), 458.311, 458.313 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-5.001 Examinations.

(1) No change.

(2) Any applicant who attempts to qualify for licensure by successfully completing the USMLE first used in 1994 shall meet the following requirement: An applicant must achieve a weighted score of no less than 75 on each step in order to be eligible for licensure in Florida. Any applicant who passed Step 2 of the USMLE prior to June 2004, is not required to complete the Clinical Skills portion of Step 2.

(3) through (4) No change.

Specific Authority 456.017(1), 458.309, 458.311(1)(h), 458.313(4) FS. Law Implemented 456.017(1), (2), 458.311, 458.313 FS. History–New 12-5-79, Amended 11-10-82, 11-28-84, 3-13-85, 8-11-85, 12-4-85, Formerly 21M-21.01, Amended 2-16-86, 12-16-86, 5-10-89, Formerly 21M-21.001, Amended 5-9-94, Formerly 61F6-21.001, Amended 10-18-94, 1-2-95, Formerly 59R-5.001, Amended 8-18-98, 2-3-00, 8-20-02, 6-9-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Credentials Committee, Board of Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: RULE TITLE:
64B8-56.002 Equipment and Devices; Protocols for Laser and Light-Based Devices

PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify use of laser and light-based devices for hair removal or reduction.

SUMMARY: The proposed rule amendments clarify the protocols for the use of lasers and light-based devices.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 478.43 FS.

LAW IMPLEMENTED: 458.331(1)(v), 458.348(3), 478.42(5), 478.43(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-56.002 Equipment and Devices; Protocols for Laser and Light-Based Devices.

(1) No change.

(2) An electrologist ~~Licensed electrologists~~ may not use laser or ~~and~~ light-based devices for hair removal or reduction ~~devices~~ unless they:

(a) Have completed ~~a post licensure education~~ training ~~course~~ in laser and light-based hair removal and ~~or~~ reduction that meets the requirements set forth in ~~approved by the Council pursuant to~~ subsections 64B8-52.004(2) and (3), F.A.C.;

(b) through (d) No change.

(3) through (6) No change.

Specific Authority 478.43 FS. Law Implemented 458.331(1)(v), 458.348(3), 478.42(5), 478.43(4) FS. History–New 9-12-01, Amended 2-28-02, 7-23-06, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rules Committee, Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 1, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: RULE TITLE:

64B16-26.1031 Influenza Immunization Certification Program

PURPOSE AND EFFECT: The Board proposes the rule promulgation to provide a criteria for approval of influenza immunization certification programs.

SUMMARY: The rule promulgation will set criteria for approval of influenza immunization certification programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 465.189(5) FS.

LAW IMPLEMENTED: 465.189, 465.005 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca R. Poston, Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-26.1031 Influenza Immunization Certification Program.

The Board shall approve for initial certification of pharmacist administration of influenza immunizations, programs of study not less than 20 hours that includes coursework covering all of the following:

(1) Mechanisms of action for vaccines, contraindications, drug interactions, and monitoring after vaccine administration;

(2) Immunization Schedules;

(3) Immunization screening questions, provision of risk/benefit information, informed consent, recordkeeping, and electronic reporting into the statewide immunization registry through enrollment application DH Form 1997 herein incorporated by reference;

(4) Vaccine storage and handling;

(5) Bio-Hazardous waste disposal and sterile techniques;

(6) Entering, negotiating and performing pursuant to physician oversight protocols;

(7) Community immunization resources and programs;

(8) Identifying, managing and responding to adverse incidents including but not limited to potential allergic reactions associated with vaccine administration;

(9) Procedures and policies for reporting adverse events to the Vaccine Adverse Event Reporting System (VAERS);

(10) Reimbursement procedures and vaccine coverage by federal, state and local governmental jurisdictions and private third party payors;

(11) Administration techniques;

(12) The current influenza immunization guidelines and recommendations of the United States Department of Health Centers for Disease Control and Prevention;

(13) Review of Section 465.189, F.S.; and

(14) Cardiopulmonary Resuscitation (CPR) training.

Successful completion of the certification program must include a successful demonstration of competency in the administration technique and a cognitive examination.

Specific Authority 465.189(5) FS. Law Implemented 465.189, 465.005 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Pharmacy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Pharmacy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 16, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 21, 2007

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE NO.: RULE TITLE:

64B18-11.002 Examination for Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to delete the date required for passing the PMLexis examination.

SUMMARY: The date required for passing the PMLexis examination will be removed from the rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 456.017, 461.005 FS.

LAW IMPLEMENTED: 456.017(1)(c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-11.002 Examination for Licensure.

The Board adopts the national examinations administered under the auspices of the National Board of Podiatric Medical Examiners, including Part I, Part II and the PMLexis Examination, as the examination for licensure in Florida, provided that the applicant for licensure has taken and passed the PMLexis Examination ~~after August of 1996~~.

Specific Authority 456.017, 461.005 FS. Law Implemented 456.017(1)(c) FS. History–New 1-29-80, Formerly 21T-11.02, Amended 10-14-86, 11-27-89, 6-19-90, 10-9-90, 4-1-91, Formerly 21T-11.002, 61F12-11.002, Amended 1-1-96, 7-9-96, Formerly 59Z-11.002, Amended 5-13-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Podiatric Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Podiatric Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 12, 2007

DEPARTMENT OF HEALTH

Division of Environmental Health and Statewide Programs

RULE NOS.:	RULE TITLES:
64E-5.101	Definitions
64E-5.206	General Licenses – Radioactive Material Other Than Source Material
64E-5.210	Special Requirements for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material
64E-5.216	Reciprocal Recognition of Licenses for Byproduct, Source, Naturally Occurring and Accelerator Produced Radioactive Material, and Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass
64E-5.350	Reports of Transactions Involving Nationally Tracked Sources
64E-5.351	Nationally Tracked Source Thresholds
64E-5.430	Inspection and Maintenance
64E-5.440	Records
64E-5.441	Reporting Requirements
64E-5.11072	Energy Compensation Source
64E-5.1501	Purpose and Scope
64E-5.1502	Transportation of Radioactive Material

PURPOSE, EFFECT AND SUMMARY: All changes described herein are needed to comply with the requirements of Florida's agreement with the U.S. Nuclear Regulatory Commission (NRC) to regulate radioactive material. As an agreement state, many of Florida's regulations governing the possession and use of radioactive materials must be identical to the NRC's regulations for federal radioactive materials licensees. The proposed rule specifies requirements for transportation of radioactive materials; national tracking of certain large radioactive sources; general license device transfers and export requirements; manufacturer or distributors of generally licensed devices requirements; reciprocity recognition of out of state licenses reporting requirements; technical changes in the use of energy compensation sources; and written procedures for inspection and maintenance of industrial radiography equipment.

SPECIFIC AUTHORITY: 404.042, 404.051, 404.051(4), (11), 404.061, 404.061(2), 404.071, 404.081, 404.081(1), 404.141, 404.20 FS.

LAW IMPLEMENTED: 404.022, 404.031, 404.051, 404.051(1), (2), (4), (6), (8), (9), (10), (11), 404.061, 404.061(2), 404.071(1), (3), 404.081, 404.081(1), 404.141, 404.20, 404.20(1), 404.22 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Micheal N. Stephens, (Mike_Stephens@doh.state.fl.us) ENVIRONMENTAL HEALTH PROGRAM CONSULTANT, BUREAU OF RADIATION CONTROL, BIN C21, 4052 BALD CYPRESS WAY, TALLAHASSEE, FLORIDA 32399-1741

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I GENERAL PROVISIONS

64E-5.101 Definitions.

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain part are defined in that respective part.

(1) through (78) No change.

(79) "Low specific activity material (LSA)" means that as defined in 49 C.F.R. 173.403. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.101(79), F.A.C., is substantively identical to 49 CFR 173.403 published on 10/01/2007.) ~~any of the following:~~

~~(a) Uranium or thorium ores and physical or chemical concentrates of these ores;~~

~~(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;~~

~~(c) Tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries (185 MBq) per milliliter;~~

~~(d) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration of contents does not exceed:~~

~~1. 0.0001 millicurie (3.7 kBq) per gram of radionuclides for which the A_2 quantity is not more than 0.05 curie (1.85 GBq);~~

~~2. 0.005 millicurie (185 kBq) per gram of radionuclides for which the A_2 quantity is more than 0.05 curie (1.85 GBq), but not more than 1 curie (37 GBq); or~~

~~3. 0.3 millicurie (11.1 MBq) per gram of radionuclides for which the A_2 quantity is more than 1 curie (37 GBq).~~

~~(e) Objects externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of 1 square meter, does not exceed 0.0001 millicurie (3.7 kBq) per square centimeter for radionuclides of which the A_2 quantity in Appendix A is not more than 0.05 curie (1.85 GBq), or, for all other radionuclides, 0.001 millicurie (37 kBq) per square centimeter.~~

(80) through (99) No change.

(100) "Package" means that as defined in 49 C.F.R. 173.403 (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.101(100), F.A.C., is substantively identical to 49 CFR 173.403 published on 10/01/2007.) ~~the packaging, together with its radioactive contents, as presented for transport.~~

(101) through (121) No change.

(122) "Radiographic exposure device" means any instrument containing a sealed source, fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed from a shielded position to an unshielded position for the purpose of making ~~that is used to make~~ a radiographic exposure. It also is known as a camera or a projector. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.101(122), F.A.C., is substantively identical to 10 CFR 34.3 published on 01/01/2007.)

(123) through (132) No change.

(133) "Sealed source" means radioactive material that is encased ~~permanently bonded or fixed~~ in a capsule ~~or matrix~~ designed to prevent release or escape ~~and dispersal~~ of the radioactive material ~~under the most severe conditions which are likely to be encountered in normal use and handling~~. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.101(133), F.A.C., is substantively identical to 10 CFR 30.4 published on 01/01/2007.)

(134) through (193) No change.

(194) "Nationally tracked source" means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Rule 64E-5.351, F.A.C. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form, and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1 threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.101(194), F.A.C., is substantively identical to 10 CFR 20.1003 published on 01/01/2007.)

Specific Authority 404.042, 404.051, 404.061 FS. Law Implemented 404.031, 404.051, 404.061, 404.20, 404.22, FS. History–New 7-17-85, Amended 4-4-89, 5-12-93, 1-1-94, 5-15-96, Formerly 10D-91.102, Amended 5-18-98, 10-8-00, 8-6-01, 9-11-01, 12-18-01, 9-28-06, 8-16-07, _____.

PART II
LICENSING OF RADIOACTIVE MATERIALS
SUBPART B
GENERAL LICENSES

64E-5.206 General Licenses – Radioactive Material Other Than Source Material.

(1) through (3) No change.

(4) Certain Measuring, Gauging and Controlling Devices.

(a) No change.

(b)1. The general license in paragraph (4)(a), above, applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Department pursuant to subsection 64E-5.210(4), F.A.C., or in accordance with the specifications contained in a specific license issued by the NRC ~~U.S. Nuclear Regulatory Commission~~, or an Agreement State ~~or a Licensing~~

~~State~~, which authorizes distribution of devices to persons granted a general license by the NRC ~~U.S. Nuclear Regulatory Commission~~, or an Agreement State ~~or a Licensing State~~. Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 C.F.R. Part 179. (Pursuant to Section 120.54(6), Florida Statutes, subparagraph 64E-5.206(4)(b)1., F.A.C., is substantively identical to 10 CFR 31.5(b)(1) published on 01/01/2007.)

2. No change.

(c) Any person who owns, receives, acquires, possesses, uses, or transfers radioactive material in a device pursuant to the general license in paragraph (4)(a), above;

1. through 3. No change.

4. Shall maintain records showing compliance with the requirements of subparagraphs (4)(c)2. and 3., above. The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing testing, installation, servicing and removal from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by subparagraph (4)(c)2., above, shall be maintained for at least three ~~a~~ years after the next required leak test is performed or until the transfer or disposal of the sealed source. Records of tests of the on-off mechanism and indicator required by subparagraph (4)(c)2., above, shall be maintained for at least three ~~a~~ years after the next required test of the on-off mechanism and indicator is performed or until the sealed source is transferred or disposed. Records which are required by subparagraph (4)(c)3., above, shall be maintained for a period of at least three ~~2~~ years from the date of the recorded event or until the transfer or disposal of the device; (Pursuant to Section 120.54(6), Florida Statutes, subparagraph 64E-5.206(4)(c)4., F.A.C., is substantively identical to 10 CFR 31.5(c)(4)i published on 01/01/2007.)

5. through 6. No change.

7. Except as provided in subparagraph (4)(c)8., below, shall transfer or dispose of the device containing radioactive material only by export as provided by subparagraph 15. below, transfer to a specific licensee of the Department, the NRC ~~U.S. Nuclear Regulatory Commission~~, or an Agreement State~~ or a Licensing State~~, whose specific license authorizes him to receive the device, and within 30 days after transfer of a device to a specific licensee, shall furnish to the Department a report containing identification of the device by manufacturer's or initial transferor's name and model number and serial number, the name, address, license number, where applicable, of the person receiving the device, and the date of the transfer;

8. Shall transfer the device by export as provided by subparagraph 15. below, or to another general licensee only:

a. Where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this section, a copy of Rules 64E-5.103, 64E-5.343~~328~~, and 64E-5.344~~329~~, F.A.C., and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Department the manufacturer's or initial transferor's name and model number and serial number of device transferred, the transferor's name and mailing address for the location of use, and the name, title and phone number of the responsible individual identified by the transferee in accordance with subparagraph 64E-5.206(4)(c)11., F.A.C., to have knowledge of and authority to take actions to ensure compliance with these regulations; or

b. Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee; and

9. No change.

10. Shall be required to obtain written Department authorization before transferring the device to any other specific license not specifically identified in subparagraph 64E-5.206(4)(c)7., F.A.C. The Department authorization is granted provided the specific license identifies the device.

11. through 12. No change.

13. Shall report to the Department changes in the general licensee name and the mailing address for each location of ~~or~~ use within 30 days of the effective date of the change. For a portable device, a report of address change is required for a change in the device's primary place of storage.

14. Shall ~~May~~ not hold devices that are not in use longer than 2 years. If the devices with shutters are not being used, the shutters must be locked in the closed position. The testing required by subparagraph 64E-5.206(4)(c)2., F.A.C., need not be performed during the period of storage only. However, when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two year time limit if the general licensee performs physical inventories at intervals not to exceed three months while they are in standby. (Pursuant to Section 120.54(6), Florida Statutes, subpargraph 64E-5.206(4)(c)14., F.A.C., is substantively identical to 10 CFR 31.5(c)(15) published on 01/01/2007.)

15. Shall not export the device containing radioactive material except in accordance with 10 C.F.R. Part 110;

16. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department, a written justification for the request for extension of time. (Pursuant to

Section 120.54(6) Florida Statutes, subsections 64E-5.206(4)(c), (16), F.A.C., is substantively identical to 10 CFR 31.5(c)(11) published on 01/01/2007.)

(d) through (e) No change.

(5) through (10) No change

Specific Authority 404.051, 404.061, 404.071, 404.081 FS. Law Implemented 404.022, 404.051(1), (4), (6), (8), (9), (10), (11), 404.061(2), 404.071(1), (3), 404.081(1), 404.141 FS. History–New 7-17-85, Amended 4-4-89, 1-1-94, Formerly 10D-91.306, Amended 9-28-06, _____.

SUBPART C
SPECIFIC LICENSES

64E-5.210 Special Requirements for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material.

(1) through (3) No change.

(4) Licensing the Manufacture and Distribution of Devices to General Licensees Under subsection 64E-5.206(4), F.A.C.

(a) through (c) No change.

(d) If a device containing radioactive material is transferred for use under the general license described in subsection 64E-5.206(4), F.A.C., each person that is licensed under subsection 64E-5.210(4), F.A.C., shall provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to the initial transfer to the intermediate person. The required information includes the following:

1. A copy of the general license contained in subsection 64E-5.206(4); subparagraphs 64E-5.206(4)(c)2., 3., and 4. or subparagraph 64E-5.206(4)(c)12., F.A.C., do not apply to the particular device, those paragraphs may be omitted;

2. A copy of Rules 64E-5.103, 64E-5.343~~328~~, and 64E-5.344~~329~~, F.A.C.;

3. through 5. No change.

(e) If a device containing radioactive material is transferred for use under an equivalent general license of an Agreement State or the NRC ~~U.S. Nuclear Regulatory Commission~~, each person that is licensed under subsection 64E-5.210(4), F.A.C., shall provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to the initial transfer to the intermediate person. The required information includes the following:

1. A copy of the Agreement State~~s~~ or NRC ~~U.S. Nuclear Regulatory Commission~~ equivalent to Rules 64E-5.103, 64E-5.343~~328~~, and 64E-5.344~~329~~, F.A.C. If a copy of the NRC ~~U.S. Nuclear Regulatory Commission~~ regulations is provided to a prospective general licensee in lieu of the Agreement State's regulations, it shall be accompanied by a note explaining that the use of the device is regulated by the Agreement State. If certain parts of the regulations do not apply to the particular device, those regulations may be omitted;

2. through 4. No change.

(f) through (h) No change.

(i) Each person licensed under subsection 64E-5.210(4), F.A.C., shall comply with the following additional reporting and record keeping requirements for transfers and receipt of devices to Agreement States or the NRC.

1. Report all transfers of devices to persons for use under the general license in an Agreement State or the NRC, that are equivalent to subsection 64E-5.206(4), F.A.C., and all receipts of devices from persons licensed under a general license in Agreement State or the NRC jurisdiction to the responsible Agreement State or the NRC agency. This report must contain all of the information described in "Transfers of Industrial Devices Report 04/2007."

2. through 6. No change.

7. If no transfers have been made to or from a particular Agreement State or the NRC during the reporting period, this information shall be reported to the responsible Agreement State or the NRC agency upon request of the agency.

8. No change.

(j) No change.

(5) through (14) No change.

(15) Each licensee who manufactures a nationally tracked source after February 6, 2007 shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters. (Pursuant to 120.54(6), Florida Statutes, subsection 64E-5.210(15), F.A.C., is substantively identical to 10 CFR 32.201 published on 01/01/2007.)

Specific Authority 404.051, 404.061, 404.071, 404.081, 404.141 FS. Law Implemented 404.022, 404.051, 404.061, 404.081, 404.141 FS. History–New 7-17-85, Amended 8-25-91, 5-12-93, 1-1-94, 5-15-96, Formerly 10D-91.311, Amended 8-6-01, 9-28-06, 8-16-07, _____.

RECIPROCITY SUBPART D

64E-5.216 Reciprocal Recognition of Licenses for Byproduct, Source, Naturally Occurring and Accelerator Produced Radioactive Material, and Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass.

(1) Subject to these regulations, any person who holds a specific license from the NRC ~~U.S. Nuclear Regulatory Commission~~, or an Agreement State ~~or a Licensing State~~ and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, will be granted a general license by the Department to conduct the activities authorized in such licensing document within the

State of Florida, except for areas of exclusive fFederal jurisdiction, for a period not in excess of 365 consecutive days provided that:

(a) through (d) No change.

(e) Shall not possess or use radioactive materials or engage in activities authorized in subsection 64E-5.216(1), F.A.C., above for more than a period in excess of 180 days in any calendar year. (Pursuant to Section 120.54(6), Florida Statutes, paragraph 64E-5.216(1)(e), F.A.C., is substantively identical to 10 CFR 150.20(b)(4) published on 01/01/2007.)

(2) through (3) No change.

Specific Authority 404.051(4), (11), 404.061(2), 404.081(1), 404.141 FS. Law Implemented 404.051(1), (2), (4), (6), (11), 404.061(2), 404.081(1) FS. History–New 7-17-85, Amended 4-4-89, Formerly 10D-91.321, Amended 10-8-00, _____.

PART III
STANDARDS FOR PROTECTION AGAINST RADIATION
SUBPART L
REPORTS

64E-5.350 Reports of Transactions Involving Nationally Tracked Sources.

Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit to the NRC a National Source Tracking Transaction Report as specified in subsections (1) through (5) of this section for each type of transaction. (Pursuant to Section 120.54(6), Florida Statutes, Rule 64E-5.350, F.A.C., except subsection 64E-5.350(8), F.A.C., as noted below, is substantively identical to 10 CFR 20.2207 effective 02/06/2007.)

(1) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source;

(d) The radioactive material in the source;

(e) The initial source strength in becquerels (curies) at the time of manufacture; and

(f) The manufacture date of the source.

(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name and license number of the recipient facility and the shipping address;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The shipping date;

(i) The estimated arrival date; and

(j) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name, address, and license number of the person that provided the source;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The date of receipt; and

(i) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the source;

(e) The initial or current source strength in becquerels (curies);

(f) The date for which the source strength is reported;

(g) The disassemble date of the source.

(5) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The waste manifest number;

(d) The container identification with the nationally tracked source.

(e) The date of disposal; and

(f) The method of disposal.

(6) The National Source Tracking Transaction Report discussed in subsections (1) through (5) of this section must be submitted to the NRC by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(a) The on-line National Source Tracking System;

(b) Electronically using a computer-readable format;

(c) By facsimile;

(d) By mail to the address on the NRC Form 748 National Source Tracking Transaction Report Form; or

(e) By telephone with followup by facsimile or mail.

(7)(a) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation.

(b) In addition, every year each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by subsections (1) through (5) of this section. In order to reconcile each transaction, the licensee shall file a report for missed transactions or file a corrected report for previously submitted reports containing inaccuracies. By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009 or as specified in 10 C.F.R. 20.2207(h), whichever is the latest. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 31, 2009 or as specified in 10 C.F.R. 20.2207(h), whichever is the latest. The information may be submitted by using any of the methods identified by paragraphs (6)(a) through (e) of this section. The initial inventory report must include the following information: (Pursuant to Section 120.54(6) Florida Statutes, subsection 64E-5.350(8), F.A.C., is substantively identical to 10 CFR 20.2207(h) effective 10/19/2007.)

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the sealed source;

(e) The initial or current source strength in becquerels (curies); and

(f) The date for which the source strength is reported.

Specific Authority 404.051, 404.081 FS. Law Implemented 404.022, 404.051, 404.081 FS. History–New_____.

64E-5.351 Nationally Tracked Source Thresholds.

The nationally tracked source thresholds are listed in table 1 below with the Terabecquerel (TBq) values as the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion. (Pursuant to Section 120.54(6), Florida Statutes, Rule 64E-5.351, F.A.C., is substantively identical to Appendix E to 10 CFR Part 20 effective 02/06/2007.)

Table 1

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0 .2	5 .4
Americium-24	60	1,600	0 .6	16
Americium-241/Be	60	1,600	0 .6	16
Californium-252	20	540	0 .2	5 .4
Cobalt-60	30	810	0 .3	8 .1
Curium-244	50	1,400	0 .5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0 .8	22
Plutonium-238	60	1,600	0 .6	16
Plutonium-239/Be	60	1,600	0 .6	16
Polonium-210	60	1,600	0 .6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0 .4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0 .2	5 .4
Thorium-229	20	540	0 .2	5 .4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

Specific Authority 404.051, 404.081 FS. Law Implemented 404.022, 404.051, 404.081 FS. History–New_____.

PART IV
RADIATION SAFETY REQUIREMENTS FOR LICENSEES AND REGISTRANTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS
SUBPART D
EQUIPMENT CONTROL

64E-5.430 Inspection and Maintenance.

(1) No change.

(2) Each licensee or registrant shall have written procedures and perform equipment inspection and maintenance as described below. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.430(2), F.A.C., is substantively identical to 10 CFR 34.31(b) published on 01/01/2007.)

(a) through (b) No change.

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1) FS. History–New 9-11-01, Amended _____.

64E-5.440 Records.

(1) No change.

(2) Each licensee or registrant shall maintain the following records until the Department terminates the license or registration requiring the record:

(a) through (c) No change.

(d) Radiographer certification documents specified in paragraphs 64E-5.434(2)(d)~~(e) (f)~~, F.A.C., and verification of certification status;

(e) through (h) No change.

(3) No change.

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1), 404.20 FS. History–New 9-11-01, Amended 9-28-06, _____.

64E-5.441 Reporting Requirements.

(1) through (3) No change.

(4) Any licensee conducting radiographic operations or storing radioactive material at any location not listed on the license for a period in excess of 180 days in a calendar year, shall notify the Department prior to exceeding the 180 days. (Pursuant to Section 120.54(6), Florida Statutes, subsection 64E-5.441(4), F.A.C., is substantively identical to 10 CFR 34.101(c) published on 01/01/2007.)

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1) FS. History–New 9-11-01, Amended 9-28-06, _____.

PART XI
RADIATION SAFETY REQUIREMENTS FOR WIRELINE SERVICE OPERATIONS AND SUBSURFACE TRACER STUDIES
SUBPART A
EQUIPMENT CONTROL

64E-5.11072 Energy Compensation Source.

The licensee can use an ECS that is contained within a logging tool or other tool components only if the ECS contains 100 microcuries (3.7 MBq) or less of licensed material.

(1) For well logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is subject only to the requirements specified in Rules 64E-5.1104, 64E-5.1105~~7~~, and 64E-5.1106, F.A.C., above.

(2) No change.

Specific Authority 404.051, 404.061, 404.071, 404.081 FS. Law Implemented 404.022, 404.051(1), (4), (6), 404.061(2), 404.071(1), 404.081(1) FS. History–New 9-28-06, Amended _____.

64E-5.1501 Purpose and Scope ~~Transportation of Radioactive Material~~.

(1) No change.

(2) Determinations and listings of A_1 and A_2 values are found in 10 C.F.R., Part 71, Appendix A as published on 01/01/2007~~, which is herein incorporated by reference and is available from the department~~.

(3) The regulations in this part apply to any licensee authorized by specific or general license issued by the department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this part authorizes possession of licensed material.

(4) Definition of terms used in this part are those listed in Rule 64E-5.1502, F.A.C., as described in 49 C.F.R. and 10 C.F.R. 71.4, except that whenever a definition refers to evaluation or approval by the U.S. Department of Transportation or NRC, and such evaluation or approval is within the jurisdiction of the State of Florida as an Agreement State, the Department shall perform the evaluation or approval.

Specific Authority 404.051, 404.20 FS. Law Implemented 404.022, 404.051(1), (4), (6), (11), 404.20(1) FS. History–New 7-17-85, Amended 5-15-96, Formerly 10D-91.2001, Amended _____.

64E-5.1502 Transportation of Radioactive Material.

(1) No change.

(2) Each licensee who transports radioactive material outside of the confines of his facility or other place of use, or who offers radioactive material to a carrier for transport shall:

(a) Comply with the current applicable requirements, appropriate to the mode of transport, of 49 C.F.R. Parts 107, 171-180~~173, 177~~, 383, ~~and~~ 390-397 published on 10/01/2007, and 10 C.F.R. Part 71 published on 01/01/2007.

(b) through (c) No change.

(d) The licensee shall comply with U.S. Department of Transportation and NRC regulations in the following areas:

1. Packaging, 49 C.F.R. part 173, subparts A, B, and I;

2. Marking and labeling, 49 C.F.R. part 172, subpart D, §§172.400 through 172.407, §§172.436 through 172.441 of subpart E;

3. Placarding, 49 C.F.R. part 172, subpart F, especially §§172.500 through 172.519 and 172.556, and appendices B and C;

4. Accident reporting, 49 C.F.R. part 171, §§171.15 and 171.16;

5. Shipping papers and emergency information, 49 C.F.R. part 172, subparts C and G;

6. Hazardous material employee training, 49 C.F.R. part 172, subpart H;

7. Security plans, 49 C.F.R. part 172, subpart I;

8. Hazardous material shipper/carrier registration, 49 C.F.R. part 107, subpart G;

9. Definitions, 10 C.F.R. 71.4;

10. Transportation of licensed material, 10 C.F.R. 71.5;

11. Exemptions for low level material, 10 C.F.R. 71.14(a);

12. General license, NRC-approved package, 10 C.F.R. 71.17;

13. Previously approved package, 10 C.F.R. 71.19(a) and (b);

14. General license, U.S. Department of Transportation specification container material, 10 C.F.R. 71.20;

15. General license, Use of foreign approved package, 10 C.F.R. 71.21;

16. General license, Fissile material, 10 C.F.R. 71.22;

17. External radiation standards for all packages, 10 C.F.R. 71.47;

18. Assumptions as to unknown properties, 10 C.F.R. 71.83;

19. Preliminary determinations, 10 C.F.R. 71.85;

20. Routine determinations, 10 C.F.R. 71.87;

21. Air transportation of plutonium, 10 C.F.R. 71.88;

22. Opening instructions, 10 C.F.R. 71.89;

23. Advance notification of shipment of irradiated reactor fuel and nuclear waste, 10 C.F.R. 71.97;

24. Quality assurance requirements, 10 C.F.R. 71.101(a), (b), (c), (f) and (g);

25. Quality assurance organization, 10 C.F.R. 71.103;

26. Quality assurance program, 10 C.F.R. 71.105;

27. Exemption of physicians, 10 C.F.R. 71.13;

28. Handling storage and shipping control, 10 C.F.R. 71.127;

29. Inspection tests and operating status, 10 C.F.R. 71.129;

30. Nonconforming materials parts or components, 10 C.F.R. 71.131;

31. Corrective action, 10 C.F.R. 71.13;

32. Quality assurances records, 10 C.F.R. 71.135;

33. Audits, 10 C.F.R. 71.137;

34. Appendix A to Part 71; and

35. General license plutonium beryllium special form material.

(e) The licensee shall also comply with U.S. Department of Transportation regulations pertaining to the following modes of transportation:

1. Rail, 49 C.F.R. part 174, subparts A through D and K;

2. Air, 49 C.F.R. part 175;

3. Vessel, 49 C.F.R. part 176, subparts A through F and M; and

4. Public Highway, 49 C.F.R. part 177 and parts 390 through 397.

(3) If U.S. Department of Transportation regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. Department of Transportation specified in paragraph (2) of this section to the same extent as if the shipment or transportation were subject to U.S. Department of Transportation regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Department.

Specific Authority 404.051, 404.061, 404.141, 404.20 FS. Law Implemented 404.022, 404.051(1), (4), (6), (11), 404.061(2), 404.141, 404.20(1) FS. History–New 7-17-85, Formerly 10D-91.2003, Amended 10-8-00, 9-28-06,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: William A. Passetti

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Conti

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2007

DATE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 5, 2007

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE NOS.:	RULE TITLES:
65E-5.100	Definitions
65E-5.180	Right to Quality Treatment

PURPOSE AND EFFECT: The purpose and effect of these rule revisions is to implement the provisions of Section 394.457(5)(b), F.S., regarding seclusion and restraint use in mental health facilities and programs. Section 394.457(5)(b),

F.S., requires the department to adopt rules governing the use of seclusion and restraint in mental health facilities. The proposed revisions are to comply with this statutory requirement.

SUMMARY: The proposed rule shall clarify the subject area addressed is Section 394.457(5)(b), F.S. The department must adopt rules governing the use of seclusion and restraint. The rule must: include provisions governing the use of restraint and seclusion which are consistent with recognized best practices and professional judgment; prohibit inherently dangerous restraint or seclusion procedures; establish limitations on the use and duration of restraint and seclusion; establish measures to ensure the safety of program participants and staff during an incident of restraint or seclusion; establish procedures for staff to follow before, during, and after incidents of restraint or seclusion; establish professional qualifications of and training for staff who may order or be engaged in the use of restraint or seclusion; and establish mandatory reporting, data collection, and data dissemination procedures and requirements; and require that each instance of the use of restraint or seclusion be documented in the record of the patient.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 394.457(5)(b), 394.46715 FS.

LAW IMPLEMENTED: 394.455(1), 394.457, 394.4573(1)(b), 394.459(2), 394.459(2)(d), 394.459(4), 394.4625, 394.4655, 394.467, 401.455, 491, 765.401 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Wendy Scott, 1317 Winewood Blvd., Bldg. 6, Room 227, Tallahassee, Florida 32399-0700, (850)413-7282 or Wendy_Scott@dcf.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wendy Scott, 1317 Winewood Blvd., Bldg. 6, Room 227, Tallahassee, Florida 32399-0700, (850)413-7282 or Wendy_Scott@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

MENTAL HEALTH ACT REGULATION

65E-5.100 Definitions.

As used in this chapter the following words and phrases have the following definitions:

(1) through (10) No change.

(11) Personal Safety Plan is a form used to document information regarding calming strategies that the person identifies as being helpful in avoiding a crisis. The plan also lists triggers that are identified that may signal or lead to agitation or distress.

(12)~~(11)~~ Pro re nata (PRN) means an individualized order for the care of an individual person which is written after the person has been seen by the practitioner, which order sets parameters for attending staff to implement according to the circumstances set out in the order. A PRN order shall not be used as an emergency treatment order.

(13)~~(12)~~ Protective medical devices mean a specific category of medical restraint that includes devices, or combinations of devices, to restrict movement for purposes of protection from falls or complications of physical care, such as geri-chairs, posey vests, mittens, belted wheelchairs, sheeting, and bed rails. The requirements for the use and documentation of use of these devices are for specific medical purposes rather than for behavioral control.

~~(13) Restraint means the immobilization of a person's body in order to restrict free movement or range of motion, whether by physical holding or by use of a mechanical device. For purposes of this chapter, restraint includes all applications of such procedures, specifically including emergency treatment orders and emergency medical procedures which includes protective medical devices for ambulating safety, or furniture used to protect mobility-impaired persons from falls and injury. The use of walking restraints when used during transportation under the supervision of trained staff is not considered restraint.~~

(14) Recovery Plan may also be referred to as a "service plan," or "treatment plan." A recovery plan is a written plan developed by the person and his or her recovery team to facilitate achievement of the person's recovery goals. This plan is based on assessment data, identifying the person's clinical, rehabilitative and activity service needs, the strategy for meeting those needs, documented treatment goals and objectives, and documented progress in meeting specified goals and objectives. ~~Seclusion means an emergency response in which, as a means of controlling a person's immediate symptoms or behavior, the person's ability to move about freely has been limited by staff or in which a person has been physically segregated in any fashion from other persons. Seclusion requires a written emergency treatment order by a physician except as described and authorized in Rule 65E-5.1602, F.A.C., of this rule chapter.~~

(15) Recovery Team may also be referred to as "service team," or "treatment team." A recovery team is an assigned group of individuals with specific responsibilities identified on the recovery plan who support and facilitate a person's recovery process. Team members may include the person, psychiatrist, guardian/guardian advocate, community case manager, family member, peer specialist and others as determined by the person's needs and preferences.

(16) Restraint for behavior management purposes is defined in Section 394.455(28)(a), F.S. A drug used as a restraint is defined in Section 394.455(28)(b), F.S. Physically holding a person during a procedure to forcibly administer psychotropic medication is a physical restraint.

(17) Seclusion for behavior management purposes is defined in Section 394.455(29), F.S.

(18) Seclusion and Restraint Oversight Committee is a group of people at an agency or facility that monitors the use of seclusion and restraint at the facility. This committee is intended to assist in the reduction of seclusion and restraint use at the agency or facility. Membership includes, but is not limited to, the facility administrator/designee, medical staff, quality assurance staff, and a peer specialist or advocate, if employed by the facility or otherwise available. If no such person is employed by the facility, an external peer specialist or advocate may be appointed.

(19)~~(15)~~ Standing order means a broad protocol or delegation of medical authority that is generally applicable to a group of persons, hence not individualized. As limited by this chapter, it prohibits improper delegations of authority to staff that are not authorized by the facility, or not permitted by practice licensing laws, to independently make such medical decisions; such as decisions involving determination of need, medication, routes, dosages for psychotropic medication, or use of restraints or seclusion upon a person.

Specific Authority 394.457(5), 394.46715 FS. Law Implemented 394.455(1), 394.457, 394.4573(1)(b), 394.459(2), 394.4625, 394.4655, 394.467, 491, 765.101, 765.401 FS. History–New 11-29-98, Amended 4-4-05,_____.

65E-5.180 Right to Quality Treatment.

The following standards shall be required in the provision of quality mental health treatment:

(1) through (6) No change.

~~(7) Bodily Control and Physical Management Techniques.~~

~~(a) All staff who have contact with persons served by the facility shall receive training, prior to providing direct services or assessment to persons in the facility, in:~~

~~1. Verbal de-escalation techniques designed to reduce confrontation; and~~

~~2. Use of bodily control and physical management techniques based on a team approach.~~

~~(b) All staff who have contact with persons served by the facility shall receive training in safe and effective techniques that are alternatives to seclusion and restraint for managing violent behavior. Training shall include techniques that are consistent with the age of persons served by the facility.~~

~~(c) Less restrictive verbal de-escalation interventions shall be employed before physical interventions, unless physical injury is imminent. Recommended form CF-MH 3124, Feb. 05, "Personal Safety Plan," which is incorporated by reference and may be obtained pursuant to Rule 65E-5.120, F.A.C., of this rule chapter may be used for the purpose of guiding individualized intervention techniques. If used, this form shall be completed at admission.~~

~~(d) PRNs for the use of seclusion or restraints are not permitted.~~

~~(e) Each facility shall have written policies and procedures specifying the frequency of providing drink, toileting, and check of bodily positioning to avoid traumatizing persons and retaining the person's maximum degree of dignity and comfort during the use of bodily control and physical management techniques.~~

~~(8) Isolation.~~

~~(a) Isolation means involuntarily imposed segregation of the person from others for a period of up to 15 minutes per event. A person in isolation shall not be behind closed doors. Isolation does not require a physician's order.~~

~~(b) When a person requires more than a total of 60 minutes of segregation in a 24-hour period, a physician's order for seclusion is required.~~

~~(c) Each use of isolation shall be documented in the person's clinical record.~~

(7) Seclusion and Restraint for Behavior Management Purposes. All facilities, as defined in Section 394.455(10), F.S., are required to adhere to the standards and requirements of subsection (7).

(a) General Standards.

1. Each facility will provide a therapeutic milieu that supports a culture of recovery and individual empowerment and responsibility. Each person will have a voice in determining his or her treatment options. Treatment will foster trusting relationships and partnerships for safety between staff and individuals. Facility practices will be particularly sensitive to persons with a history of trauma.

2. The health and safety of the person shall be the primary concern at all times.

3. Seclusion or restraint shall be employed only in emergency situations when necessary to prevent a person from seriously injuring self or others, and less restrictive techniques have been tried and failed, or if it has been clinically determined that the danger is of such immediacy that less restrictive techniques cannot be safely applied.

4. There is a high prevalence of past traumatic experience among persons who receive mental health services. The response to trauma can include intense fear and helplessness, a reduced ability to cope, and an increased risk to exacerbate or develop a range of mental health and other medical conditions. The experience of being placed in seclusion or being restrained is potentially traumatizing. Seclusion and restraint practices shall be guided by the following principles of trauma-informed care: assessment of traumatic histories and symptoms; recognition of culture and practices that are re-traumatizing; processing the impact of a seclusion or restraint with the person; and addressing staff training needs to improve knowledge and sensitivity.

5. When a person demonstrates a need for immediate medical attention in the course of an episode of seclusion or restraint, the seclusion or restraint shall be discontinued, and immediate medical attention shall be obtained.

6. Persons will not be restrained in a prone position. Prone containment will be used only when required by the immediate situation to prevent imminent serious harm to the person or others. To reduce the risk of positional asphyxiation, the person will be repositioned as quickly as possible.

7. Responders will pay close attention to respiratory function of the person during containment and restraint. All staff involved will observe the person's respiration, coloring, and other possible signs of distress and immediately respond if the person appears to be in distress. Responding to the person's distress may include repositioning the person, discontinuing the seclusion or restraint, and/or summoning medical attention, as necessary.

8. Objects that impair respiration shall not be placed over a person's face. In situations where precautions need to be taken to protect staff, staff may wear protective gear.

9. Unless necessary to prevent serious injury, a person's hands shall not be secured behind the back during containment or restraint.

10. The use of walking restraints is prohibited except for purposes of off-unit transportation and may only be used under direct observation of trained staff. In this instance, direct observation means that staff maintains continual visual contact of the person and is within close physical proximity to the person at all times.

11. The person shall be released from seclusion or restraint as soon as he or she is no longer an imminent danger to self or others.

12. Seclusion or restraint use shall not be based on the person's seclusion or restraint use history or solely on a history of dangerous behavior. Dangerous behaviors include those behaviors that jeopardize the physical safety of oneself or others.

13. Seclusion and restraint may not be used simultaneously for children less than 18 years of age.

14. A person who is restrained must not be located in areas, whenever possible, subject to view by persons other than involved staff or where exposed to potential injury by other persons. This does not apply to the use of walking restraints.

15. Each facility utilizing seclusion or restraint procedures shall establish and utilize a Seclusion and Restraint Oversight Committee.

(b) Staff training.

1. Staff must be trained as part of orientation and subsequently on at least an annual basis. Staff responsible for the following actions will demonstrate relevant competency in the following areas before participating in a seclusion or restraint event or related assessment, or before monitoring or providing care during an event:

a. Strategies designed to reduce confrontation and to calm and comfort people, including the development and use of a personal safety plan,

b. Use of nonphysical intervention skills as well as bodily control and physical management techniques, based on a team approach, to ensure safety,

c. Observing for and responding to signs of physical and psychological distress during the seclusion or restraint event,

d. Safe application of restraint devices,

e. Monitoring the physical and psychological well-being of the person who is restrained or secluded, including but not limited to: respiratory and circulatory status, skin integrity, vital signs, and any special requirements specified by facility policy associated with the one hour face-to-face evaluation,

f. Clinical identification of specific behavioral changes that indicate restraint or seclusion is no longer necessary,

g. The use of first aid techniques, and

h. Certification in the use of cardiopulmonary resuscitation, including required periodic recertification. The frequency of training for cardiopulmonary resuscitation will be in accordance with certification requirements, notwithstanding provision subparagraph (7)(b)1.

(c) Prior to the Implementation of Seclusion or Restraint.

1. Prior intervention shall include individualized theraputic actions such as those identified in a personal safety plan (such as recommended form CF-MH 3124) that address individual triggers leading to psychiatric crisis. Prior interventions may also include verbal de-escalation and calming strategies. Non physical interventions shall be the first choice unless safety issues require the use of physical intervention.

2. A personal safety plan shall be completed or updated as soon as possible after admission and filed in the person's medical record.

a. This form shall be reviewed by the recovery team, and updated if necessary, after each incident of seclusion or restraint.

b. Specific intervention techniques from the personal safety plan that are offered or used prior to a seclusion or restraint event shall be documented in the person's medical record after each use of seclusion or restraint.

c. All staff shall be aware of and have ready access to each person's personal safety plan.

(d) Implementation of Seclusion or Restraint.

1. A registered nurse or highest level staff member, as specified by written facility policy, who is immediately available and who is trained in seclusion and restraint procedures may initiate seclusion or restraint in an emergency when danger to oneself or others is imminent. An order for seclusion or restraint must be obtained from the physician or Advanced Registered Nurse Practitioner (ARNP)/Physician's Assistant (PA), if permitted by the facility to order seclusion and restraint and stated within their professional protocol. The treating physician must be consulted as soon as possible if the seclusion or restraint was not ordered by the person's treating physician.

2. An examination of the person will be conducted within one hour by the physician or may be delegated to an Advanced Registered Nurse Practitioner, Physician's Assistant, or Registered Nurse (RN), if authorized by the facility and trained in seclusion and restraint procedures as described in paragraph (7)(b). This examination shall include a face-to face assessment of the person's medical and behavioral condition, a review of the clinical record for any pre-existing medical diagnosis and/or physical condition which may contraindicate the use of seclusion or restraint, a review of the person's medication orders including an assessment of the need to modify such orders during the period of seclusion or restraint, and an assessment of the need or lack of need to elevate the person's head and torso during restraint. The comprehensive examination must determine that the risks associated with the use of seclusion or restraint are significantly less than not using seclusion or restraint and whether to continue or terminate the intervention. A licensed psychologist may conduct only the behavioral assessment portion of the comprehensive assessment if authorized by the facility and trained in seclusion and restraint procedures as described in paragraph (7)(b). Documentation of the comprehensive examination, including the time and date completed, shall be included in the person's medical record. If the face to face evaluation is conducted by a trained Registered Nurse, the attending physician who is responsible for the care of the person must be consulted as soon as possible after the evaluation is completed.

3. Each written order for seclusion or restraint is limited to four hours for adults, age 18 and over; two hours for children and adolescents age nine through 17; or one hour for children under age nine. A seclusion or restraint order may be renewed in accordance with these limits for up to a total of 24 hours, after consultation and review by a physician/ARNP/PA in person, or by telephone with a Registered Nurse who has physically observed and evaluated the person. When the order has expired after 24 hours, a physician/ARNP/PA must see and assess the person before seclusion or restraint can be re-ordered. The results of this assessment must be documented. Seclusion or restraint use exceeding 24 hours requires the notification of the Facility Administrator or designee.

4. All orders must be signed within 24 hours of the initiation of seclusion or restraint.

5. The order shall include the specific behavior prompting the use of seclusion or restraint, the time limit for seclusion or restraint, and the behavior necessary for the person's release. Additionally, for restraint, the order shall contain the type of restraint ordered and the positioning of the person, including possibly elevating the person's head for respiratory and other medical safety considerations. Consideration shall be given to age, physical fragility, and physical disability when ordering restraint type.

6. An order for seclusion or restraint shall not be issued as a standing order or on an as-needed basis.

7. In order to protect the safety of each person served by a facility, each person shall be searched for contraband before or immediately after being placed into seclusion or restraints.

8. The person shall be clothed appropriately for temperature and at no time shall a person be placed in seclusion or restraint in a nude or semi-nude state.

9. Every secluded or restrained person shall be immediately informed of the behavior that resulted in the seclusion or restraint and the behavior and the criteria reflecting absence of imminent danger that is necessary for release.

10. For persons under the age of 18, the facility must notify the parent(s) or legal guardian(s) of the person who has been restrained or placed in seclusion as soon as possible, but no later than 24 hours, after the initiation of each seclusion or restraint event. This notification must be documented in the person's medical record, including the date and time of notification and the name of the staff person providing the notification.

11. For each use of seclusion or restraint, the following information shall be documented in the person's medical record: the emergency situation resulting in the seclusion or restraint event; alternatives or other less restrictive interventions attempted, as applicable, or the clinical determination that less restrictive techniques could not be safely applied; the name and title of the staff member initiating the seclusion or restraint; the date/time of initiation and release; the person's response to seclusion or restraint, including the rationale for continued use of the intervention; and that the person was informed of the behavior that resulted in the seclusion or restraint and the criteria necessary for release.

(e) During Seclusion or Restraint Use.

1. When restraint is initiated, nursing staff shall see and assess the person as soon as possible but no later than 15 minutes after initiation and at least every hour thereafter. The assessment shall include checking the person's circulation and respiration, including necessary vital signs (pulse and respiratory rate at a minimum).

2. The person over age 12 who is secluded shall be observed by trained staff every 15 minutes. At least one observation an hour will be conducted by a nurse. Restrained persons must have continuous observation by trained staff. Secluded children age 12 and under must be monitored continuously by face to face observation or by direct observation through the seclusion window for the first hour and then at least every 15 minutes thereafter.

3. Monitoring the physical and psychological well-being of the person who is secluded or restrained shall include but is not limited to: respiratory and circulatory status; signs of injury; vital signs; skin integrity; and any special requirements specified by facility policies. This monitoring shall be conducted by trained staff as required in paragraph (7)(b).

4. During each period of seclusion or restraint, the person must be offered reasonable opportunities to drink and toilet as requested. In addition, the person who is restrained must be offered opportunities to have range of motion at least every two hours to promote comfort. Each facility shall have written policies and procedures specifying the frequency of providing drink, toileting, and check of bodily positioning to avoid traumatizing a person and retaining the person's maximum degree of dignity and comfort during the use of bodily control and physical management techniques.

5. Documentation of the observations and the staff person's name shall be recorded at the time the observation takes place.

(f) Release from Seclusion or Restraint and Post-Release Activities.

1. Release from seclusion or restraint shall occur as soon as the person no longer appears to present an imminent danger to themselves or others. Upon release from seclusion or restraint, the person's physical condition shall be observed, evaluated, and documented by trained staff. Documentation shall also include: the name and title of the staff releasing the person; and the date and time of release.

2. After a seclusion or restraint event, a debriefing process shall take place to decrease the likelihood of a future seclusion or restraint event for the person and to provide support.

a. Each facility shall develop policies to address:

(i) A review of the incident with the person who was secluded or restrained. The person shall be given the opportunity to process the seclusion or restraint event as soon as possible but no longer than within 24 hours of release. This debriefing discussion shall take place between the person and either the recovery team or another preferred staff member. This review shall seek to understand the incident within the framework of the person's life history and mental health issues. It should assess the impact of the event on the person and help the person identify and expand coping mechanisms to avoid the use of seclusion or restraint in the future. The discussion will include constructive coping techniques for the future. A summary of this review should be documented in the person's medical record.

(ii) A review of the incident with all staff involved in the event and supervisors or administrators. This review shall be conducted as soon as possible after the event and shall address: the circumstances leading to the event, the nature of de-escalation efforts and/or alternatives to seclusion and restraint attempted, staff response to the incident, and ways to effectively support the person's constructive coping in the future and avoid the need for future seclusion or restraint. The outcomes of this review should be documented by the facility for purposes of continuous performance improvement and monitoring. The review findings will be forwarded to the Seclusion and Restraint Oversight Committee, and

(iii) Support for other persons served and staff, as needed, to return the unit to a therapeutic milieu.

b. Within 2 working days after any use of seclusion or restraint, the recovery team shall meet and review the circumstances preceding its initiation and review the person's recovery plan and personal safety plan to determine whether any changes are needed in order to prevent the further use of seclusion or restraint. The recovery team shall also assess the impact the event had on the person and provide any counseling, services, or treatment that may be necessary as a result. The recovery team shall analyze the person's clinical record for trends or patterns relating to conditions, events, or the presence of other persons immediately before or upon the onset of the behavior warranting the seclusion or restraint, and upon the person's release from seclusion. The recovery team shall review the effectiveness of the emergency intervention and develop more appropriate therapeutic interventions. Documentation of this review shall be placed in the person's clinical record.

c. The Seclusion and Restraint Oversight Committee shall conduct timely reviews of each use of seclusion and restraints and monitor patterns of use, for the purpose of assuring least restrictive approaches are utilized to prevent or reduce the frequency and duration of use.

(g) Reporting.

1. All facilities, as defined in Section 394.455(10), Florida Statutes, are required to report each seclusion and restraint event to the Department of Children and Families. This reporting shall be done electronically using the Department's web-based application either directly via the data input screens or indirectly via the File Transfer Protocol batch process. The required reporting elements are: Provider tax identification number; Person's social security number and identification number; date and time the seclusion or restraint event was

initiated; discipline of the person ordering the seclusion or restraint; discipline of the person implementing the seclusion or restraint; reason seclusion or restraint was initiated; type of restraint used; whether significant injuries were sustained by the person; and date and time seclusion or restraint was terminated. Facilities shall report seclusion and restraint events on a monthly basis. Events that result in death or significant injury either to a staff member or person shall be reported to the department's web based system in accordance with department operating procedures.

2. All facilities that are subject to the Conditions of Participation for Hospitals, part 482 under the Centers for Medicare and Medicaid Services (CMS), must report to CMS any death that occurs in the following circumstances:

a. While a person is restrained or secluded

b. Within 24 hours after release from seclusion or restraint,

c. Within one week after seclusion or restraint, where it is reasonable to assume that use of the seclusion or restraint contributed directly or indirectly to the person's death.

Each death described in this section shall be reported to CMS by telephone no later than the close of business the next business day following knowledge of the persons' death. A report shall simultaneously be submitted to the Mental Health Program Office headquarters in Tallahassee, FL. The address is: 1317 Winewood Blvd., Tallahassee, FL 32399-0700. A contact person to receive these notices will be appointed.

3. The Department shall collect and review the data on a monthly basis. The Director of Mental Health shall be informed of any deaths or significant injuries related to seclusion or restraint and significant trends regarding seclusion and restraint use.

(h) Nothing herein shall affect the ability of emergency medical technicians, paramedics or physicians or any person acting under the direct medical supervision of a physician to provide examination or treatment of incapacitated persons in accordance with Section 401.445, F.S.

~~(9) Seclusion.~~

~~(a) As used in this subsection, seclusion means any time a person's ability to move about freely has been limited by staff or the person has been segregated in any fashion from other persons, as a means of controlling the person's immediate symptoms or behavior. The seclusion process shall evidence consideration that alternatives such as those listed in recommended form CF-MH 3124, "Personal Safety Plan," as referenced in paragraph 65E-5.180(7)(e), F.A.C., have been considered by implementing staff. In order to enhance safety of all persons served by the facility, each person shall be searched for contraband before ordering the person into seclusion.~~

~~(b) Isolation shall be attempted prior to imposing seclusion, whenever possible.~~

~~(c) In order to assure safety, a written order by a physician shall be required for each use of seclusion.~~

~~(d) In an emergency, any registered nurse or the highest level staff member who is immediately available and who is trained in seclusion procedures, may initiate seclusion if in accord with specific written facility policies. If imposed without a prior written order, an order must be obtained from a physician and written within 1 hour after initiation of seclusion or the person must be immediately released from seclusion. All verbal orders for seclusion must be signed within 24 hours after the initiation of seclusion by an authorizing physician. If seclusion is initiated by a staff member other than an advanced registered nurse practitioner or a~~

~~registered nurse, an advanced registered nurse practitioner or a registered nurse shall assess the need for seclusion and document it in the chart within 15 minutes of initiation. Persons released from seclusion due to the lack of an order or without the nursing assessment may not again be ordered into seclusion within the following 12 hours without an accompanying order.~~

~~(e) Physicians authorized by the facility to order seclusion in a receiving or treatment facility, shall exercise this authority under the oversight of the facility's medical oversight committee.~~

~~(f) Where seclusion is ordered, it may only be ordered by a physician and it may be ordered for a period up to:~~

~~1. One hour for minors under 9 years of age;~~

~~2. Two hours for minors 9 years of age up to the age of 18; and~~

~~3. Four hours for adults.~~

~~(g) A seclusion order may be extended, if the emergency continues to exist, by repeating these timeframes after review by a physician or advanced registered nurse practitioner.~~

~~(h) Where seclusion is to be used upon the occurrence of specific behavior, this intervention must comply with the provisions of Rule 65E-5.1602, F.A.C., of this rule chapter.~~

~~(i) Each use of seclusion and the name of the person initiating the seclusion must be documented in a unit log book or similar automated registry maintained for this purpose; each use and explicit reason for seclusion shall also be recorded in the person's clinical record. Upon initiation of seclusion, the log book shall sequentially record all uses of seclusion, and for each use, the date and time of initiation and release, and elapsed time.~~

~~(j) During each period of seclusion, the person must:~~

~~1. Be offered opportunity to drink and to toilet as requested, and to have range of motion as needed.~~

~~2. Be observed by staff trained in this function at least every 15 minutes, for injury and respiration, and the findings immediately documented. Documentation of the observations and the staff person's name shall be recorded at the time the observation takes place. At least once every hour, such documented observation shall be conducted by a nurse.~~

~~(k) Every secluded person shall be immediately informed of the behavior that caused his or her seclusion and the behavior and conditions necessary for their release. It shall be documented in the person's clinical record that the person was informed of the cause of his or her seclusion and the conditions necessary for release.~~

~~(l) Facilities shall develop and staff shall use criteria to guide early termination from seclusion. When seclusion is terminated early and the same symptomatic behavior which caused the application of seclusion is still evident, the original order can be reapplied.~~

~~(m) Upon release from seclusion, the person's physical condition shall be observed, evaluated, and documented. After the person's release, a therapeutic debriefing led by a senior staff member not involved in the incident, shall take place to review the existing documentation of the incident, interview staff and other's present during the incident to determine what alternative interventions could have been used. The person released from seclusion shall be included in the debriefing unless a physician documents that the person's presence at the debriefing is not in the person's best interest. The results of this debriefing shall be documented in the person's clinical record.~~

~~(n) If 2 or more incidents of seclusion of a person are necessary within a 24-hour period, the treatment team shall analyze the person's clinical record for trends or patterns relating to conditions, events, or individuals present immediately before or upon the onset of the behavior warranting the seclusion, and of the conditions presented upon the person's release from seclusion. The treatment team shall review the effectiveness of the emergency intervention and develop more appropriate therapeutic interventions. Documentation of this review shall be placed in the person's clinical record.~~

~~(10) Restraints.~~

~~(a) In imposing restraints on a person, use of age and physical fragility sensitive techniques shall be utilized. If a device is used for age or fragility reasons, it should be so documented in the person's clinical record.~~

~~(b) Walking restraints may only be used during transportation under the supervision of trained staff. The use of walking restraints is prohibited except for purposes of off-unit transportation.~~

~~(c) Restraints are an emergency psychiatric measure to be used only for the immediate physical protection of the person or others and may be imposed only upon the order of a physician. The order shall include the specific behavior prompting the use of restraints, the type of restraint ordered, time limit for restraint use, the positioning of the person for respiratory and other medical safety considerations, and the behavior necessary for the person's release from restraint. Any use of restraint shall be in accordance with the federal regulations governing hospital conditions of participation for patients' rights found in 42 CFR 482.13 and with facility policies and procedures which shall require staff proficiency in age and fragility-sensitive appropriate techniques, including medical risk considerations of positioning the person. The restraint process shall evidence consideration that individual's choice alternatives as identified in the recommended form CF-MH 3124, "Personal Safety Plan," as referenced in paragraph 65E-5.180(7)(c), F.A.C., have been considered.~~

~~(d) In an emergency, a registered nurse or the highest level staff member who is immediately available and who is trained in restraint procedures, may initiate restraints. However, an order by a physician must be obtained and written within the person's clinical record within one hour after initiation or the person must be immediately released from the restraints. If restraints are initiated by a staff member other than a nurse, the nurse shall assess the need for restraints and document it in the chart within 15 minutes after initiation. All orders for restraint must be signed within 24 hours after the initiation of the restraints.~~

~~(e) If a physician is authorized to order restraints in a receiving or treatment facility, such physician shall practice under the oversight of the facility's medical oversight committee.~~

~~(f) Where restraint is ordered, it may only be ordered by a physician and it may be ordered for an initial period up to:~~

~~1. One hour for minors under 9 years of age;~~

~~2. Two hours for minors 9 years of age up to the age of 18; and~~

~~3. Four hours for adults.~~

~~(g) A restraint order may be extended by repeating these timeframes, after review by a physician or an advanced registered nurse practitioner.~~

~~(h) In order to protect the safety of each person served by a facility, each person shall be:~~

~~1. Searched for contraband before or immediately after being placed into restraints; and~~

~~2. Evaluated medically to determine the need or lack of need to elevate the person's head and torso during restraint prior to placing the person into restraints. Such evaluation of the need or lack of need shall be documented in the order for restraints.~~

~~(i) Each use of restraint and the name of the person initiating the restraint must be documented in a unit log book or similar automated registry maintained for this purpose; each use and explicit reason for restraint shall also be recorded in the person's clinical record. Upon initiation of restraints, the log book shall sequentially record all uses of restraints, and for each use, the date and time of initiation, release, and elapsed time.~~

~~(j) During each period of restraint, the person must:~~

~~1. Be offered opportunity to drink and to toilet as requested, and to have range of motion as needed;~~

~~2. Be located in areas, whenever possible, not subject to view by individuals other than staff or where they are exposed to potential injury by other persons; and~~

~~(k) Every restrained person shall be informed of the behavior that caused his or her restraint and the behavior and conditions necessary for their release. Within 15 minutes of reaching specified criteria the person shall be released from restraints.3. Be observed by staff trained in this skill at least every 15 minutes, for circulation, injury, and respiration, and the findings immediately documented. Documentation of the observations and the staff person's name shall be recorded at the time the observation takes place. At least once every hour, such documented observation shall be conducted by a nurse.~~

~~(l) Facilities shall develop and staff shall use criteria to guide early termination from restraint. When restraint is terminated early and the same behavior which caused the application of restraints is still evident, the original order can be reapplied.~~

~~(m) Upon release from restraints, the person's physical condition shall be observed, evaluated, and documented. After the person's release, a therapeutic debriefing led by a senior staff member not involved in the incident, shall take place to review the existing documentation of the incident, interview staff and other's present during the incident to determine what alternative interventions could have been used. The person released from restraints shall be included in this debriefing unless a physician documents that the person's presence at the debriefing is not in the person's best interest. The results of this debriefing shall be documented in the person's clinical record.~~

~~(n) Since restraint is an emergency procedure, within 48 hours after any use of restraint, the circumstances preceding its imposition and the person's treatment plan must be reviewed to determine whether changes in the plan are advisable in order to prevent the further use of restraint.~~

~~(o) Nothing herein shall effect the ability of emergency medical technicians, paramedics or physicians or any person acting under the direct medical supervision of a physician to provide examination or treatment of incapacitated persons in accordance with Section 401.445, F.S.~~

(8)~~(11)~~ Use of Protective Medical Devices with Frail or Mobility Impaired Persons.

(a) When ordering safety or protective devices such as posey vests, geri-chairs, mittens, and bed rails which also restrain, facility staff shall consider alternative means of providing such safety so that the person's need for regular exercise is accommodated to the greatest extent possible.

(b) Where frequent or prolonged use of safety or protective devices are required, the person's treatment plan shall address debilitating effects due to decreased exercise levels such as circulation, skin, and muscle tone and the person's need for maintaining or restoring bowel and bladder continence.

(c) The treatment plan shall include scheduled activities to lessen deterioration due to the usage of such protective medical devices.

(9)~~(12)~~ Elevated Levels of Supervision. Receiving and treatment facilities shall ensure that where one-on-one supervision is ordered by a physician, it shall be continuous and shall not be interrupted as a result of shift changes or due to conflicting staff assignments. Such supervision shall be continuous until documented as no longer medically necessary by a physician.

~~(13) Seclusion and Restraint Oversight. Each facility utilizing seclusion or restraint procedures shall establish and utilize a committee, that includes medical staff, to conduct timely reviews of each use of seclusion and restraint, and monitor patterns of use, for the purpose of assuring least restrictive approaches are utilized to reduce the frequency and duration of use upon persons served by the facility.~~

Specific Authority 394.457(5), 394.457(5)(b) FS. Law Implemented 394, Part I, 394.459(2)(d), (4), 401.455 FS. History–New 11-29-98, Amended 4-4-05, 2-8-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wendy Scott, Government Operations Consultant III, Mental Health, Department of Children and Families

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sally Cunningham, Chief, State Mental Health Treatment Facilities, Mental Health, Department of Children and Families

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 10, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 18, 2008

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-21.002	Definitions
67-21.003	Application and Selection Process for Developments
67-21.0035	Applicant Administrative Appeal Procedures
67-21.004	Federal Set-Aside Requirements
67-21.0045	Determination of Method of Bond Sale
67-21.006	Development Requirements
67-21.007	Fees
67-21.008	Terms and Conditions of MMRB Loans
67-21.009	Interest Rate on Mortgage Loans
67-21.010	Issuance of Revenue Bonds
67-21.013	Non-Credit Enhanced Multifamily Mortgage Revenue Bonds
67-21.014	Credit Underwriting Procedures

67-21.015	Use of Bonds with Other Affordable Housing Finance Programs
67-21.017	Transfer of Ownership
67-21.018	Refundings and Troubled Development Review
67-21.019	Issuance of Bonds for Section 501(c)(3) Entities

PURPOSE AND EFFECT: The purpose of this Rule Chapter is to establish procedures by which the Corporation shall administer the Application process, determine bond allocation amounts and implement the provisions of the Multifamily Mortgage Revenue Bond (MMRB) Program authorized by Section 142 of the Code and Section 420.509, F.S.

The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the State of Florida.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule and/or Application. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply in the 2008 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 420.507, 420.508, 420.509 FS.

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

DATE AND TIME: February 8, 2008, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Wayne Conner (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wayne Conner, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-21.002 Definitions.

(1) "Acknowledgment Resolution" means the official action taken by the Corporation to reflect its intent to finance a Development provided that the requirements of the Corporation, the terms of the MMRB Loan Commitment, and the terms of the Credit Underwriting Report are met.

(2) "Act" means the Florida Housing Finance Corporation Act, Chapter 420, Part V, F.S.

(3) "Address" means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If the address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

(4) "Affiliate" means any person that (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant (ii) serves as an officer or director of the Applicant or of any Affiliate of the Applicant, or (iii) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i) or (ii) above.

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

(6) "Annual Household Income" means the gross income of a person, together with the gross income of all persons who intend to permanently reside with such person in the Development to be financed by the Corporation, as of the date of occupancy shown on the Income Certification promulgated by the Corporation.

(7) "Applicant" means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application for one of the Corporation's programs.

(8) "Application" means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for one or more of the Corporation's programs. A completed Application may include additional supporting documentation provided by an Applicant.

(9) "Application Deadline" means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(10) "Application Period" means a period during which Applications shall be accepted, as posted on the Corporation's website and with a deadline no less than thirty days from the beginning of the Application Period.

(11) "Board" or "Board of Directors" means the Board of Directors of the Corporation.

(12) "Bond Counsel" means the attorney or law firm retained by the Corporation to provide the specialized services generally described in the industry as the role of bond counsel.

(13) "Bond" or "Bonds" means Bond as defined in Section 420.503, F.S.

(14) "Bond Trustee" or "Trustee" means a financial institution with trust powers which acts in a fiduciary capacity for the benefit of the bond holders, and in some instances the Corporation, in enforcing the terms of the Program Documents.

(15) "Calendar Days" means the seven (7) days of the week.

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

(18) "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.

(19) "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.

(20) "Corporation" means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(21) "Cost of Issuance Fee" means the fee charged by the Corporation to the Applicant for the payment of the costs and expenses associated with the sale of Bonds and the loaning of the proceeds, including a fee for the Corporation.

(22) "Credit Enhancement" means a letter of credit, third party guarantee, insurance contract or other collateral or security pledged to the Corporation or its Trustee for a minimum of ten years by a third party Credit Enhancer or financial institution securing, insuring or guaranteeing the repayment of the Mortgage Loan or Bonds under the MMRB Program.

(23) "Credit Enhancer" means a financial institution, insurer or other third party which provides a Credit Enhancement or Guarantee Instrument acceptable to the Corporation securing repayment of the Mortgage Loan or Bonds issued pursuant to the MMRB Program.

(24) "Credit Underwriter" means the independent contractor under contract with the Corporation having the responsibility for providing Credit Underwriting services.

(25) "Credit Underwriting" means an in-depth analysis by the Credit Underwriter of all documents submitted in connection with an Application.

(26) "Credit Underwriting Report" means the report that is a product of Credit Underwriting.

(27) "Cross-collateralization" means the pledging of the security of one Development to the obligations of another Development.

(28) "DDA" or "Difficult Development Area" means any area 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) of the IRC.

(29) "Developer" means the individual, association, corporation, joint venturer or partnership, which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application.

(30) "Developer Fee" means the fee earned by the Developer.

(31) "Development" means Project as defined in Section 420.503, F.S.

(32) "Development Cost" means the total of all costs incurred in the completion of a Development excluding Developer Fee and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

(33) "Disclosure Counsel" means the Special Counsel designated by the Corporation to be responsible for the drafting and delivery of the Corporation's disclosure documents such as preliminary official statements, official statements, re-offering memorandums or private placement memorandums and continuing disclosure agreements.

(34) "Elderly" means Elderly as defined in Section 420.503, F.S.

(35) "Elderly Housing", "Elderly Development", or "Elderly Unit" means housing or a unit being occupied or reserved for qualified persons pursuant to the Federal Fair Housing Act and Section 760.29(4), F.S., provided that such Development meets the requirements for an Elderly Development as set forth in the Universal Application Package.

(36) "Family" describes a household composed of one or more persons.

(37) "Farmworker" means Farmworker as defined in Section 420.503, F.S.

(38) "Farmworker Development" means a Development:

(a) Of not greater than 80 units, at least 40 percent of the total residential units of which are occupied or reserved for Farmworker Households; and

(b) For which independent market analysis demonstrates a local need for such housing.

(39) "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.

(40) "Financial Advisor" means, with respect to an issue of Bonds, a professional who is either under contract to the Corporation or is engaged by the Applicant who advises on matters pertinent to the issue, such as structure, timing, marketing, fairness of pricing, terms, bond ratings, cash flow, and investment matters.

(41) "Financial Beneficiary" means any Developer and its Principals or the Principals of the Applicant entity who receives or will receive any direct or indirect ~~a~~ financial benefit from a Development. ~~of:~~

~~(a) 3 percent or more of Total Development Cost if Total Development Cost is $5 million or less; or~~

~~(b) 3 percent of the first $5 million and 1 percent of any costs over $5 million if Total Development Cost is greater than $5 million.~~

(42) "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.

(43) "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 67-21.007, F.A.C.

(44) "Geographic Set-Aside" means the amount of allocation that has been designated by the Corporation to be allocated for Developments located in specific geographical regions within the state of Florida.

(45) "HC" or "Housing Credit Program" means the rental housing program administered by the Corporation in accordance with 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 section 42(h)(7)(A) of the IRC, and Rule Chapter 67-48, F.A.C.

(46) "Homeless" means a Family who lacks a fixed, regular, and adequate nighttime residence or a Family who has a primary nighttime residence that is:

(a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing;

(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term does not refer to any individual imprisoned or otherwise detained pursuant to state or federal law.

(47) "HUD" means the United States Department of Housing and Urban Development.

(48) "HUD Risk Sharing Program" means the program authorized by section 542(c) of the Housing and Community Development Act of 1992, which is adopted and incorporated herein by reference.

(49) "Identity of Interest" means, for the purpose of the HUD Risk Sharing Program, any person or entity that has a one percent or more financial interest in the Development and in any entity providing services for a fee to the Development.

(50) "IRC" is the Internal Revenue Code of 1986, as in effect on the date of this rule chapter, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States, and is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(51) "Issuer" means the Florida Housing Finance Corporation.

(52) "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 Continuum of Care Plan, in accordance with Section 420.624, F.S.

(53) "Local Government" means Local government as defined in Section 420.503, F.S.

(54) "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.

(55) "Local Public Fact Finding Hearing" means a public hearing requested by any person residing in the county or municipality in which the proposed Development is located and which is conducted by the Corporation for the purpose of receiving public comment or input regarding the financing of a proposed Development with Bonds by the Corporation.

(56) "Lower Income Residents" means Families whose annual income does not exceed either 50 percent or 60 percent depending on the minimum set-aside elected of the area median income as determined by HUD with adjustments for household size. In no event shall occupants of a Development unit be considered to be Lower Income Residents if all the occupants of a unit are students as defined in section 151(c)(4) of the IRC or if the residents do not comply with the provisions of the IRC defining Lower Income Residents. (See section 142 of the IRC.)

(57) "MMRB Funding Cycle" means the period of time established by the Corporation pursuant to this rule chapter and concluding with the issuance of allocations to Applicants who applied during a given Application Period.

(58) "MMRB LURA" or "MMRB Land Use Restriction Agreement" means an agreement among the Corporation, the Bond Trustee and the Applicant which sets forth certain set-aside requirements and other Development requirements under Rule Chapter 67-21, F.A.C.

(59) "MMRB Loan" means the loan made by the Corporation to the Applicant from the proceeds of the Bonds issued by the Corporation.

(60) "MMRB Loan Agreement" means the Program Documents or Loan Documents wherein the Corporation and the Applicant agree to the terms and conditions upon which the proceeds of the Bonds shall be loaned and the terms and conditions for repayment of the Loan.

(61) "MMRB Loan Commitment" means the Program Documents or Loan Documents executed by the Corporation and the Applicant after the issuance of a favorable Credit Underwriting Report that defines the conditions under which the Corporation agrees to lend the proceeds of the Bonds to the Applicant for the purpose of financing a Development.

(62) "MMRB Program" means the Corporation's Multifamily Mortgage Revenue Bond Program.

(63) "MMRB Rehabilitation Development" means a Development, the Rehabilitation Expenditures with respect to which equal or exceed 15 percent of the portion of the cost of acquiring such Development to be financed with Bond proceeds.

(64) "Mortgage" means Mortgage as defined in Section 420.503, F.S.

(65) "Mortgage Loan" means Mortgage loan as defined in Section 420.503, F.S.

(66) "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.

(67) "Principal" means (i) an Applicant, any general partner of an Applicant, any limited partner of an Applicant, any member of an Applicant, ~~and~~ any officer, director~~,~~ or ~~any~~ shareholder of an ~~any~~ Applicant, (ii) any officer, director, shareholder, manager, member, general partner or limited partner ~~or shareholder~~ of any general partner and limited partner of an Applicant, (iii) any officer, director, shareholder, manager, member, general partner or limited partner of any manager and member of an Applicant, and (iv) any officer, director, shareholder, manager, member, general partner or limited partner of any shareholder of an Applicant.

(68) "Private Placement" or "Limited Offering" means the sale of the Corporation Bonds directly or through an underwriter or placement agent to 35 or fewer initial purchasers who are not purchasing the Bonds with the intent to offer the Bonds for retail sale and who are Qualified Institutional Buyers.

(69) "Program Documents" or "Loan Documents" means the MMRB Loan Commitment, MMRB Loan Agreement, Note, Mortgage, Credit Enhancement, MMRB Land Use Restriction Agreement, Trust Indenture, Preliminary and Final Official Statements, Intercreditor Agreement, Assignments, Bond Purchase Agreement, Compliance Monitoring Agreement, Mortgage Servicing Agreement and such other ordinary and customary documents necessary to issue and secure repayment of the Bonds and Mortgage sufficient to protect the interests of the Bond owners and the Corporation.

(70) "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)(C) of the IRC.

(71) "Qualified Institutional Buyer" is sometimes called a "sophisticated investor" and specifically includes the following:

(a) Any of the following entities, acting for its own account or the accounts of other Qualified Institutional Buyers that, in the aggregate, own and invest on a discretionary basis at least $100 million in securities of issuers that are not affiliated with the entity:

1. Any insurance company as defined in section 2(13) of the Securities Exchange Act, which is adopted and incorporated herein by reference;

2. Any investment company registered under the Investment Company Act of 1940 or any business development company as defined in section 80a-2(a)(48) of that Act, which is adopted and incorporated herein by reference;

3. Any Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) or (d) of the Small Business Investment Act of 1958, which is adopted and incorporated herein by reference;

4. Any plan established and maintained by a state or state agency or any of its political subdivisions, on behalf of their employees;

5. Any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, which is adopted and incorporated herein by reference;

6. Trust funds of various types, except for trust funds that include participants' individual retirement accounts or H.R. 10 plans;

7. Any business development company as defined in section 80b-2(a)(22) of the Investment Advisors Act of 1940, which is adopted and incorporated herein by reference;

8. Any organization described in section 501(c)(3) of the IRC, corporation (except a bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities and Exchange Act, which is adopted and incorporated herein by reference, or a foreign bank or savings and loan or similar institution), partnership, Massachusetts or similar business trust, or any investment adviser registered under the Investment Advisors Act, which is adopted and incorporated herein by reference.

(b) Any dealer registered under section 15 of the Securities Exchange Act, which is adopted and incorporated herein by reference, acting on its own behalf or on the behalf of other Qualified Institutional Buyers who in the aggregate own and invest at least $10 million of securities of issuers not affiliated with the dealer (not including securities held pending public offering).

(c) Any dealer registered under section 15 of the Securities Exchange Act, which is adopted and incorporated herein by reference, acting in a riskless principal transaction on behalf of a Qualified Institutional Buyer.

(d) Any investment company registered under the Investment Company Act, which is adopted and incorporated herein by reference, that is part of a family of investment companies that together own at least $100 million in securities of issuers, other than companies with which the investment company or family of investment companies is affiliated.

(e) Any entity, all of whose equity owners are Qualified Institutional Buyers.

(f) Any bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities Exchange Act, which is adopted and incorporated herein by reference, or foreign bank or savings and loan or similar institution that, in aggregate with the other Qualified Institutional Buyers, owns and invests in at least $100 million in securities of affiliates that are not affiliated with it and that has an audited net worth of at least $25 million as demonstrated during the 16 to 18 months prior to the sale.

(72) "Qualified Lending Institution" means any lending institution designated by the Corporation.

(73) "Qualified Project Period" means Qualified Project Period as defined in Section 142(d) of the IRC.

(74) "Received" as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, United States ~~U.S.~~ Postal Service, or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(75) "Rehabilitation Expenditures" has the meaning set forth in section 147(d)(3) of the IRC.

(76) "SBA" or "State Board of Administration" means the State Board of Administration created by and referred to in s. 9, Article XII of the State Constitution.

(77) "Scattered Sites" for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.

(78) "Single Room Occupancy" or "SRO" means housing consisting of single room dwelling units that is the primary residence of its occupant or occupants. An SRO does not include facilities for students.

(79) "Special Counsel" means any attorney or law firm retained by the Corporation, pursuant to an RFQ, to serve as counsel to the Corporation, including Disclosure Counsel.

(80) "State Bond Allocation" means the allocation of the state private activity bond volume limitation pursuant to Chapter 159, Part VI, F.S., administered by the Division of Bond Finance and allocated to the Corporation for the issuance of Tax-exempt Bonds by either the SFMRB or MMRB Programs.

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

(82) "Taxable Bonds" means those Bonds on which the interest earned is included in gross income of the owner for federal income tax purposes pursuant to the IRC.

(83) "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.

(84) "Tax-exempt Bonds" means those Bonds on which all or part of the interest earned is excluded from gross income of the owner for federal income tax purposes pursuant to the IRC.

(85) "Tie-Breaker Measurement 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 one of the Scattered Sites which comprise the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than four (4) units.

(86) "TEFRA Hearing" means a public hearing held pursuant to the requirements of the IRC and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), section 147(f) of the IRC, at which members of the public or interested persons are provided an opportunity to present evidence or written statements or make comments regarding a requested application for Tax-exempt Bond financing of a Development by the Corporation.

(87) "Total Development Cost" means the sum total of all costs incurred in the construction 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.

(88) "Universal Cycle" means any funding cycle provided for in this or previous versions of this rule chapter.

(89) "Urban In-Fill Development" means a Development (i) in a site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG) or area designated as a HOPE VI or Front Porch Florida Community or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

(90) "Website" means the Florida Housing Finance Corporation's website, the Universal Resource Locator (URL) of which is www.floridahousing.org.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.503, 420.503(4), 420.507, 420.508, 420.5099 FS. History–New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 2-6-97, 1-7-98, Formerly 9I-21.002, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 10-5-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-21.003 Application and Selection Process for Developments.

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 3-08 ~~3-07~~) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the MMRB Program.

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant by copying, collating, or adding documents to an Application nor shall any Applicant be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Universal Application Package and these rules. Preliminary scores shall be transmitted to all Applicants.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within 8 Calendar Days of the date the preliminary scores are sent by overnight delivery by the Corporation, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE Received timely.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant, which may include financial obligations for which the Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Within 11 Calendar Days of the date of the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant's Application. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by

the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. To be considered by the Corporation, the Applicant must submit an original and three copies of all additional documentation and revisions and such revisions, changes and other information must be Received by the deadline set forth herein. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(7) Within seven (7) Calendar Days of the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above, all Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. Each NOAD is limited only to issues created by document revisions, additions, or both, by the Applicant submitting the Application pursuant to subsection (6) above. Each NOAD must specify the assigned Application number of the Applicant submitting the NOAD, the assigned Application number of the Application in question, the pages and the documents in question, as well as describe the alleged deficiencies in detail. Each NOAD is limited to the review of only one Applicant's submission. However, there is no limit to the number of NOADs that may be submitted. NOADs that seek the review of more than one Applicant's submission will be considered improperly filed and ineligible for review. The Corporation will only review each written NOAD received timely.

(8) The Corporation shall transmit a copy of all NOADs to the affected Applicant.

(9) Following the receipt and review by the Corporation of the documentation described in subsections (5), (6) and (7) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall fail threshold or receive a point reduction as a result of any issues not previously identified in the notices described in subsections (3), (4) and (5) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsections (6) and (7) above will still be justification for rejection of the Application, threshold failure, or reduction of points as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (14) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(10) Based on the order of the ranked Applications after informal appeals and the availability of State Bond Allocation designated by the Board of Directors for multifamily housing, the Board of Directors shall designate Applications for funding and offer the opportunity to enter Credit Underwriting, and shall designate those that are below the funding line on the MMRB ranked list. Any additional allocation designated by the Board of Directors for MMRB shall be applied to the next unfunded Application(s) on the ranked list, but only to the extent said Application's request can be fully funded. Any remaining allocation designated by the Board of Directors for multifamily housing, which as of December 1 of each year is insufficient to fully fund the next ranked Application shall be offered to the next ranked Applicant, continuing down the ranked list until sufficient to fully fund a proposed Development. After December 1, Applicants shall be permitted to downsize their allocation request by up to 15 percent of the original allocation request for the purpose of becoming fully funded but may not reduce the number of units or the unit sizes in the development. Any unused allocation shall, at the option of the Board of Directors, be carried over and applied to the next calendar year allocation or applied to single family housing. The Corporation may, after the cure period and upon a determination that such is necessary to assure timely processing of Applicants, invite Applicants who meet threshold into Credit Underwriting at their own risk. Applicants shall be notified in writing of the opportunity to enter Credit Underwriting. A detailed timeline for submitting required fees and information to the Credit Underwriter shall be included. Failure to meet the deadlines established by such timeline shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list. Applicants electing to proceed to Credit Underwriting without designation for funding do so at their own risk, and said opportunity does not ensure that the Application will be funded. Any Applicant that declines invitation to Credit Underwriting, when invited by the Board of Directors, shall be removed from the ranked list.

(11) Except for Local Government-issued Tax-Exempt Bond-Financed Developments that submit a separate Application for non-competitive Housing Credits, Applications shall be limited to one submission per subject property. Two or more Applications, submitted in the same Funding Cycle, that have the same demographic commitment and one or more of the same Financial Beneficiaries will be considered submissions for the same Development if any of the following is true: (i) any part of any of the property sites is contiguous with any part of any of the other property sites, or (ii) any of the property sites are divided by a street or easement, or (iii) it is readily apparent from the Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development. If two or more Applications are considered to be submissions for the same Development, the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application(s) with the lowest lottery number(s) will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number. Financial Beneficiary, as defined in Rule 67-21.002, F.A.C., does not include third party lenders, third

party management agents or companies, housing credit syndicators, Credit Enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or contractors whose total fees are within the limit described in Rule 67-21.007, F.A.C.

(12) If the Board of Directors determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present Application or Development;

(c) Has been convicted of fraud, theft or misappropriation of funds;

(d) Has been excluded from federal or Florida procurement programs; or

(e) Has been convicted of a felony;

And that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two (2) years, which will begin from the date the Board of Directors makes such determination. Such determination shall be either pursuant to a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(13) The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in subsection (6) above:

(a) The Development is inconsistent with the purpose of the MMRB Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits that are provided by the Corporation and adopted under this rule chapter;

(d) The ~~An~~ Applicant fails to satisfy any arrearages described in subsection (5) above ~~or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation~~.

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of Applicant; notwithstanding the foregoing, the name of the Applicant may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(b) Identity of each Developer, including all co-Developers; notwithstanding the foregoing, the identity of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(c) Program(s) applied for;

(d) Applicant applying as a Non-Profit or for-profit organization;

(e) Site for the Development; notwithstanding the foregoing, after the Application has been invited to enter credit underwriting and subject to written request of an Applicant to Corporation staff and approval of the Corporation, the site for the Development may be increased or decreased, provided the Tie Breaker Measurement Point is on the site and the total proximity points awarded during scoring are not reduced;

(f) Development Category;

(g) Development Type;

(h) Designation selection;

~~(i) County;~~

(i)~~(j)~~ Total number of units; notwithstanding the foregoing, the total number of units may be increased after the Applicant has been invited to enter credit underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation;

(j)~~(k)~~ Funding request, except for Taxable Bonds and as provided in subsection 67-21.003(10), F.A.C.; notwithstanding the foregoing, requested amounts exceeding the Corporation and program funding limits can be reduced by the Applicant to reflect the maximum request amount allowed (and no other changes to this amount will be allowed);

(k)~~(l)~~ The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application;

(l)~~(m)~~ Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(m)~~(n)~~ Payment of the required Application fee and TEFRA fee by the Application Deadline.

(n)~~(o)~~ The Application labeled "Original Hard Copy" must include a properly completed Applicant Certification and Acknowledgement form reflecting original signatures.

All other items may be submitted as cures pursuant to subsection (6) above.

With regard to paragraphs (a) and (b) above, the Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested change.

(15) A Development will be withdrawn from funding and any outstanding commitments for funds will be rescinded if at any time the Board of Directors determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(16) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with the IRC, this rule chapter, or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a Credit Underwriting Report, the requested allocation will, upon a determination by the Board of Directors that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant and the Affiliates of the Applicant or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(17) When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(18) At no time during the Application, scoring and appeal process may Applicants or their representatives contact members of the Board of Directors concerning their own Development or any other Applicant's Development. At no time from the Application Deadline until after issuance of the final scores as set forth in subsection (9) above, may Applicants or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If an Applicant or its representative does contact a member of the Board of Directors in violation of this section, the Board of Directors shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(19) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board of Directors is scheduled to convene to consider approval of the final rankings of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board of Directors has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board of Directors approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking. If an Applicant has applied for two or more programs, the withdrawal by the Applicant from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs.

(20) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is requested in writing and approved in writing by the Corporation. The Corporation shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(21) If an Applicant or any Affiliate of an Applicant has offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution and this is discovered prior to Board of Directors approval of the ranking, the Corporation shall reject the Application and any other Application submitted by the same Applicant and any Affiliate of the Applicant. If discovered after the Board of Directors approves final ranking, any tentative funding or allocation for the Application and any other Application submitted in the same cycle by the same Applicant and any Affiliate of the Applicant will be withdrawn. Such Applicant and any of such Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin the date the Board of Directors issues a final order on such matter in a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S.

(22) The Corporation shall initiate TEFRA Hearings on the proposed Developments whose Applications were Received by the Application Deadline. Neither the TEFRA Hearing, the invitation into Credit Underwriting, nor the Acknowledgment Resolution obligate the Corporation to finance the proposed Development in any way.

(23) Upon receipt of the Credit Underwriting Report, the Corporation shall submit the Application to its Financial Advisor for a preliminary recommendation of the method of bond sale for each Development pursuant to Rule 67-21.0045, F.A.C.

(24) Proposed Developments that are ranked, but not selected by the Board of Directors to enter Credit Underwriting, shall remain on the ranked list in the event State Bond Allocation becomes available to fund additional Developments. If the current year's State Bond Allocation designated by the Board of Directors for the MMRB Program

is insufficient to fully finance a Development, subject to the provisions of subsection 67-21.003(10), F.A.C., permitting reduction of the requested amount, a new Application must be filed to be eligible for a future year's State Bond Allocation.

(25) The Corporation shall notify the Applicant, in writing, of the Board of Directors determination related to approval of the Credit Underwriting Report and require the Applicant to submit one-half of the Good Faith Deposit within 7 Calendar Days from the receipt of such notice.

(26) Upon favorable recommendation of the Credit Underwriting Report and preliminary recommendation of the method of bond sale from the Corporation's Financial Advisor, the Board of Directors shall designate by resolution the method of bond sale considered appropriate for financing. The Board of Directors shall consider authorizing the execution of the Loan Commitment and shall consider final Board of Directors approval reserving State Bond Allocation for a Development. Requests for Taxable Bonds shall be considered by the Board of Directors in an amount recommended by the Credit Underwriter. The Board of Directors shall also assign a bond underwriter, structuring agent, or Financial Advisor and any other professionals necessary to complete the transaction. Staff shall assign the Corporation Bond Counsel and Special Counsel and Trustee as needed.

(27) Following receipt of one-half of the Good Faith Deposit, the Corporation's assigned Special Counsel shall begin preparation of the Loan Commitment.

(28) Upon execution of a Loan Commitment, Applicant shall pay the balance of the Good Faith Deposit and the Corporation shall authorize Bond Counsel and Special Counsel to prepare the Program Documents.

(29) For computing any period of time allowed by this rule, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4), (13), (14), (18), (19), (20), (21), (24), 420.508 FS. History–New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.003, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-21.0035 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-21.003, F.A.C., each Applicant will be provided with its final score and notice of rights, which shall constitute the point of entry to contest any issue related to the Applicant's Application for the MMRB Program.

(2) Each Applicant that wishes to contest its final score 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 which will then be considered by the Board of Directors.

(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 concerning its own Application shall be allowed the opportunity to submit written arguments to the Board of Directors. 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, excluding the 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 of Directors. Parties will not be permitted to make oral presentations to the Board in response to recommended orders.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with Rule Chapter 67-21, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board of Directors, the Corporation shall, if any such Applicant 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 of Directors, provide the requested allocation from the next available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable Credit Underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the point of entry to contest any ranking or scoring issue related to any other Applications for the MMRB Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this subsection (5). 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, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-21.003(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-21.003(6), F.A.C.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time the Corporation provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal 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 which will then be considered by the Board of Directors.

(6) 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 as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board of Directors. Any written arguments 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, excluding the 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 of Directors. Parties will not be permitted to make oral presentations to the Board of Directors in response to recommended orders.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested allocation from the next available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507, 420.508 FS. Law Implemented 120.569(2)(b), 120.57, 420.502, 420.507, 420.508 FS. History–New 11-14-99, Amended 2-11-01, 3-17-02, 10-8-02, 12-4-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, Repromulgated_____.

67-21.004 Federal Set-Aside Requirements.

Each Application shall designate one of the following minimum federal set-aside requirements that the Development shall meet commencing with the first day on which at least 10 percent of the units in the property are occupied:

(1) Twenty percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 50 percent of the area median income limits adjusted for Family size (the 20/50 set-aside); or

(2) Forty percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 60 percent of the area median income limits adjusted for Family size (the 40/60 set-aside).

(3) For Developments financed solely through the issuance of Taxable Bonds or refundings of Tax-exempt Bonds originally issued under section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended, which is adopted and incorporated herein by reference, 20 percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 80 percent of the area median income limits adjusted for Family size (the 20/80 set-aside).

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4), (6), (12), (13), (14), (18), (19), (21), 420.508 FS. History–New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 9-25-96, 2-6-97, 1-7-98, Formerly 9I-21.004, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, 1-29-06, Repromulgated 4-1-07,_____.

67-21.0045 Determination of Method of Bond Sale.

(1) The Corporation may sell Bonds for the purpose of financing a proposed Development through a negotiated sale, competitively bid sale or Private Placement. Prior to the sale of Bonds for a Development, the Board of Directors shall authorize a resolution specifying the method of sale.

(2) Following receipt of the Credit Underwriting Report, staff shall provide the Corporation's Financial Advisor copies of such report for review and preparation of a written recommendation for the method of Bond sale.

(3) In preparing a recommendation for the method of sale to the Board of Directors, the Financial Advisor shall consider the following:

(a) The cost components of the sale, including interest costs and financing costs. The purpose of the analysis is to determine how these costs are affected by the alternative forms of sale.

(b) The anticipated credit and security structure of the transaction.

(c) The proposed financing structure of the transaction.

(d) The financing experience of the Applicant.

(e) The Corporation's programmatic objectives.

(f) Market stability.

(g) Other factors identified by staff, counsel, or the Applicant.

(4) The written recommendation shall include an identification of the Development, the recommended method of sale, and a summary statement as to why the particular method of sale is being recommended.

(5) For those transactions that the Corporation's Financial Advisor recommends as candidates for a competitive sale, the Corporation shall engage a structuring agent. The Applicant may, at its sole expense, engage a Financial Advisor for the transaction. Any cost to the Applicant for the Financial Advisor in excess of $18,000 must be paid out of Developer Fee.

(6) For those transactions that the Corporation's Financial Advisor recommends for a negotiated sale, the Corporation shall appoint a bond underwriter.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4), (13), (19), (20), 420.508, 420.509(12) FS. History–New 1-7-98, Formerly 9I-21.0045, Amended 1-26-99, Repromulgated 11-14-99, 2-11-01, Amended 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.006 Development Requirements.

A Development shall at a minimum meet the following requirements or an Applicant shall be able to certify that the following requirements shall be met with respect to a Development:

(1) Must provide safe, sanitary and decent multifamily residential housing for lower, middle and moderate income persons or families.

(2) Must be owned, managed and operated as a Development to provide multifamily residential rental property comprised of a building or structure or several proximate buildings or structures, each containing five or more dwelling units and functionally related facilities, in accordance with section 142(d) of the IRC.

(3) The Development shall consist of similar units, containing complete facilities for living, sleeping, eating, cooking and sanitation for a Family.

(4) None of the units in the Development shall be used on a transient basis, nor shall they be knowingly leased for a period of less than 180 days unless a determination is made by the Corporation that there is a specific need in that particular area for leasing arrangements of less than 180 days, but in no event shall a lease be for a period less than 30 days, nor shall a Development be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home or rest home or trailer court or park.

(5) All of the dwelling units shall be rented or shall be available for rent on a continuous basis to members of the general public, and the Applicant shall not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be occupied in compliance with the IRC or are being held for Elderly Persons, Commercial Fishing Workers, Homeless Persons or Farmworkers.

(6) The Applicant shall have no present plan to convert the Development to any use other than the use as affordable residential rental property.

(7) None of the units shall at any time be occupied by the owner of the Development or an individual related to the owner as such terms are defined by the Code; provided, however, that in Developments containing more than 50 residential units, such owner or related person may occupy up to one unit per each 100 units in a Development and such owner or related person must reside in a unit that is in a building or structure which contains at least five residential units.

(8) Commencing with the date on which at least 10 percent of the units in the Development are occupied:

(a) At least 20 percent or 40 percent, whichever is applicable based on Applicant's selection of the minimum federal set-aside, of the occupied and completed residential units in the Development shall be occupied by Lower Income Residents, prior to the satisfaction of which no additional units shall be rented or leased, except to a Family that is also a Lower Income Resident;

(b) All of the Public Policy Criteria and Qualified Resident Programs selected in the Application must be met; and

(c) After initial rental occupancy of such residential units by Lower Income Residents, at least 20 percent or 40 percent, whichever is applicable based on Applicant's selection of the minimum federal set-aside, of the completed residential units in the Development at all times shall be rented to and occupied by Lower Income Residents as required by section 142(d) of the IRC, if the Development is financed with the proceeds of Tax-exempt Bonds, or as required by the Act, if the Development is financed with the proceeds of Taxable Bonds, or held available for rental if previously rented to and occupied by a Lower Income Resident.

(9) The Applicant shall obtain and maintain on file income certifications from each Lower Income Resident immediately prior to initial occupancy and at least annually thereafter.

(10) The Applicant shall not take, permit, or cause to be taken any action which would adversely affect the exemption from federal income taxation of the interest on Tax-exempt Bonds, nor shall the Applicant fail to take any action which is necessary to preserve the exemption from federal income taxation of the interest on Tax-exempt Bonds.

(11) The Applicant shall take such action or actions as shall be necessary to comply fully with the IRC, Florida Statutes, and the Corporation's rules.

(12) The Applicant may limit the leasing of units in a Development to Elderly Persons, Commercial Fishing Workers, Homeless Persons or Farmworkers as permitted hereby.

(13) In the event that the Applicant has determined that the market no longer supports the Development as Elderly Housing and desires to rent to younger persons or families, the following criteria must be met:

(a) A viable marketing plan is submitted to and is acceptable to the Corporation showing a good faith effort to market the unit as Elderly Housing.

(b) The Applicant demonstrates that a good faith effort was made to lease the unit as Elderly Housing and that such effort was made for at least six months after the certificate of occupancy for the relevant unit was issued.

(c) The Applicant has requested and received Board of Directors' approval that the Development no longer qualifies as Elderly Housing.

(14) The Applicant and Developer of a proposed Rehabilitation Development shall make every effort to rehabilitate existing housing (i) without displacing existing tenants or (ii) by temporarily moving existing tenants to unaffected units within the Development until the renovation of affected units is completed.

(15) The owner of a Development must notify the Corporation of an intended change in the management company. The Corporation must approve, pursuant to subsection 67-53.003(3), F.A.C., the Applicant's selection of a management agent prior to such company assuming responsibility for the Development. A key management company representative must attend a Corporation-sponsored training workshop on certification and compliance procedures prior to the leasing of any units in the Development.

(16) The Applicant shall use cost certifications with respect to each Development as required by the United States Department of Housing and Urban Development ("HUD") in connection with Developments financed by HUD, including the HUD Risk Sharing Program.

(17) The Applicant shall provide annually to the Trustee not later than 120 days after the end of the Applicant's fiscal year, audited financial statements prepared by an independent certified public accounting firm, consolidated or consolidating, on the Development and any other information required by the Corporation to comply with continuing disclosure requirements imposed by law.

(18) Unless otherwise approved by the Board of Directors, Cross-collateralization shall not be allowed.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(9), (11), (14), (18), (19), (20), (21), 420.508 FS. History– New 12-3-86, Amended 2-22-89, 12-4-90, 9-25-96, 1-7-98, Formerly 9I-21.006, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.007 Fees.

In addition to the fees specified in the Universal Application Package, the Corporation shall collect the following fees and charges in conjunction with the MMRB Program:

(1) TEFRA Fee: Applicants shall submit a non-refundable TEFRA fee to the Corporation in the amount of $500 by the Application Deadline, or, for refundings or 501(c)(3) Applicants, upon submission of the Application or request for refunding. This fee shall be applied to the actual cost of publishing required newspaper advertisements and Florida Administrative Weekly notices of TEFRA Hearings. If the actual cost of the required publishing exceeds $500~~.00~~, Applicant shall be invoiced for the difference. If a Local Public Fact Finding Hearing is requested, the Applicant shall be responsible for payment of any fees incurred by the Corporation. If the first TEFRA approval period has expired and a second TEFRA notice and hearing are required, Applicant is responsible for all costs associated with the additional TEFRA process.

(2) Credit Underwriting and Appraisal Fee: Applicants shall submit the required non-refundable Credit Underwriting and Appraisal Fee for each Development to the Credit Underwriter designated by the Corporation within seven Calendar Days of the date the Applicant accepts the invitation by the Corporation to enter the Credit Underwriting process and prior to final credit review by the Credit Underwriter. The Credit Underwriting fee shall be determined pursuant to a contract between the Corporation and the Credit Underwriter.

(3) Good Faith Deposit means a total deposit equal to one percent of the Loan amount reflected in the Loan Commitment paid by the Applicant to Florida Housing. The Applicant shall pay a total deposit equal to one percent of the aggregate principal amount of proposed Taxable and Tax-exempt Bonds, or $75,000, whichever is greater, to the Corporation, which deposit may be applied toward the Cost of Issuance Fee. The maximum Good Faith Deposit required is $175,000. The Good Faith Deposit is payable in two equal installments: the first installment (one-half of one percent) is due within seven Calendar Days of the date the Board of Directors approves the Credit Underwriting Report. The balance is payable no later than the date when the Applicant executes the Loan Commitment. If the Good Faith Deposit is exhausted, the

Applicant shall be required to pay, within three days of notice, an additional deposit to ensure payment of the expenses associated with the processing of the Application, the sale of the Bonds, including document production and the securitization of the Loan. The Good Faith Deposit shall be remitted by certified check or wire transfer. In the event the MMRB Loan does not close, the unused portion of the Good Faith Deposit shall be refunded to the Applicant. Notwithstanding the foregoing, the Applicant is responsible for all expenses incurred in preparation for loan closing. Any and all costs of the Corporation will be deducted from the Good Faith Deposit prior to refunding any unused funds to the Applicant. In the event that additional invoices are received by the Corporation subsequent to a determination that the MMRB Loan will not close and refunding any unused funds to the Applicant, which invoices related to costs incurred prior to such determination and refunding, Applicant shall be responsible for payment of the balance due as invoiced.

(4) Cost of Issuance Fee: the Corporation shall require Applicants or participating Qualified Lending Institutions selected for participation in the program, to deliver to the Corporation, or, at the request of the Corporation, directly to the Trustee, before the date of delivery of the Bonds, a Cost of Issuance Fee in an amount determined by the Corporation to be sufficient to pay the costs and expenses relating to issuance of the Bonds, which amount shall be deposited into an account to be held by the Trustee. The Corporation shall provide the Applicant with a good faith estimate of the Cost of Issuance Fee prior to closing. The Applicant shall pay all costs and expenses incurred by the Corporation in connection with the issuance of the Bonds, the expenditure of the MMRB Loan proceeds, and provision of Credit Enhancement, if any, even if such costs and expenses exceed the Cost of Issuance Fee. Any amounts remaining in this account at the time the balance is transferred and the account closed pursuant to the Trust Indenture shall be returned to the Applicant.

(5) HUD Risk Sharing Fees: Applicants also using the HUD Risk Sharing Program for the Development shall be responsible for associated fees, as follows:

(a) Format II Environmental Review Fee – The fee the Applicant shall pay will be determined by contract between the Corporation and the environmental professional.

(b) Subsidy Layering Review Fee – The fee the Applicant shall pay will be determined by the contract between the Corporation and the Credit Underwriter.

(6) Compliance Monitoring Fees: The annual monitoring fee the Applicant shall pay will be determined by contract between the Corporation and the monitoring agent.

(7) Permanent Loan Servicing Fees: The annual servicing fee the Applicant shall pay will be determined by contract between the Corporation and the servicer.

(8) Financial Monitoring Fees: The annual financial monitoring fee the Applicant shall pay will be determined by contract between the Corporation and the monitoring agent.

(9) Other Corporation Program Fees:

(a) Housing Credit Fees – If Housing Credits are used for the Development, the Compliance Monitoring Fee for that program shall be collected from the Applicant in conjunction with the Compliance Monitoring Fee for the program.

(b) Florida Affordable Housing Guarantee Program Fees – If the Guarantee Program is used in the Development, the same fee schedule described in Rule Chapter 67-39, F.A.C., shall apply and be paid by the Applicant to the Corporation.

(10) Developer Fee shall be limited to 18 percent of Total Development Cost excluding land ~~and, for rehabilitation, building acquisition costs~~. ~~A Developer Fee on the building acquisition cost shall be limited to 4 percent of the cost of the building(s) exclusive of land cost.~~ Consulting fees, if any, must be paid out of the Developer Fee. Consulting fees include payments for Application consultants, construction management or supervision, or Local Government consultants. Fees of the Applicant's or Developer's attorney(s) awarded in conjunction with litigation against the Corporation with respect to a Development shall also not be included in Total Development Costs. Fees for services provided by architects, accountants, appraisers, engineers or Financial Advisors may be included as part of the Total Development Costs, except that those fees for a Financial Advisor that are in excess of $18,000 must be paid out of the Developer Fee. In the event of extraordinary circumstances, Applicant may petition the Board for relief from the cap on Financial Advisor fees. The Corporation shall not authorize fees to be paid for duplicative services or duplicative overhead.

(11) General Contractor's Fees are inclusive of general requirements, profit and overhead and shall be limited to 14 percent of hard costs, excluding any hard cost contingencies. For the purpose of the HUD Risk Sharing Program, if there exists an Identity of Interest as defined herein between the Applicant or Developer and the General Contractor, the allowable fees shall in no case exceed the amount allowable pursuant to the HUD subsidy layering review requirements. Additionally, fees shall be allowed to be paid only to the person or entity that actually meets the definitional requirements to be considered a General Contractor. The Corporation shall not allow fees for duplicative services or duplicative overhead. The General Contractor must meet the following conditions:

(a) Employ a Development superintendent and charge the costs of such employment to the general requirements line item of the General Contractor's budget;

(b) Charge the costs of the Development construction trailer, if needed, and other overhead to the general requirements line item of the General Contractor's budget;

(c) Secure building permits, issued in the name of the General Contractor;

(d) Secure a payment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit), issued in the name of the General Contractor, from a company rated at least "A-" by AMBest & Co.;

(e) Ensure that none of the General Contractor duties to manage and control the construction of the Development are subcontracted; and

(f) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4), (19) FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.007, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, Repromulgated 4-1-07, Amended_____.

67-21.008 Terms and Conditions of MMRB Loans.

(1) Each Mortgage Loan for a Development made by the Corporation shall:

(a) Be evidenced by a properly executed Note or other evidence of indebtedness and be secured by a recorded Mortgage;

(b) Provide for a fully amortized payment of the Mortgage Loan in full beginning no later than the 37th month ~~on the earlier of 36 months~~ after closing~~, or stabilized occupancy, or conversion to permanent financing under the loan documents~~ and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan;

(c) Not exceed 95 percent of the Total Development Cost;

(d) If the Mortgage Loan is to provide financing for the construction of a Development, have each advance thereof secured, insured, or guaranteed in such manner as the Corporation determines shall protect its interest and those of the Bond holders;

(e) Have the initial review, approval, and origination process accomplished by a Qualified Lending Institution;

(f) Be serviced by such Qualified Lending Institution or other private entity engaged in the business of servicing mortgage loans in Florida as the Corporation shall approve; and

(g) Require the submission to the Corporation of an annual audited financial statement for the Development, and for the Applicant if revenue from multiple projects is being pledged. An annual financial statement compiled or reviewed by a licensed Certified Public Accountant may be submitted in lieu of an audited financial statement for the Development prior to the issuance of a certificate of occupancy for any unit in the Development, provided that the subsequent annual audited financial statement shall include all operations since inception.

(h) If Credit Enhancement is used, a Credit Enhancement instrument of less than ten years must be approved by the Board of Directors.

(2) Upon approval, execution, and satisfaction of the terms of the Program Documents by the Applicant and the Corporation, the Bond sale and the MMRB Loan shall be scheduled for closing.

(3) The Applicant may obtain construction financing from an alternative source with the Bond proceeds being invested in accordance with an investment agreement subject to the requirements of the IRC for Tax-exempt Bonds.

(4) The Applicant shall also establish and maintain escrow deposits sufficient to pay any insurance premiums and applicable taxes.

(5) The Corporation shall charge such program administration fees as are required to pay the cost of administering the program during the life of the Bonds and MMRB Loan.

(6) The interest rate on the MMRB Loan shall be determined by the Corporation at the time of sale of the Bonds based on the financing structure and the interest rate on the Bonds.

(7) Prepayments shall be permitted only in accordance with the terms and conditions of the Program Documents.

(8) The Corporation shall appoint a Trustee and servicing agent when necessary to administer the program and service the MMRB Loan.

(9) All MMRB Loans are contingent upon:

(a) The sale, issuance and delivery of the Bonds and the availability of Bond proceeds.

(b) The Applicant obtaining title insurance on the property.

(c) The Applicant obtaining all governmental approvals for constructing and operating the Development as a multifamily housing Development.

(d) The Applicant providing to the Corporation, Bond Counsel and Special Counsel the Note, Mortgage, financing statements, survey, hazard insurance policies, liability insurance policies, escrow agreement, investment agreements, opinions of counsel including preference opinions, if required, and such other documents as are necessary to ensure that the Corporation has a properly secured Mortgage as required under the Act and to protect the holders of the Bonds.

(e) If required by Bond Counsel in order to deliver their opinion in connection with the issuance of the Bonds or at the request of the Corporation, the Bonds being validated pursuant to Chapter 75, F.S., and a certificate of no appeal issuing.

(f) Receipt of TEFRA approval for Tax-exempt Bonds.

(10) All MMRB Loans shall be reviewed and originated by a servicer designated by the Corporation, in conformance with the Act.

(11) The Applicant shall agree to execute or cause to be executed all of the MMRB Program Loan Documents required by the Corporation to secure the unconditional payment of the MMRB Loan and to retain the tax-exempt status of the Bonds, if Bonds are issued as Tax-exempt Bonds.

(12) The Applicant shall, prior to the requested date for funding, or as requested during Credit Underwriting, supply in draft form to the Corporation the following documents with respect to the Development being financed, together with any other documents required by the MMRB Loan Agreement:

(a) A survey, as described in the Application, dated within 90 days of the date submitted showing the location of all improvements, encroachments, easements and rights-of-way, and a site plan which has been approved by all governmental authorities.

(b) A fully completed, executed and sealed surveyors' certification to the Corporation.

(c) Written evidence of appropriate zoning and governmental approvals.

(d) Plans and specifications bearing the seal of a licensed engineer.

(e) Policies of insurance and evidence of payment of premiums.

(f) Required opinions of counsel necessary for the issuance of the Bonds.

(g) A commitment for mortgagee title insurance in favor of the Corporation or its Trustee or designated servicer, with only standard exceptions and such other exceptions as are usually permitted in Mortgage Loans of this nature and that are acceptable to the Corporation. Such policy shall be in an amount not less than the MMRB Loan amount plus an amount sufficient to cover any debt service reserve required by the Corporation.

(h) A copy of the deed or form of deed conveying the land for the Development to the Applicant or a copy of the lease creating a long-term leasehold in favor of the Applicant acceptable to the Corporation and the Credit Underwriter.

(i) Evidence as to the status of liens, including mechanic's liens, recorded against the property and the permission of the Corporation to allow any liens to remain recorded against the land or the Development.

(j) Such other documents as shall be reasonably required by the Corporation, by the MMRB Loan Commitment, or by the Corporation's respective counsel to protect the interest of the Corporation in the financing.

(13) The Borrower shall not sell, transfer, or otherwise assign any of its interest in the Development without the prior written consent of the Corporation.

(14) The Corporation shall require all MMRB Loans to be secured to the extent necessary to protect the Corporation and Bond holders.

(15) Any MMRB Loan financed with proceeds of Tax-exempt Bonds, except for 501(c)(3) Bonds, shall provide that the portion of any debt service reserve fund associated therewith to be financed with the Tax-exempt Bonds shall not exceed six months of debt service on the Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.502, 420.507(4), (6), (9), (11), (21), 420.508 FS. History–New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.008, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.009 Interest Rate on Mortgage Loans.

The Corporation shall establish the interest rate on Mortgage Loans at the time of sale of the Bonds. The interest rate shall in no event exceed the arbitrage limit which is legally allowed without jeopardizing the tax exempt status of the Bonds, if Bonds are issued as Tax-exempt Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented Chapter 75, 420.507, 420.508 FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.009, Amended 1-26-99, 11-14-99, Repromulgated 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.010 Issuance of Revenue Bonds.

The Corporation shall fund Mortgage Loans with the proceeds from the sale of Bonds. The issuance and sale of the Bonds shall be governed by resolutions adopted by the Corporation and by applicable law and rule. If Bonds cannot be sold or cannot be sold in an amount or at an interest rate or under conditions which satisfy the Credit Underwriting Report, as the same may be amended, the Corporation shall terminate its MMRB Loan Commitment and such other agreements as were executed in conjunction with the proposed MMRB Loan.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(6), 420.508, 420.509 FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.010, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.013 Non-Credit Enhanced Multifamily Mortgage Revenue Bonds.

Any issuance of non-Credit Enhanced revenue Bonds shall be sold only to a Qualified Institutional Buyer. Such non-Credit Enhanced revenue Bonds may only be utilized for financings where the Applicant has demonstrated that the issuance produces a substantial benefit to the Development not otherwise available from Credit Enhancement structures. The analysis of the substantial benefit must be provided in a format acceptable to the Corporation and shall include the initial issuer cost of issuance, underwriter's discount or placement agent fee, annual debt service, total debt service and any other factors necessary and appropriate to demonstrate that the issuance produces a substantial benefit to the Development. This analysis must be provided both prior to the review of the method of Bond sale conducted by the Corporation's Financial

Advisor, and again prior to the pricing of the Bonds, showing any changes affecting the original estimated substantial benefit. The Corporation shall designate the bond underwriter or placement agent with respect to such Bonds, who shall be on the Corporation's approved bond underwriters list. The Corporation, in its discretion, will allow only an underwriting discount or a placement agent fee, but not both. Unless such Bonds are rated in one of the four highest rating categories by a nationally recognized rating service, such Bonds shall not be held in a full book-entry system (but may be DTC-Eligible) and shall comply with at least one of the following criteria:

(1) The Bonds shall be issued in minimum denominations of $100,000 (subject to reduction by means of redemption) and each purchaser of such Bond, including subsequent purchasers unless the requirements of subsection (2) or (3) below are met, shall certify to the Corporation prior to any purchase or transfer of any Bond that such purchaser is a Qualified Institutional Buyer; or

(2) The Bonds shall be issued in minimum denominations of $250,000 (subject to reduction by means of redemption) and an investment letter satisfactory to the Corporation and its counsel shall be obtained from each initial purchaser of the Bonds (including any purchaser purchasing such Bonds in an immediate resale from an underwriter), but shall not be required of subsequent purchasers of the Bonds, to the effect that, among other things, such purchaser is a Qualified Institutional Buyer, is purchasing such Bonds for its own account and not for immediate resale to other than another Qualified Institutional Buyer, and has made an independent investment decision as a sophisticated or institutional investor; or

(3) The Bonds shall be issued in minimum denominations of $250,000 (subject to reduction by means of redemption) and an investment letter satisfactory to the Corporation and its counsel shall be obtained from each initial purchaser of the Bonds and from each subsequent transferee of the Bonds prior to any transfer thereof, to the effect that such purchaser is a Qualified Institutional Buyer.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(4), (5), (6), (9), (11), (14), (16), (18), (19), (20), (21) FS. History–New 11-23-94, Amended 1-7-98, Formerly 9I-21.013, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.014 Credit Underwriting Procedures.

(1) An invitation into Credit Underwriting shall require that the Applicant submit the Credit Underwriting and Appraisal Fee and information required to complete the Credit Underwriting, to the Credit Underwriter in accordance with the schedule established by the Corporation upon the recommendation of the Credit Underwriter. Failure to submit the Credit Underwriting and Appraisal Fee or meet the deadlines as set forth in the schedule shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list.

(2) The Credit Underwriter shall in Credit Underwriting analyze and verify all information in the Application, or any proposed changes made subsequent thereto, in order to make a recommendation to the Board of Directors on the feasibility of the Development, without taking into account the willingness of a Credit Enhancer to provide Credit Enhancement. Credit Underwriting services shall include, for example, a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, and the evidence of need for affordable housing in order to determine that the Development meets the MMRB Program requirements. The Credit Underwriter shall determine a recommended Bond amount that should be made to a Development, whether an initial loan or a refunding.

(a) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of normal underwriting procedures, the cost of such expertise shall be borne by the Applicant.

(b) The Credit Underwriter shall review the proposed financing structure to determine whether the MMRB Loan is feasible.

(c) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves when calculating the final net operating income available to service the debt. A minimum amount of $250 ~~$200~~ per unit must be deposited annually in the replacement reserve account for all Developments. An Applicant may choose to fund a portion of the replacement reserves at closing from moneys other than the proceeds of the Bonds. This partial funding cannot exceed 50 percent of the required replacement reserves for two years and must be placed in escrow with the Bond Trustee at closing. Applicants with Credit Enhancement may employ a different replacement reserve structure with the Corporation's approval.

(d) The Corporation shall consider the following when determining the need for construction completion guarantees based on the recommendations of the Credit Underwriter:

1. Liquidity of any guarantee provider.

2. Applicant's, Developer's and General Contractor's history in successfully completing Developments of similar type.

3. The past performance of the Applicant, Developer, General Contractor, or management agent, in developing, constructing or managing Developments financed by the Corporation or its predecessor, including, by way of example and not limitation, nonpayment of fees and noncompliance with program requirements.

4. Percentage of the Corporation's funds utilized compared to Total Development Costs. At a minimum, the corporate general partner of the borrowing entity shall provide a personal guarantee for completion of construction. In addition, a letter of credit or payment and performance bond shall be required if the Corporation determines upon recommendation of the Credit Underwriter after evaluation of conditions in subparagraphs 1. through 3., above, that additional surety is needed.

(e) The Credit Underwriter shall review and make a recommendation to the Corporation whether the number of existing loans and construction commitments of the Applicant and its Principals will impede its ability to proceed with the successful development of each proposed Corporation Development.

(f) The Credit Underwriter shall consider the appraisal of the Development and other market study documentation to make a recommendation as to whether the market exists to support both the demographic and income restriction set-asides committed to within the Application. The Credit Underwriter shall consider the market study and other documentation to make a recommendation of whether to approve or disapprove an allocation when the proposed Development would financially impair an existing Development previously funded by the Corporation.

(g) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process to complete the Credit Underwriting Report, the Credit Underwriter shall notify the Corporation and request the information from the Applicant. Such requested information shall be submitted within ten business days of receipt of the request therefor. Failure for any reason to submit required information on or before the specified deadline shall result in the Application being moved to the bottom of the ranked list.

(h) At a minimum, the Credit Underwriter shall require the following information during Credit Underwriting:

1. For Credit Enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or Credit Underwriting is complete.

2. For guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is incorporated by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links, and the two most recent years tax returns. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

3. For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100 percent of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

4. For the Applicant and General Partner, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that Credit Underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(j) The Credit Underwriter shall also require environmental indemnity and recourse obligation guarantees.

(i) The Credit Underwriter shall require an operating deficit guarantee. The operating deficit guarantee will be released when the Development achieves a minimum 1.10 debt service coverage ratio on the MMRB Loan and 90 percent occupancy and 90 percent of the gross potential rental income, all for six consecutive months as certified by an independent Certified Public Accountant, and verified by the Credit Underwriter.

(k) Required appraisals, market studies, pre-construction analyses, physical needs assessments, and environmental studies (other than Phase I Environmental Site Assessments) shall be completed by professionals approved by the Credit Underwriter. Approval of appraisers and contractors to complete market and environmental studies shall be based upon review of qualifications, professional designations held, references and prior experience with similar types of Developments.

(l) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice, which is adopted and incorporated herein by reference, and a separate market study shall be ordered by the Credit Underwriter from an appraiser qualified for the geographic area and product type not later than when an Application enters Credit Underwriting. The Credit Underwriter shall review the appraisals to properly evaluate the MMRB Loan request in relation to the property value.

(m) Appraisals and separate market studies which have been ordered and submitted by third party Credit Enhancers or syndicators and which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal or market study referenced above.

(n) The Credit Underwriting Report shall include a thorough analysis of the proposed Development and a statement as to whether a MMRB Loan is recommended, and if so, the amount recommended. The Credit Underwriter or the Corporation may request such additional information as is necessary to properly analyze the credit risk being presented to the Corporation and the Bond holders.

(3) The Applicant shall review and provide written comments on the draft Credit Underwriting Report to the Corporation and the Credit Underwriter within the time frame established by the Corporation. The Corporation shall provide comments on the draft report and, as applicable, on the Applicant's comments to the Credit Underwriter. The Credit Underwriter shall then review and incorporate the Corporation's and, if deemed appropriate, the Applicant's comments and release the revised report to the Corporation and the Applicant. Any additional comments from the Applicant shall be received by the Corporation and the Credit Underwriter within the established time frame. Then, the Credit Underwriter shall provide a final report, which shall address comments made by the Applicant to the Corporation.

(4) After approval by the Board of Directors following presentation of the Credit Underwriting Report and payment of one-half of the Good Faith Deposit, Corporation staff and Special Counsel shall begin negotiations of the MMRB Loan Commitment with the Applicant.

(5) At a minimum, a 10 percent retainage will be held by the Trustee or the servicer administering the construction loan funds until the Development is 50 percent complete. At 50 percent completion, no additional retainage will be held from the remaining draws. The total retainage dollars will be held by the Trustee or the servicer and released pursuant to the terms of the construction loan agreement.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508, 420.508(3)(b)3., 420.509 FS. History–New 1-7-98, Formerly 9I-21.014, Amended 1-26-99, 11-14-99, 1-26-00, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07,_____.

67-21.015 Use of Bonds with Other Affordable Housing Finance Programs.

(1) Applicants may submit one Application for the MMRB Program, SAIL, HOME Rental, competitive housing credits and non-competitive housing credits, subject to the restrictions set forth in the Universal Application Package.

(2) Applicants that receive funding from other programs and the Multifamily Mortgage Revenue Bond Program shall comply with the requirements of the applicable program rule and this rule.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508 FS. History–New 1-7-98, Formerly 9I-21.015, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07,_____.

67-21.017 Transfer of Ownership.

(1) Any transfer of ownership of any Development shall be subject to compliance with the provisions of this section, provided that transfers of the limited partnership interest or limited liability company interest in the owner to a tax credit syndicator, or the transfer of ownership to a creditor by means of foreclosure or deed in lieu of foreclosure, need not comply with this provision. The determination of whether a transfer of ownership of a Development shall be deemed to take place for purposes of this rule shall be made in accordance with the provisions of the MMRB Land Use Restriction Agreement and other Program Documents for such Development. Owners shall advise the Corporation in writing of any change of ownership of the owner aggregating 50 percent or more of ownership interests in the owner within any six-month period.

(2) A request for transfer of ownership shall be submitted to the Corporation in writing and include evidence that the current owner has agreed to the proposed sale. A detailed opinion letter from the legal counsel for the current owner or prospective purchaser describing the scope of the proposed transaction must also be provided. The Corporation shall review the letter and, if acceptable, assign a Credit Underwriter. The Credit Underwriter will notify the current owner and prospective purchaser of any additional information necessary to complete its Credit Underwriting Report.

(3) Upon demonstration of compliance with the provisions of this section, and favorable consideration by the Board of Directors of the Credit Underwriting Report, the Corporation shall assign a Bond Counsel, Special Counsel, and other professionals as needed to effect the transfer.

(4) Prior to the transfer of ownership:

(a) The Credit Underwriter shall conduct a Credit Underwriting of the prospective purchaser upon any transfer of ownership. Additionally, the prospective purchaser shall be notified that any refunding of Bonds associated with such Development shall require a full Credit Underwriting of the Development. The prospective purchaser and the conditions of the assumption of the Program Documents must be approved by the Credit Underwriter as meeting the terms of its Credit Underwriting Report, Bond Counsel and Special Counsel as complying with all applicable legal requirements, and the Corporation as meeting the stated purposes of the Corporation,

(b) All outstanding fees owing to the Corporation or any of its assigned professionals shall be paid,

(c) The Development shall be in compliance with all existing regulatory requirements imposed by the Corporation or its predecessor, and

(d) If the set-aside requirements in the MMRB Land Use Restriction Agreement are expired or have less than 12 months remaining, such agreement shall be extended for a minimum of two years from the date of closing. All transfer of ownership transactions shall be subject to all conditions of the Credit Underwriting Report including the requirements for a guarantee of recourse obligations and an environmental indemnity from the assuming owner.

(5) The prospective purchaser or current owner shall be responsible for payment of all fees for professional services rendered in association with the transfer of ownership.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508, 420.508(3)(a) FS. History–New 1-7-98, Formerly 9I-21.017, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.018 Refundings and Troubled Development Review.

(1) Refunding of previously issued Bonds shall in all instances be at the option of the Corporation and not an obligation of the Corporation.

(2) The Corporation shall endeavor where feasible to refund Bonds which are either in default or face a pending default.

(3) Approval by the Corporation for a refunding of an issue of Bonds for reasons related to pending default shall be subject to the following:

(a) Determination of the likelihood of the impending default;

(b) Submission of a sworn certificate of impending default by the owner or Credit Enhancer;

(c) Submission of sworn certificate from the owner or Credit Enhancer that conditions causing default are likely to continue;

(d) Submission of certified information from a certified public accountant concerning cash contributions to the Development, financial condition of the Development, including analysis of tax benefits derived from Development losses, and the financial condition of the owner or Credit Enhancer;

(e) Independent evidence of market conditions in the Development location;

(f) Evidence of effort by the owner or Credit Enhancer to procure other sources of capital infusion;

(g) Statement by the owner or Credit Enhancer of the continued public purpose to be achieved by refunding;

(h) Agreement by the owner or Credit Enhancer to update the MMRB Land Use Restriction Agreement, including retention of state and federal income limits;

(i) New Credit Underwriting by the Corporation, with new Bond amount determined by the Corporation based upon real estate underwriting criteria and equal to the lesser of the amount determined by the Corporation or the Credit Enhancer, to provide assurance that a similar default condition will not present itself in the future;

(j) The full risk of refunding is taken by the Credit Enhancer through full indemnification of the Corporation; with consideration given to personal indemnification from the owner if sufficient financial strength can be demonstrated;

(k) All costs of refunding are paid by the owner or the Credit Enhancer outside of Bond proceeds, including all applicable fees;

(l) Retention of annual fees by the Corporation;

(m) Provision of other evidence of the immediacy of default;

(n) Retention of the Credit Enhancement, or an acceptable non-Credit Enhancement structure; and

(o) Management of the Development is reviewed and approved by the Corporation.

(4) In connection with all refundings, the following shall apply:

(a) All outstanding fees of the Corporation and any of its assigned professionals shall be paid in connection with the refunding;

(b) The set-asides required by the original MMRB Land Use Restriction Agreement shall be increased by an amount and extended for a period determined by the Corporation;

(c) A Credit Underwriting Report shall be required, which may incorporate any Credit Underwriting undertaken within the past twelve months in connection with a transfer of ownership of the same Development;

(d) A guarantee of recourse obligations and an environmental indemnity shall be required;

(e) Additional operating deficit or other guarantees and establishment of replacement reserves or increase in existing reserves may be required as specified in the Credit Underwriting Report;

(f) The MMRB Loan shall immediately, on the earlier of 24 months after closing or stabilized occupancy in the case of major rehabilitation, begin full amortization over the remaining life of the Bonds; and in no event shall it exceed the economic remaining life of the property, provided that, in the case of a refunding relating to a pending financial default, such amortization may be delayed to the extent recommended in the Credit Underwriting Report;

(g) Any material changes to the underlying documents shall be deemed to constitute a refunding for purposes hereof;

(h) Any extension or extensions of maturity cumulatively exceeding 60 months shall be deemed to constitute a refunding for purposes hereof; and

(i) The owner of the Development must provide a written request for the refunding and a detailed opinion from Applicant's counsel describing the scope of the transaction. It shall not be necessary to complete an Application in connection with a refunding request.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508 FS. History–New 1-7-98, Formerly 9I-21.018, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-21.019 Issuance of Bonds for Section 501(c)(3) Entities.

(1) The Corporation shall entertain requests, on a non-competitive basis, for it to serve as the issuer of Tax-exempt 501(c)(3) Bonds for the acquisition or construction of multifamily housing to be owned by a not-for-profit entity organized under section 501(c)(3) of the IRC.

(2) In connection with all Bonds issued pursuant to this section, Applicants shall be required to comply with the applicable provisions of Rules 67-21.0045 through 67-21.018, F.A.C., Florida Statutes, and the IRC, including all safe harbor provisions.

(3) In addition, Applicant shall submit the following:

(a) An initial Bond Counsel fee of $1,000 along with IRS Form 1023, which is adopted and incorporated herein by reference, and all attachments and correspondence to and from the IRS relative to section 501(c)(3) status of the Applicant. A copy of IRS Form 1023 is available on the IRS web site at www.irs.gov; and

(b) An opinion from Applicant's counsel at Applicant's sole expense evidencing the Applicant's qualifications as a section 501(c)(3) entity and Applicant's authority to incur bond debt for multifamily housing; and

(c) If a Development to be acquired is intended to be exempt from ad valorem taxes, evidence that it has notified all local ad valorem taxing authorities of the acquisition of the proposed Development by a section 501(c)(3) entity.

(d) The completed Universal Application in effect at the time the Applicant submits the Application. Applicants must meet all threshold requirements of the Application as well as achieve 50 percent of all points (excluding tie-breaker points) available in the Application.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507(14), (24), 420.508 FS. History–New 11-14-99, Amended 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Conner, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 33, No. 36, September 7, 2007

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS:	RULE TITLES:
67-48.001	Purpose and Intent
67-48.002	Definitions
67-48.004	Application and Selection Procedures for Developments
67-48.005	Applicant Administrative Appeal Procedures
67-48.007	Fees
67-48.0072	Credit Underwriting and Loan Procedures
67-48.0075	Miscellaneous Criteria
67-48.009	SAIL General Program Procedures and Restrictions
67-48.0095	Additional SAIL Application Ranking and Selection Procedures
67-48.010	Terms and Conditions of SAIL Loans
67-48.0105	Sale, Transfer or Refinancing of a SAIL Development
67-48.013	SAIL Construction Disbursements and Permanent Loan Servicing
67-48.014	HOME General Program Procedures and Restrictions
67-48.015	Match Contribution Requirement for HOME Allocation
67-48.017	Eligible HOME Activities
67-48.018	Eligible HOME Applicants
67-48.019	Eligible and Ineligible HOME Development Costs
67-48.020	Terms and Conditions of Loans for HOME Rental Developments
67-48.0205	Sale, Transfer or Refinancing of a HOME Development
67-48.022	HOME Disbursements Procedures and Loan Servicing

67-48.023	Housing Credits General Program Procedures and Requirements
67-48.027	Tax-Exempt Bond-Financed Developments
67-48.028	Carryover Allocation Provisions
67-48.029	Extended Use Agreement
67-48.030	Sale or Transfer of a Housing Credit Development
67-48.031	Termination of Extended Use Agreement and Disposition of Housing Credit Developments

PURPOSE AND EFFECT: The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, Florida Statutes; and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, Florida Statutes; and

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, Florida Statutes.

The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the state of Florida.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule, Application and/or 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 in the 2008 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC 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: February 8, 2008, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Blake Carson-Poston. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Deborah Dozier Blinderman, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I ADMINISTRATION

67-48.001 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, make and service mortgage loans for new construction or Rehabilitation/Substantial Rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.; and

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.001, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, Amended 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, Amended _____.

67-48.002 Definitions.

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

(2) "Address" means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

(3) "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, which is adopted and incorporated herein by

reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(4) "Affiliate" means any person that, (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant, (ii) serves as an officer or director of the Applicant or of any Affiliate of the Applicant, or (iii) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i) or (ii) above.

(5) "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.

(6) "Allocation Authority" means the total dollar volume of Competitive Housing Credits available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

(7) "Applicable Fraction" means Applicable Fraction as defined in Section 42(c)(1)(B) of the IRC.

(8) "Applicant" means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application for one or more of the Corporation's programs. For purposes of paragraph 67-48.0075(7)(b) and 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.

(9) "Application" means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for one or more Corporation programs. A completed Application may include additional supporting documentation provided by an Applicant.

(10) "Application Deadline" means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(11) "Application Period" means a period during which Applications shall be accepted as posted on the Corporation's Website and with a deadline no less than thirty days from the beginning of the Application Period.

(12) "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.

(13) "Board of Directors" or "Board" means the Board of Directors of the Corporation.

(14) "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, which is incorporated by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(15) "Calendar Days" means, the seven (7) days of the week.

(16) "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.

(17) "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.

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

(19) "Commercial Fishing Worker" means Commercial fishing worker as defined in Section 420.503, F.S.

(20) "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.

(21) "Competitive Housing Credits" or "Competitive HC" means those Housing Credits which come from the Corporation's annual Allocation Authority.

(22) "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.

(23) "Consolidated Plan" means the plan prepared in accordance with 24 CFR Part 91, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links, and which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs, including the HOME Program.

(24) "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.

(25) "Corporation" means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

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

(27) "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), of the IRC.

(28)~~(27)~~ "Department" means the Department of Community Affairs as defined in Section 420.503, F.S.

(29)~~(28)~~ "Developer" means any individual, association, corporation, joint venturer, or partnership which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application.

(30)~~(29)~~ "Development" means Project as defined in Section 420.503, F.S.

(31)~~(30)~~ "Development Cash Flow" means, with respect to SAIL Developments, cash flow of a SAIL Development as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles ("GAAP") and as adjusted for items including any distribution or payment to the Principal(s) or any Affiliate of the Principal(s) or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report.

(32)~~(31)~~ "Development Cost" means the total of all costs incurred in the completion of a Development excluding developer fee and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

(33)~~(32)~~ "Development Expenses" means, with respect to SAIL Developments, 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 and to the application of Development Cash Flow described in subsections 67-48.010(5) and (6), F.A.C., the term includes only those expenses disclosed in the operating pro forma included in the final credit underwriting report, as approved by the Board.

~~(33) "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), of the IRC.~~

(34) "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.

(35) "Draw" means the disbursement of funds to a Development.

(36) "Elderly" means Elderly as defined in Section 420.503, F.S.

(37) "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.

(38) "ELI Persons" or "Extremely Low Income Persons" means Extremely low income persons as defined in Section 420.0004(8), F.S., and for the Universal Cycle, will be as outlined in the ELI County Chart included in the Set-Aside Commitments section of the Universal Application instructions.

(39) "ELI Set-Aside" or "Extremely Low Income Set-Aside" means the number of units designated to serve ELI Households.

(40) "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.

(41) "EUA" or "Extended Use Agreement" means, with respect to the HC Program, an agreement ~~between the Corporation and the Applicant~~ which sets forth the set-aside requirements and other Development requirements under the HC Program.

(42) "Executive Director" means the Executive Director of the Corporation.

(43) "Family" describes a household composed of one or more persons.

(44) "Farmworker" means Farmworker as defined in Section 420.503, F.S.

(45) "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.

(46) "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 Application pursuant to Rule 67-48.023, F.A.C.

(47) "Financial Beneficiary" means any Developer and its principals or Principals of the Applicant entity who receives or will receive any direct or indirect ~~a~~ financial benefit from a Development except ~~as outlined in paragraphs (a) and (b) below and~~ as further described in Rule 67-48.0075, F.A.C.~~:~~

~~(a) 3 percent or more of Total Development Cost if Total Development Cost is $5 million or less; or~~

~~(b) 3 percent of the first $5 million and 1 percent of any costs over $5 million if Total Development Cost is greater than $5 million.~~

(48) "Financial Institution" means Lending institution as defined in Section 420.503, F.S.

(49) "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.

(50) "Funding Cycle" means the period of time commencing with the Notice of Funding Availability or Notice of Credit Availability pursuant to this rule chapter and concluding with the issuance of allocations or loans to Applicants who applied during a given Application Period.

(51) "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.

(52) "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.

(53) "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 Section 42(h)(7)(A) of the IRC and Rule Chapter 67-48, F.A.C.

(54) "HOME" or "HOME Program" means the HOME Investment Partnerships Program administered by the Corporation pursuant to 24 CFR Part 92, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links, and Section 420.5089, F.S.

(55) "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.

(56) "HOME Development" means any Development which receives financial assistance from the Corporation under the HOME Program.

(57) "HOME Rental Development" means a Development proposed to be constructed or rehabilitated with HOME funds.

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

(59) "Homeless" means a Family who lacks a fixed, regular, and adequate nighttime residence or a Family who has a primary nighttime residence that is:

(a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing;

(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings. The term does not refer to any individual imprisoned or otherwise detained pursuant to state or federal law.

(60) "Housing Credit" means the tax credit issued in exchange for the development of rental housing pursuant to Section 42 of the IRC and the provisions of Rule Chapter 67-48, F.A.C.

(61) "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.

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

(63) "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: (i) the date specified by the Corporation in the Extended Use Agreement or (ii) 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.

(64) "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 Developer, the succeeding taxable year.

(65) "Housing Credit Rent-Restricted Unit" means, with respect to a Housing Credit Development, a unit for which the gross rent does not exceed 30 percent of the imputed income limitation applicable to such unit as chosen by the Applicant in the Application and in accordance with Section 42 of the IRC.

(66) "Housing Credit Set-Aside" means the number of units in a Housing Credit Development necessary to satisfy the percentage of units set-aside at 60 percent of the Area Median Income (AMI) or less as chosen by the Applicant in the Application.

(67) "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 Internal Revenue Code] and provides at least one

written reference in the Application that such person, partnership, corporation, trust or other entity has performed its obligation under the partnership agreements and is not currently in default under those agreements, in accordance with the Application instructions.

(68) "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.

(69) "HUD" means the United States Department of Housing and Urban Development.

(70) "IRC" means Section 42 and subsections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, as in effect on the date of this rule chapter, 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, which are incorporated by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(71) "Lead Agency" means a Local Government or n~~N~~on-p~~P~~rofit 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.

(72) "Local Government" means Local government as defined in Section 420.503, F.S.

(73) "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.

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

(75) "LURA" or "Land Use Restriction Agreement" means an agreement ~~between the Corporation and the Applicant~~ which sets forth the set-aside requirements and other Development requirements under a Corporation program.

(76) "Match" means non-federal contributions to a HOME Development eligible pursuant to 24 CFR Part 92.

(77) "Mortgage" means Mortgage as defined in Section 420.503, F.S.

(78) "Non-Profit" 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 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.

(79) "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.

(80) "PBRA" or "Project-Based Rental Assistance" means a rental subsidy through a contract with HUD or RD in a property that is 20 or more years of age.

(81) "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.

(82) "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.

(83) "Preliminary Determination" means an initial determination by the Corporation of the amount of Housing Credits outside the Allocation Authority needed from the Treasury to make a Tax-Exempt Bond-Financed Development financially feasible and viable.

(84) "Preservation" means, with respect to a Competitive HC Development, Rehabilitation of existing developments receiving PBRA.

(85) "Principal" means (i) an Applicant, any general partner of an Applicant, any limited partner of an Applicant, any member of an Applicant, ~~and~~ any officer, director~~,~~ or ~~any~~ shareholder of an ~~any~~ Applicant, (ii) any officer, director, shareholder, manager, member, general partner or limited partner ~~or shareholder~~ of any general partner and limited partner of an Applicant, (iii) any officer, director, shareholder, manager, member, general partner or limited partner of any manager and member of an Applicant, and (iv) any officer, director, shareholder, manager, member, general partner or limited partner of any shareholder of an Applicant.

(86) "Progress Report" or "Form Q/M Report" means, with respect to a Housing Credit Development, a report format that is required to be completed and submitted to the Corporation pursuant to Rule 67-48.028, F.A.C., and is adopted and incorporated herein by reference, effective January 2007. A copy of such form is available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(87) "Project" or "Property" means Project as defined in Section 420.503, F.S.

(88) "QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2008 ~~2007~~ 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 2008 ~~2007~~ Universal Application link labeled Related information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(89) "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)(C) of the IRC.

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

(91) "Received" as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, United States ~~U.S.~~ Postal Service or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(92) "Rehabilitation" means, with respect to the HOME and Housing Credit Program(s), the alteration, improvement or modification of an existing structure, as further described in Rule 67-48.0075, F.A.C.

(93) "Review Committee" means a committee established pursuant to Sections 420.5087 and 420.5089, F.S.

(94) "RRLP" or "RRLP Program" means the Rental Recovery Loan Program which was created pursuant to Section 3, Chapter 2005-92, and Section 31, Chapter 2006-69, L.O.F., to facilitate the allocation of RRLP loans.

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

(96) "SAIL Development" means a residential development comprised of one (1) or more residential buildings, each containing five (5) or more dwelling units and functionally related facilities, proposed to be constructed or substantially rehabilitated with SAIL funds for Eligible Persons.

(97) "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, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, F.A.C.

(98) "Scattered Sites" for a single Development means a Development consisting of real property in the same county (i) any part of which is not contiguous ("non-contiguous parts") or (ii) any part of which is divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development.

(99) "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, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(100) "Single Room Occupancy" or "SRO" means housing, consisting of single room dwelling units, that is the primary residence of its occupant or occupants. An SRO does not include facilities for students.

(101) "Sponsor" means Sponsor as defined in Section 420.503, F.S.

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

(103) "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. 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.

(104) "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.

(105) "Tie-Breaker Measurement 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 one of the Scattered Sites which comprise the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than four (4) units.

(106) "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.

(107) "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.

(108) "Universal Cycle" means any funding cycle provided for in this or previous versions of this rule chapter.

(109) "Urban In-Fill Development" means a Development (i) in a site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG), area designated as HOPE VI or Front Porch Florida Community, or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

(110) "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.

(111) "Website" means the Florida Housing Finance Corporation's website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

Specific Authority 420.507 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 9I-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, _____.

67-48.004 Application and Selection Procedures for Developments.

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 3-08 ~~3-07~~) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s).

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant by copying, collating, or adding documents to an Application nor shall any Applicant be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Universal Application Package and these rules. Preliminary scores shall be transmitted to all Applicants.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within eight (8) Calendar Days of the date ~~of~~ the preliminary scores are sent by overnight delivery by the Corporation, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for

review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE Received timely.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant, which may include financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Within 11 Calendar Days of the date ~~of~~ the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant's Application. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. To be considered by the Corporation, the Applicant must submit an original and three copies of all additional documentation and revisions, and such revisions, changes and other information must be Received by the deadline set forth herein. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(7) Within seven (7) Calendar Days of the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above, all Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. Each NOAD is limited only to issues created by document revisions, additions, or both, by the Applicant submitting the Application pursuant to subsection (6) above. Each NOAD must specify the assigned Application number of the Applicant submitting the NOAD, the assigned Application number of the Application in question, the pages and the documents in question, as well as describe the alleged deficiencies in detail. Each NOAD is limited to the review of only one Applicant's submission. However, there is no limit to the number of NOADs which may be submitted. NOADs which seek the review of more than one Applicant's submission will be considered improperly filed and ineligible for review. The Corporation will only review each written NOAD Received timely.

(8) The Corporation shall transmit a copy of all NOADs to the affected Applicant.

(9) Following the receipt and review by the Corporation of the documentation described in subsections (5), (6) and (7) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall fail threshold or receive a point reduction as a result of any issues not previously identified in the notices described in subsections (3), (4) and (5) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsections (6) and (7) above will still be justification for rejection of the Application, threshold failure, or reduction of points, as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (14) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(10) The availability of any remaining funds or Allocation Authority shall be noticed or offered to a Development as approved by the Board of Directors. With respect to the HC Program, in the event there remains Allocation Authority after the Corporation has exhausted its waiting list of Applications during a Funding Cycle and time requirements preclude an Application Period and notice thereof, the Corporation shall allocate any unused Allocation Authority to any eligible Development meeting the requirements of Section 42 of the IRC and in accordance with the Qualified Allocation Plan.

(11) Except for Local Government-issued Tax-Exempt Bond-Financed Developments that submit a separate Application for non-competitive Housing Credits, Applications shall be limited to one submission per subject property. Two or more Applications, submitted in the same Funding Cycle, that have the same demographic commitment and one or more of the same Financial Beneficiaries, will be considered submissions for the same Development if any of the following is true: (i) any part of any of the property sites is contiguous with any part of any of the other property sites, or (ii) any of the property sites are divided by a street or easement, or (iii) it is readily apparent from the Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development. If two or more Applications are considered to be submissions for the same Development, the Corporation will reject all such Applications except the Application~~s~~ with the highest (worst) lottery number. The Application(s) with the

lowest lottery number(s) will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number.

(12) If the Board determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present Application or Development;

(c) Has been convicted of fraud, theft or misappropriation of funds;

(d) Has been excluded from federal or Florida procurement programs; or

(e) Has been convicted of a felony;

And that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two (2) years, which will begin from the date the Board makes such determination. Such determination shall be either pursuant to a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(13) The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in subsection (6) above:

(a) The Development is inconsistent with the purposes of the SAIL, HOME, or HC Program(s) or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application, and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits which are provided by the Corporation and adopted under this rule chapter;

(d) The ~~An~~ Applicant fails to satisfy any arrearages described in subsection (5) above ~~or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation~~. For purposes of the SAIL and HOME Programs, this rule subsection does not include permissible deferral of SAIL or HOME interest.

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of Applicant; notwithstanding the foregoing, the name of the Applicant may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(b) Identity of each Developer, including all co-Developers; notwithstanding the foregoing, the identity of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(c) Program(s) applied for;

(d) Applicant applying as a Non-Profit or for-profit organization;

(e) Site for the Development; notwithstanding the foregoing, after the Applicant has been invited to enter credit underwriting and subject to written request of an Applicant to Corporation staff and approval of the Corporation, the site for the Development may be increased or decreased, provided the Tie Breaker Measurement Point is on the site and the total proximity points awarded during scoring are not reduced;

(f) Development Category;

(g) Development Type;

(h) Designation selection;

~~(i) County;~~

(i)~~(j)~~ Total number of units; notwithstanding the foregoing, for the SAIL and HC Programs ~~Competitive HC only Applications~~ the total number of units may be increased after the Applicant has been invited to enter credit underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation;

(j)~~(k)~~ With regard to the SAIL and HC Programs, the ELI Set-Aside commitment on the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application;

(k)~~(l)~~ With regard to the SAIL and HC Programs, the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application. With regard to the HOME Program, the Total Set-Aside Percentage as stated in the Set-Aside Commitment section of the Application, unless the change results from the revision allowed under paragraph (m)~~(n)~~ below;

(l)~~(m)~~ CHDO election for the HOME Program;

(m)~~(n)~~ Funding Request (except for Taxable Bonds) amount; notwithstanding the foregoing, requested amounts can be changed only as follows:

1. Reduced by the Applicant to reflect the maximum request amount allowed in those instances where an Applicant requested more than its request limit, or

2. When the county in which the Development is located is newly designated as a Difficult Development Area (DDA) after the Application Deadline but prior to the end of the cure

period outlined in Rule 67-48.004, F.A.C.: (i) an Applicant, who has not failed threshold for exceeding its Competitive HC request limit, may increase its Competitive HC request by an amount equaling 30 percent, rounded to whole dollars, of the remainder of the Applicant's initial request amount, or (ii) an Applicant, that failed threshold during preliminary scoring for requesting more than its Competitive HC request limit because the Development was not then designated as being in a DDA, may increase its Competitive HC request amount to the maximum allowable amount for the Development.

(n)~~(o)~~ Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(o)~~(p)~~ Payment of the required Application fee by the Application Deadline;~~.~~

(p)~~(q)~~ The Application labeled "Original Hard Copy" must include a properly completed Applicant Certification and Acknowledgement form reflecting an original signature~~s~~.

All other items may be submitted as cures pursuant to subsection (6) above.

With regard to paragraphs (a) and (b) above, the Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested change.

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if, at any time, the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(16) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with Section 42 of the IRC, this rule chapter, or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a credit underwriting report, the requested allocation will, upon a determination by the Board that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant and the Affiliates of the Applicant or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(17) With respect to the SAIL, HOME and HC Program Applications, when two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(18) At no time during the Application, scoring and appeal process may Applicants or their representatives contact Board members concerning their own Development or any other Applicant's Development. At no time from the Application Deadline until the issuance of the final scores as set forth in subsection (9) above, may Applicants or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If an Applicant or its representative does contact a Board member in violation of this section, the Board shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(19) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board is scheduled to convene to consider approval of the final ranking of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking. If an Applicant has applied for two or more programs, the withdrawal by the Applicant from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs.

(20) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is requested in writing and approved in writing by the Corporation. The Corporation shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(21) If an Applicant or any Affiliate of an Applicant has offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution and this is discovered prior to Board approval of the final ranking, the Corporation shall reject the Application and any other Application submitted by the same Applicant and any Affiliate of the Applicant. If discovered after the Board approves final ranking, any tentative funding or allocation for the Application and any other Application submitted in the same cycle by the same Applicant and any Affiliate of the Applicant will be withdrawn. Such Applicant and any of such Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for

a period of up to two (2) years, which will begin the date the Board issues a final order on such matter, in a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S.

Specific Authority 420.507, 420.507(22)(f) FS. Law Implemented 420.5087, 420.5087(6)(c), 420.5089, 420.5089(6), 420.5099, 420.5099(2) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.004, Amended 4-7-98, 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, _____.

67-48.005 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-48.004, F.A.C., each Applicant will be provided with its final score and notice of rights, which shall constitute the point of entry to contest any issue related to the Applicant's Application for the SAIL Program, the HOME Program or the HC Program.

(2) Each Applicant that wishes to contest its final score 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 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 concerning its own Application 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, excluding the 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 not be permitted to make oral presentations to the Board in response to recommended orders.

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with the prioritization of the QAP and Rule Chapter 67-48, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant 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, provide the requested funding, allocation, or both, from the next available funding, allocation, or both, whether in the current year or a subsequent year. If the final order is executed on or before the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the current year. If the final order is executed after the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the point of entry to contest any ranking or scoring issue related to any other Applications for the SAIL Program, the HOME Program or the HC Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st Calendar Day after the receipt of the notice of rights pursuant to this subsection (5). 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, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6), F.A.C.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time the Corporation provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal 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 which will then be considered by the Board.

(6) 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 as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board. Any written arguments 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, excluding the 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 not be permitted to make oral presentations to the Board in response to recommended orders.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested funding, allocation, or both from the next available funding, allocation, or both, whether in the current year or a subsequent year. If the final order is executed on or before the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the current year. If the final order is executed after the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507 FS. Law Implemented 120.569, 120.57, 420.5087, 420.5089, 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.005, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02, 10-8-02, 12-4-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-48.007 Fees.

The Corporation, the Credit Underwriter or the environmental provider shall collect via check or money order the following fees and charges in conjunction with the SAIL, HOME and/or HC Program, as outlined in the Universal Application instructions:

(1) Universal Application Package fee, if applicable.

(2) Application fee.

(3) Credit Underwriting fees.

(4) Administrative fees.

(5) Commitment fees.

(6) Compliance monitoring fees.

(7) Loan servicing fees.

(8) Construction inspection fees.

(9) Financial monitoring fees.

(10) Tax-exempt mortgage financing fees.

(11) HUD environmental fees.

(12) Qualified Contract Package fees.

(13) Assumption/Renegotiation fees.

(14) Loan c~~C~~losing e~~E~~xtension fees.

All of the fees set forth above with respect to the SAIL Program are part of Development Cost and can be included in the Development Cost pro forma and paid with SAIL loan proceeds. Failure to pay any fee shall cause the firm loan commitment under any program to be terminated or shall constitute a default on the respective loan documents.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.007, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, 1-29-06, 4-1-07, _____.

67-48.0072 Credit Underwriting and Loan Procedures.

The credit underwriting review shall include a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, the evidence of need for affordable housing in order to determine that the Development meets the program requirements and determine a recommended SAIL or HOME loan amount, Housing Credit allocation amount or a combined SAIL loan amount and Housing Credit Allocation amount, if any. Corporation funding will be based on appraisals of comparable developments, cost benefit analysis, and other documents evidencing justification of costs. As part of the credit underwriting review, the Credit Underwriter will consider the applicable provisions of Rule Chapter 67-48, F.A.C.

(1) After the final rankings are approved by the Board, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting. The Corporation shall select the Credit Underwriter for each Development.

(2) For SAIL and HOME Applicants and Applicants eligible for a supplemental loan, the invitation to enter credit underwriting constitutes a preliminary commitment.

(3) A response to the invitation to enter credit underwriting must be received by the Corporation and the Credit Underwriter not later than seven (7) Calendar Days after the date of the letter of invitation.

(4) If the credit underwriting invitation is accepted:

(a) The Applicant shall submit the credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the letter of invitation.

(b) Failure to submit the required credit underwriting fee by the specified deadline shall result in withdrawal of the invitation and issuance of an invitation to the next eligible

Applicant as outlined in the Universal Application instructions. For HOME Applicants that apply and qualify as a Non-Profit entity, the Corporation shall bear the cost of the credit underwriting review and environmental review. However, if the HOME commitment is canceled for failure to adhere to rule deadlines or for reasons within the Applicant's control, the Development will be responsible for reimbursing the Corporation for fees incurred for credit underwriting and environmental review processing.

(c) For SAIL and HOME Applicants and Applicants eligible for a supplemental loan, the loan(s) must close within 14 months of the issuance of the preliminary commitment. Applicants may request one (1) extension of up to 10 months. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The written request will then be submitted to the Corporation's Board for consideration. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. The Corporation shall charge a non-refundable extension fee of 1 percent of each loan amount if the Board approves the request to extend the commitment beyond the initial 14 month period. In the event the loan does not close within 24 months of the issuance of the preliminary commitment, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be deobligated.

~~(d) A Tax-Exempt Bond-Financed Development that has previously received an allocation of Competitive HC for the proposed Development shall, as part of its acceptance to enter credit underwriting for SAIL (if the proposed Development will be funded with Local Government-issued tax-exempt bonds) or MMRB and SAIL (if the proposed Development will be funded with Corporation-issued tax-exempt bonds and SAIL), also acknowledge to the Corporation that it is returning any previously received allocation of Competitive HC for the proposed Development.~~

(5) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, Housing Credit Syndicator, General Contractor, and, if an ALF, the service provider(s), as well as other members of the Development team.

(6) If an Applicant or Developer or Housing Credit Syndicator or any Financial Beneficiary of an Applicant or Developer has been a party of any Development which has been or is in the process of being foreclosed upon or is in arrears to the Corporation or any agent or assignee of the Corporation, the Credit Underwriter will consider this and other past performance issues in determining whether or not to provide a positive recommendation.

(7) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting.

(8) The Applicant will be responsible for all fees in connection with the documentation submitted to the Credit Underwriter.

(9) 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.

(10) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed property's financial feasibility. Appraisals which have been ordered and submitted by third party credit enhancers, first mortgagors or Housing Credit S~~s~~yndicators and which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. The market study must be completed by a disinterested party who is approved by the Credit Underwriter. The Credit Underwriter shall consider the market study, the Development's financial impact on Developments in the area previously funded by the Corporation, and other documentation when making its recommendation of whether to approve or disapprove a loan, a Housing Credit Allocation, a combined SAIL loan and Housing Credit Allocation, or a Housing Credit Allocation and supplemental loan. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(11) The proposed Development must demonstrate, based on current rates, that it can meet minimum 1.10 debt service coverage (DSC) requirements with all first and second mortgages for ~~Competitive~~ Housing Credits ~~and non-competitive Housing Credits without SAIL~~. For HOME Applications, the minimum debt service coverage shall be 1.10 for the HOME loan, including all superior mortgages. For SAIL Applications, the minimum debt service coverage shall be 1.10 for the SAIL loan, including all superior mortgages. However, if the Applicant defers at least 35 percent of its developer fee for at least six (6) months following construction completion, the minimum debt service coverage shall be 1.00 for the SAIL loan, including all superior mortgages. For SAIL and HOME Applications, the maximum debt service coverage shall be 1.50 for the SAIL or HOME loan, including all superior mortgages. In extenuating circumstances, such as when the Development has deep or short term subsidy, the debt

service coverage may exceed 1.50 if the Credit Underwriter's favorable recommendation is supported by the projected cash flow analysis. Developments receiving first mortgage funding from the United States Department of Agriculture Rural Development (RD) are not required to meet the debt service coverage standards if RD is providing rental assistance and has acknowledged that rents will be set at an amount sufficient to pay all operating expenses, replacement reserve requirements and debt service on the first and second mortgages.

(12) The Corporation's assigned Credit Underwriter shall require a guaranteed maximum price or stipulated sum construction contract, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, and review a pre-construction analysis for all new construction or a physical needs assessment for Rehabilitation or Substantial Rehabilitation and review the Development's costs.

(13) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves and operating expense reserves deemed appropriate by the Credit Underwriter when calculating the final net operating income available to service the debt. A minimum amount of $250 ~~$200~~ per unit must be used for all Developments. However, the amount may be increased based on a physical needs assessment. An Applicant may choose to fund a portion of the replacement reserves at closing. The amount cannot exceed 50 percent of the required replacement reserves for two (2) years and must be placed in escrow at closing.

(14) For SAIL, HOME, and HC Applications, the underwriters may request additional information, but at a minimum for SAIL and HOME, the following will be required during the underwriting process:

(a) For credit enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or credit underwriting is complete. The audited statements may be waived if the credit enhancer is rated at least "A-" by Moody's, Standard and Poor's or Fitch.

(b) For the Applicant, general partner(s), and guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is incorporated by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links, and the two most recent years' tax returns. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(c) For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100 percent of the total construction cost whose terms do not adversely affect the Corporation's interest, and is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(15) The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

(a) Liquidity of the guarantor.

(b) Developer and General Contractor's history in successfully completing Developments of similar nature.

(c) Problems encountered previously with Developer or contractor.

(d) Exposure of Corporation funds compared to Total Development Cost.

At a minimum, the Credit Underwriter shall require a personal guarantee for completion of construction from the principal individual or the corporate general partner of the borrowing entity. In addition, a letter of credit or payment and performance bond whose terms do not adversely affect the Corporation's interest will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection that additional surety is needed. However, a completion guarantee will not be required if SAIL funds are not drawn until evidence of lien free completion is provided.

(16) For all Developments, the Developer fee and General Contractor's fee shall be limited to:

(a) The Developer fee shall be limited to 16 percent of Development Cost. A Developer fee of 18 percent of Development Cost shall be allowed if the proposed Development is qualified for Housing Credits pursuant to Rule 67-48.027, F.A.C., pertaining to Tax-Exempt Bond-Financed Developments. ~~However, the Developer fee shall be limited to 10 percent of Development Cost for those Developments involving Rehabilitation or Substantial Rehabilitation of buildings which have received a Corporation funding commitment or a Final Housing Credit Allocation for other construction work within 14 years of the Application Deadline.~~

(b) The General Contractor's fee shall be limited to a maximum of 14 percent of the actual construction cost.

(17) The General Contractor must meet the following conditions:

(a) Employ a Development superintendent and charge the costs of such employment to the general requirements line item of the General Contractor's budget;

(b) Charge the costs of the Development construction trailer, if needed, and other overhead to the general requirements line item of the General Contractor's budget;

(c) Secure building permits, issued in the name of the General Contractor;

(d) Secure a payment and performance bond whose terms do not adversely affect the Corporation's interest (or approved alternate security for General Contractor's performance, such as a letter of credit), issued in the name of the General Contractor, from a company rated at least "A-" by AMBest & Co.;

(e) Ensure that none of the General Contractor duties to manage and control the construction of the Development are subcontracted; and

(f) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

(19) Contingency reserves which total no more than 5 percent of hard and soft costs for new construction and no more than 15 percent of hard and soft costs for Rehabilitation or Substantial Rehabilitation may be included within the Total Development Cost for Application and underwriting purposes. Contingency reserves shall not be paid from SAIL or HOME funds.(18) For SAIL and HOME Applications, the Credit Underwriter shall require an operating deficit guarantee, to be released upon achievement of 1.10 debt service coverage for a minimum of six (6) consecutive months for the combined permanent first mortgage and SAIL or HOME loan. An operating deficit guarantee, to be released upon achievement of 1.00 debt service coverage for a minimum of six (6) consecutive months for the combined permanent first mortgage and SAIL or HOME loan will be required for Developments receiving first mortgage funding from the United States Department of Agriculture Rural Development (RD) if RD is providing rental assistance and has acknowledged that rents will be set at an amount sufficient to pay all operating expenses, replacement reserve requirements and debt service on the SAIL or HOME loan and all superior mortgages.

(20) The Credit Underwriter will review and determine if the number of loans and construction commitments of the Applicant and its Principals will impede its ability to proceed with the successful development of each proposed Corporation-funded Development.

(21) All Applicants must provide the items required by the Credit Underwriter within 10 months of the Applicant's acceptance to enter credit underwriting. For HC Developments, all preliminary items required for the Credit Underwriter's preliminary HC allocation recommendation must be provided to the Credit Underwriter within 21 Calendar Days of the date of the invitation to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to submit the required credit underwriting information by the specified deadline(s) shall result in withdrawal of the preliminary commitment or, if applicable, the HC invitation to enter credit underwriting, and the funds will be distributed as outlined in the Universal Application instructions. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension.

(22) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process, the Credit Underwriter shall request same from the Applicant and shall specify deadlines for the submission of same. Failure to submit required information by the specified deadline, unless a written extension of time has been approved by the Corporation, shall result in rejection of the Application. If the Application is rejected, the Corporation will select additional Application(s) as outlined in the Universal Application instructions.

(23) The Credit Underwriter shall complete its analysis and submit a written draft report and recommendation to the Corporation. Upon receipt, the Corporation shall provide to the Applicant the section of the written draft report consisting of supporting information and schedules. The Applicant shall review and provide written comments to the Corporation and Credit Underwriter within 48 hours of receipt. After the 48 hour period, the Corporation shall provide to the Credit Underwriter comments on the draft report and, as applicable, on the Applicant's comments. Then, the Credit Underwriter shall review and incorporate, if deemed appropriate, the Corporation's and Applicant's comments and release the revised report to the Corporation and the Applicant. Any additional comments from the Applicant shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised report. Then, the Credit Underwriter will provide a final report, which will address comments made by the Applicant, to the Corporation.

(24) For SAIL and HOME Applications and HC Applications eligible for a supplemental loan, the Credit Underwriter's loan recommendations will be sent to the Board for approval.

(25) After approval of the Credit Underwriter's recommendation for funding by the Board, the Corporation shall issue a firm loan commitment.

(26) For SAIL and HOME Applications and HC Applications eligible for a supplemental loan, <u>these loans and</u> other mortgage loans related to the construction of the Development ~~and the loan(s)~~ must close within 60 Calendar Days of the date of the firm loan commitment(s) unless an extension is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The Board shall

consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. For SAIL and HOME Applications, the Corporation shall charge an extension fee of one-half of one percent of the SAIL or HOME loan amount if the Board approves the request to extend the SAIL or HOME commitment beyond the period outlined in this rule chapter.

(27) At least five (5) Calendar Days prior to any loan closing:

(a) The Applicant must provide evidence of all necessary consents or required signatures from first mortgagees or subordinate mortgagees to the Corporation and its counsel, and

(b) The Credit Underwriter must have received all items necessary to release its letter confirming that all closing contingencies have been met, including the finalized sources and uses of funds and Draw schedule.

(28) For Housing Credit Applications, the Credit Underwriter shall use the following procedures during the credit underwriting evaluation:

(a) The Credit Underwriter, in determining the amount of Housing Credits a Development is eligible for when using the qualified basis calculation, shall use a Housing Credit percentage of:

1. Thirty (30) basis points over the percentage as of the date of invitation to credit underwriting up to 9 percent for 9 percent credits for new construction and Rehabilitation Developments;

2. Fifteen (15) basis points over the percentage as of the date of invitation to credit underwriting up to 4 percent for 4 percent credits for acquisition and federally subsidized Developments. A percentage of 15 basis points over the percentage as of the date of invitation to final credit underwriting up to 4 percent will be used for Developments receiving tax-exempt bonds.

(b) Costs such as syndication fees and brokerage fees cannot be included in eligible basis. All consulting fees must be paid out of the Developer fee. Consulting fees cannot cause the Developer fee to exceed the maximum allowable fee as set forth in subsection 67-48.0072(16), F.A.C.

(c) All contracts for hard or soft Development Costs must be itemized for each cost component.

(d) The allocation amount for acquisition Housing Credits shall be limited to the lesser of the sale price or the appraised value of the building(s).

(e)~~(d)~~ If the Credit Underwriter is to recommend a Competitive Housing Credit allocation, the recommendation will be the lesser of (i) the qualified basis calculation result, (ii) the gap calculation result, or (iii) the Applicant's request amount. In the event the Credit Underwriter is making a recommendation for non-competitive Housing Credits, the recommendation will be the lesser of the qualified basis calculation result or the gap calculation result.

(29) If the Credit Underwriter recommends that Housing Credits be allocated to the Development, the Corporation shall determine the credit amount, if any, necessary to make the Development financially feasible and viable throughout the Housing Credit Extended Use Period and shall issue a Preliminary Allocation certificate or a Preliminary Determination of Housing Credits in the case of Tax-Exempt Bond-Financed Developments. If the Credit Underwriter recommends that no credits be allocated to the Development and the Executive Director accepts the recommendation, the Applicant shall be notified that no Housing Credits will be allocated to the Development. No Preliminary Allocation certificate shall be issued on a RD (formerly FmHA) Development which competed for Housing Credits within the RD set-aside and has not received an Obligation of Funding (Form RD 3560-51, Rev. 02-05), an Assumption Agreement (Form RD 3560-21, Rev. 02-05), a Reamortization Agreement (Form RD 3560-16, Rev. 02-05), or a combination of these RD forms by October 1st of the year the Applicant is invited into credit underwriting. The RD Forms 3560-51, 3560-21 and 3560-16 are adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links. All contingencies required in the Preliminary Allocation shall be met or satisfied by the Applicant within 45 Calendar Days from the date of issuance or as otherwise indicated on the certificate unless an extension of this deadline is requested in writing by the Applicant and is granted by the Corporation in writing for good cause.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History–New 2-7-05, Amended 1-29-06, 4-1-07, _____.

67-48.0075 Miscellaneous Criteria.

(1) In addition to the alteration, improvement or modification of an existing structure, Rehabilitation with respect to the HOME Program and Rehabilitation or Preservation with respect to the Housing Credit Program also includes:

(a) For HOME Developments, moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.

(b) For Housing Credit Developments, what is stated in Section 42(e) of the IRC, with the exception of Section 42(e)(3)(A)(ii)(II), which, for the purposes of Competitive HC, is changed to read: "II. The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units, in the building, is $20,000 or more," and, for the purposes of all other HC, is changed to read: "II. The requirement of this subclause is met

if the qualified basis attributable to such amount, when divided by the number of low-income units, in the building, is $10,000 or more."

(2) For purposes of this rule chapter, in accordance with Section 42 of the IRC, a for-profit entity wholly owned by one or more qualified non-profit organizations will constitute a Non-Profit entity. The purpose of the Non-Profit must be, in part, to foster low-income housing and such purpose must be reflected in the Articles of Incorporation of the Non-Profit entity. To evidence its qualification as a Non-Profit entity, the Applicant must provide within its Application a written opinion from legal counsel. The total cost of securing this written legal opinion will be borne entirely by the Applicant. A Non-Profit entity shall own an interest in the Development, either directly or indirectly; shall not be affiliated with or controlled by a for-profit Corporation; and shall materially participate in the development and operation of the Development throughout the total affordability period as stated in the Land Use Restriction Agreement and the Extended Use Agreement. If an Applicant applies to the Corporation as a Non-Profit entity but does not qualify as such, the Application will fail threshold.

(3) Total Development Cost includes the following:

(a) The cost of acquiring real property and any buildings thereon, including payment for options, deposits, or contracts to purchase properties.

(b) The cost of site preparation, demolition, and development.

(c) Any expenses relating to the issuance of tax-exempt bonds or taxable bonds, if any, related to the particular Development.

(d) Fees in connection with the planning, execution, and financing of the Development, such as those of architects, engineers, attorneys, accountants, Developer fee, and the Corporation.

(e) The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction, rehabilitation, or reconstruction of the Development.

(f) The cost of the construction, rehabilitation, and equipping of the Development.

(g) The cost of land improvements, such as landscaping and offsite improvements related to the Development, whether such costs are paid in cash, property, or services. However, offsite improvements are not eligible to be paid with HOME funds.

(h) Expenses in connection with initial occupancy of the Development.

(i) Allowances for contingency reserves and reserves for any anticipated operating deficits during the first two (2) years after completion of the Development.

(j) The cost of such other items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for the Corporation's bonds, for the construction or Rehabilitation/Substantial Rehabilitation of the Development.

(4) In determining the income standards of Eligible Persons for its various programs, the Corporation shall take into account the following factors:

(a) Requirements mandated by federal law.

(b) Variations in circumstances in the different areas of the state.

(c) Whether the determination is for rental housing.

(d) The need for family size adjustments to accomplish the purposes set forth in this rule chapter.

With respect to the HC Program, an Eligible Person shall mean a Family having a combined income which meets the income eligibility requirements of the HC Program and Section 42 of the IRC.

(5) Financial Beneficiary, as defined in Rule 67-48.002, F.A.C., does not include third party lenders, third party management agents or companies, Housing Credit Syndicators, credit enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or contractors whose total fees are within the limit described in Rule 67-48.0072, F.A.C.

(6) For computing any period of time allowed by this rule chapter, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

(7) Supplemental loans will be subject to the credit underwriting provisions outlined in Rule 67-48.0072, F.A.C., and the loan provisions outlined below:

(a) The terms and conditions of the supplemental loan shall be as follows:

1. The supplemental loan shall be (i) based on each ELI Set-Aside unit above the minimum ELI Set-Aside threshold requirement in the Universal Application instructions; and (ii) non-amortizing at 0 percent simple interest per annum over the life of the loan, with the principal forgivable provided the units for which the supplemental loan amount is awarded are targeted to ELI Households for at least 15 years.

2. Any sale, conveyance, assignment, or other transfer of interest or the grant of a security interest in all or any part of the title to the Development other than a superior mortgage shall be subject to the Corporation's prior written approval. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

3. The supplemental loan shall be serviced either directly by the Corporation or by the servicer on behalf of the Corporation.

4. The Corporation shall monitor compliance of all terms and conditions of the supplemental loan and shall require that certain terms and conditions be embodied in the Land Use Restriction Agreement and recorded in the public records of the county wherein the Development is located. Violation of any material term or condition of the documents evidencing or securing the supplemental loan shall constitute a default during the term of the supplemental loan. The Corporation shall take appropriate legal action to effect compliance if a violation of any material term or condition relative to the set-aside of units for ELI Households is discovered during the course of compliance monitoring or by any other means.

5. The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective August 10, 2006, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

6. All supplemental loans shall be in conformance with applicable federal and state statutes, including the Fair Housing Act as implemented by 24 CFR Part 100, which is adopted and incorporated herein by reference, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which is adopted and incorporated herein by reference. These provisions are available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links. The Corporation shall allow units dedicated to occupancy by the Elderly in a Development designed for occupancy by elderly households pursuant to authorization by HUD under the Fair Housing Amendments of 1988 as implemented by 24 CFR Part 100.

7. Rent controls for the ELI Set-Aside units for which the supplemental loan is issued shall be restricted at the level applicable for federal Housing Credits.

8. The documents creating, evidencing or securing each supplemental loan must provide that any violation of the terms and conditions described in Rule Chapter 67-48, F.A.C., constitutes a default under the supplemental loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

(b) The supplemental loan shall be assumable upon sale or transfer of the Development if the following conditions are met:

1. The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

2. The proposed transferee agrees to maintain all ELI Set-Asides and other requirements of the supplemental loan for the period originally specified or longer; and

3. The proposed transferee and release of transferor receives a favorable recommendation from the Credit Underwriter and approval by the Board of Directors of the Corporation.

All assumption requests must be submitted in writing to the Director of Special Assets and contain the specific details of the transfer and assumption. In addition to any related professional fees, the Corporation shall charge a non-refundable assumption fee as outlined in the Universal Application instructions.

(c) Supplemental loan construction disbursements and permanent loan servicing shall be based on the following:

1. Supplemental loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the supplemental loan to the Total Development Cost, unless approved by the Credit Underwriter.

2. Ten (10) business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw. The request shall set forth the amount to be paid and shall be accompanied by documentation specified by the Corporation's servicer including claims for labor and materials to date of the last inspection.

3. The Corporation and its servicer shall review the request for a Draw, and the servicer shall provide the Corporation with approval of the request or an alternative recommendation, after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation.

4. The Corporation shall disburse construction Draws through Automated Clearing House (ACH). The Applicant may request disbursement of construction Draws via a wire transfer. The Applicant will be charged a fee of $10 for each wire transfer requested. This charge will be netted against the Draw amount.

5. The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Applicant in connection with the request for a Draw, if

a. The Corporation or the Corporation's servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; or

b. The percentage of progress of construction of the improvements differs from that shown on the request for a Draw.

6. The servicer may request submission of revised construction budgets.

7. Based on the Applicant's progress of construction, if the Corporation determines that further analysis by the Credit Underwriter is required prior to the release of the final Draw, the Applicant shall pay to the Credit Underwriter a fee based on an hourly rate determined pursuant to the contract between the Corporation and the Credit Underwriter.

8. Retainage in the amount of 10 percent per Draw shall be held by the servicer during construction until the Development is 50 percent complete. At 50 percent completion, no additional retainage shall be held from the remaining Draws. Release of funds held by the Corporation's servicer as retainage shall occur pursuant to the supplemental loan agreement.

(8) For purposes of this rule chapter, rent controls for ELI Households shall consist of the Gross Rent Floor, as defined in Section 42(g)(2)(A) of the IRC and in accordance with IRS Revenue Procedure 94-57, minus the lesser of (i) the utility allowance in effect by the applicable local Public Housing Authority (PHA) at the date the last building in the Development is placed-in-service or (ii) the current utility allowance applicable to the building (as outlined in 26 CFR 1.42-10, this may include either the local utility company estimate or the applicable PHA utility allowance). Notwithstanding the preceding sentence, the rent charged to any ELI Household may not exceed the maximum rent level permitted under Section 42(g)(2)(A) IRC for the applicable unit occupied by such household. IRS Revenue Procedure 94-57 and 26 CFR 1.42-10 are incorporated by reference and are available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History–New 2-7-05, Amended 1-29-06, 4-1-07, _____.

PART II STATE APARTMENT INCENTIVE LOAN PROGRAM

67-48.009 SAIL General Program Procedures and Restrictions.

(1) Loans shall be in an amount not to exceed 25 percent of the Total Development Cost except as described in subsections (2) and (3) below, or the minimum amount required to make the Development economically feasible, whichever is less, as determined by the Credit Underwriter.

(2) The following types of Sponsors are eligible to apply for loans in excess of 25 percent of Total Development Cost pursuant to Section 420.507(22), F.S.:

(a) Non-Profit and public Sponsors which are able to secure grants, donations of land, or contributions from other sources collectively totaling at least 10 percent of Total Development Cost; and

(b) Sponsors that set aside at least 80 percent of their total units for residents qualifying as Farmworkers as defined in Section 420.503(18), F.S., Commercial Fishing Workers as defined in Section 420.503(5), F.S., or the Homeless as defined in Section 420.621(4), F.S., over the life of the loan.

(3) The following types of Sponsors are eligible to apply for loans that do not exceed 35 percent of Total Development Cost:

(a) Applicants requesting both SAIL and Competitive HC that commit to set aside more than 10 percent of the total units for ELI Households; and

(b) Applicants requesting SAIL without Competitive HC that commit to set aside at least 5 percent of the total units for ELI Households.

(4) At a minimum, the percentage of set-aside units committed to in the Application must be held for Very Low-Income persons or households for a period of time equal to the greater of the following:

(a) The term of the SAIL loan; or

(b) 12 years; or

(c) Such longer term agreed to by the Applicant in the Application.

(5) Unless the Board approves a competitive allocation process outside the Universal Cycle, an Applicant is not eligible to apply for SAIL Program funding if any of the following pertain to the proposed Development:

(a) Construction or construction-permanent financing of the costs associated with construction or Substantial Rehabilitation of the Development, including tax-exempt bonds or conventional financing with conversion clauses, has closed as of January 1, 2006 ~~2005~~;

(b) The Applicant has received an allocation of Housing Credits or a Competitive Housing Credit commitment for the proposed Development, unless (i) the Applicant is also applying for Corporation-issued tax exempt bonds in the current Application cycle or provides evidence of a Local Government-issued tax exempt bond commitment as stated in the Universal Application Instructions, or (ii) the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its HC funding from the prior cycle; ~~or (iii) the Application was successful in receiving SAIL funding for the proposed Development for the first time in the 2006 Universal Application cycle, in which case it may receive additional SAIL funding for the same Development as provided in the End of the Line SAIL section of the Universal Application Instructions;~~

(c) The Applicant has already accepted a preliminary commitment of funding for the proposed Development through the SAIL Program, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its prior SAIL funding~~, with one exception~~. ~~That~~

~~exception being that a proposed Development that was successful in receiving SAIL funding for the first time in the 2006 Universal Application cycle may receive additional SAIL funding for the same Development as provided in the End-of-the-Line SAIL section of the Universal Application Instructions.~~

(d) The Applicant has already accepted a preliminary commitment of funding for the proposed Development through the 2005 or 2006 RRLP Program, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its RRLP funding from such prior cycle.

(e) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing~~, excluding Predevelopment Loan Program funds,~~ intended to foster the development or maintenance of affordable housing, with two exceptions. Those exceptions being (i) a LURA recorded in conjunction with the Predevelopment Loan Program, and (ii) a LURA recorded in conjunction with a Multifamily Mortgage Revenue Bond Program loan closed after January 1, 2006.

(6) The SAIL Minimum Set-Aside Requirement is:

(a) 20 percent of the SAIL Development's units set-aside for residents with annual household incomes at or below 50 percent of the area, metropolitan statistical area ("MSA") or state or county median income, whichever is higher, adjusted for family size, or

(b) 40 percent of the SAIL Development's units set-aside for residents with annual household incomes at or below 60 percent of the area, MSA or state or county median income, whichever is higher, adjusted for family size. Sponsors of SAIL-funded Developments shall have the option of selecting this minimum set-aside only if the SAIL Development is scheduled to be assisted with Housing Credits, in addition to the SAIL loan, or

(c) 100 percent of the SAIL Development's units set aside for residents with annual household incomes below 120 percent of the state or local median income, whichever is higher, adjusted for family size. Sponsors of SAIL-funded Developments shall have the option of selecting this minimum set-aside only if the SAIL Development is located in the Florida Keys Area. This paragraph is derived from 420.5087(2)(d), F.S., and is scheduled to expire July 1, 2008.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.009, 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, _____.

67-48.0095 Additional SAIL Application Ranking and Selection Procedures.

(1) During the first six (6) months following the publication date of the first Notice of Funding Availability published each year within the state of Florida, SAIL funds shall be allocated in accordance with the ranking and selection process set forth in the Universal Application Package and based upon the requirements specified in Section 420.5087(3), F.S., which specifies the required funding within the four demographic categories of:

(a) Family;

(b) Elderly;

(c) Homeless; and

(d) Commercial Fishing Workers and Farmworkers.

(2) 10 percent of the funds reserved for Applicants in the Elderly category shall be reserved to provide loans to Sponsors of housing for the Elderly for the purpose of making life-safety or security-related repairs or improvements to such housing which are required by federal, state or local regulation, as further specified in Section 420.5087, F.S.

(3) Program funds designated for Commercial Fishing Workers and Farmworkers will be allocated through a request for proposal (RFP), the Universal Application Package, or both.

(4) The Corporation shall assign, in order of ranking, tentative loan amounts to the Applications in each demographic and geographic category, up to the total amount available. However, the Corporation shall make adjustments to ensure that minimum funding distribution levels by geographic category are met, as required by Section 420.5087(1), F.S., and further described in the SAIL Notice of Funding Availability.

(5) In the event that the 10 percent of program funds required to be allocated to counties with a population of 100,000 or less remains unallocated at the conclusion of a successive three-year cycle, the unallocated funds shall be equitably distributed pursuant to the instructions included in the Universal Application Package.

(6) Selection for SAIL Program participation is contingent upon fund availability at the conclusion of the appeals process as set forth in Rule 67-48.005, F.A.C.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0095, 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, Repromulgated _____.

67-48.010 Terms and Conditions of SAIL Loans.

(1) The proceeds of all SAIL loans shall be used for new construction or Substantial Rehabilitation of affordable, safe and sanitary multifamily rental housing units.

(2) The SAIL loan may be in a first, second, or other subordinated lien position. For purposes of this rule, mortgages securing a letter of credit as credit enhancement for the bonds financing the first mortgage shall be considered a contingent

liability and part of the first mortgage lien, provided that the Applicant's counsel furnishes an opinion regarding the contingent nature of such mortgage satisfactory to the Corporation and its counsel.

(3) The loans shall be non-amortizing and shall have interest rates as follows:

(a) 0 percent simple interest per annum on loans to Developments that set aside at least 80 percent of their total units for residents qualifying as Farmworkers, Commercial Fishing Workers or Homeless, over the life of the loan;

(b) 0 percent simple interest per annum on loans based on the pro rata share of units set aside for Hhomeless residents if the total of such units is less than 80 percent of the units and 1 percent simple interest per annum on the remaining units;

(c) 1 percent simple interest per annum on loans to Developments other than those identified in paragraphs (a) and (b) above;

(4) Except as provided in Section 420.5087(5), F.S., the amount of any superior mortgages combined with the SAIL mortgage shall be less than the appraised value of the Development. Any debt service reserve requirement associated with a superior mortgage shall be excluded from the amount of the superior mortgage for purposes of this calculation.

(5) Payment on the loans shall be based upon the Development Cash Flow, as determined pursuant to the SAIL Cash Flow Reporting Form SR-1. Any distribution or payment to the Principal(s) or any Affiliate of the Principal or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report, will be added back to the amount of cash available for the SAIL loan interest payment, as calculated in the SAIL Cash Flow Reporting Form SR-1, for the purpose of determining interest due. Interest may be deferred as set forth in subsection 67-48.010(8), F.A.C., without constituting a default on the loan.

(6) The loans described in subsection 67-48.010(3), F.A.C., above shall be repaid from all Development Cash Flow, and if the SAIL loan is not a first mortgage loan, each year, subject to the provisions of subsection (8) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) All superior mortgage fees and debt service;

(b) Development Expenses on the SAIL loan, including up to 20 percent of total Developer fees per year;

(c) Interest payment on SAIL loan balance equal to 1 percent as stated in paragraphs (3)(b) and (c) above over the life of the SAIL loan;

(d) Interest payments on the SAIL loan deferred from previous years;

(e) Mandatory payment on subordinate mortgages.

After the full SAIL loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(7) If the SAIL loan is secured by a first mortgage lien, each year, subject to the provisions of subsection (8) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) First mortgage fees and interest payment on the SAIL loan balance equal to the percentages stated in paragraph (3) above over the life of the SAIL loan;

(b) Development Expenses on the SAIL loan including up to 20 percent of total Developer fees per year;

(c) Interest payments on the SAIL loan deferred from previous years;

(d) Mandatory payment on subordinate mortgages.

After the full SAIL loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(8) The determination of Development Cash Flow, determination of payment priorities, and payment of interest on SAIL loans shall occur annually. Any payments of accrued and unpaid interest due annually on SAIL loans shall be deferred to the extent that Development Cash Flow is insufficient to make said payments pursuant to the payment priority schedule established in this rule chapter. If Development Cash Flow is under-reported and such report causes a deferral of SAIL interest, such under-reporting shall constitute an event of default on the SAIL loan. A penalty of 5 percent of any required payment shall be assessed.

(a) By May 31 of each year of the SAIL loan term, the Applicant shall provide the Corporation with audited financial statements and a certification detailing the information needed to determine the annual payment to be made. However, this certification requirement will be waived until May 31 following the calendar year within which the first unit is occupied. The certification shall require submission of audited financial statements and the SAIL annual reporting form, Cash Flow Reporting Form SR-1, Rev. 9/05, which is incorporated by reference. Form SR-1 can be obtained from the Credit Underwriter acting as the assigned servicer or on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links. The audited financial statements are to be prepared in accordance with generally accepted accounting principles for the 12 months ended December 31 and shall include:

1. Comparative Balance Sheet with prior year and current year balances;

2. Statement of revenue and expenses;

3. Statement of changes in fund balances or equity;

4. Statement of cash flows; and

5. Notes.

The financial statements referenced above should also be accompanied by a certification of the Applicant as to the accuracy of such financial statements. A late fee of $500 will be assessed by the Corporation for failure to submit the required audited financial statements and certification by May 31 of each year of the SAIL loan term. If the Applicant has not submitted the required audited financial statements, the Corporation servicer shall deem the Development Cash Flow sufficient and issue a billing for interest due on the SAIL loan for the immediately preceding calendar year by July 31. After receipt of the audited financial statements, the Corporation servicer shall issue revised billing, if necessary. Failure to submit the required audited financial statements and certification by May 31 of each year of the SAIL loan term shall constitute an event of default on the SAIL loan. The Applicant shall furnish to the Corporation or its servicer, unaudited statements, certified by the Applicant's principal financial or accounting officer, covering such financial matters as the Corporation or its servicer may reasonably request, including without limitation, monthly statements with respect to the Development.

For SAIL loans applied for prior to February 22, 2001, the Corporation will extend the annual filing deadline for submission of the audited financial statements and certification detailing the information needed to determine the annual payment to be made, pursuant to subsection 67-48.010(8), F.A.C., to May 31 of each year of the SAIL loan term. The Corporation servicer shall issue a billing for interest due on the SAIL loan for the immediately preceding calendar year by July 31 of each calendar year of the SAIL loan. In addition, for SAIL loans applied for prior to December 23, 1996, so long as the executed loan agreements contain a provision to assess a late fee for failure to provide the audited financial statement and certification detailing the information needed to determine the annual payment due, such fee will be assessed by the Corporation as outlined above.

(b) The Corporation servicer shall issue a billing for interest due on the SAIL loan for the immediately preceding calendar year by July 31 of each calendar year of the SAIL loan.

(c) The Applicant shall remit the interest due to the Corporation servicer no later than August 31 of each year of the SAIL loan term. The first payment of SAIL interest will be due no later than August 31 following the calendar year within which the first unit is occupied. The first payment of interest shall include all interest for the period which begins accruing on the date of the first Draw and ends on December 31 of the calendar year during which the first unit is occupied.

(9) After maturity or acceleration, the Note shall bear interest at the Default Interest Rate from the due date until paid. Unless the Corporation has accelerated the SAIL loan, the Applicant shall pay the Corporation a late charge of 5 percent of any required payment that is not received by the Corporation within 15 days of the due date.

(10) The final billing for the purpose of payoff of the SAIL loan shall also include a billing for compliance fees to cover monitoring of SAIL Program requirements beyond the maturity date of the Note. Such fees shall be computed by determining the present value of the annual compliance monitoring fee and multiplying that by the number of years for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. The present value discount rate shall be 2.75 percent per annum. Such amount shall be reduced by the amount of any compliance monitoring fees for other programs collected by the Corporation for the Development provided:

(a) The compliance monitoring fee covers some or all of the period following the anticipated SAIL loan repayment date; and

(b) The Development has substantially equivalent set-asides for Very Low-Income persons or households mandated through another Corporation program for which the compliance monitoring fee was collected.

(11) The SAIL loans shall be serviced either directly by the Corporation or by the servicer on behalf of the Corporation.

(12) The Corporation shall monitor compliance of all terms and conditions of the SAIL loan and shall require that certain terms and conditions be embodied in the Land Use Restriction Agreement and recorded in the public records of the county wherein the Development is located. Violation of any material term or condition of the documents evidencing or securing the SAIL loan shall constitute a default during the term of the SAIL loan. The Corporation shall take appropriate legal action to effect compliance if a violation of any material term or condition relative to the set-asides of units for Very Low-Income persons or households is discovered during the course of compliance monitoring or by any other means.

(13) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective August 10, 2006, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(14) The SAIL loan term shall be for a period of not more than 15 years. However, if both a SAIL loan and federal Housing Credits are to be used to assist a Development, the Corporation may set the SAIL loan term for a period commensurate with the investment requirements associated with the Housing Credit syndication. The term of the loan may also exceed 15 years if the lien of the Corporation's

encumbrance is subordinate to the lien of another mortgagee, in which case the term may be made coterminous with the longest term of the superior loan.

(15) After accepting a preliminary commitment, the Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the SAIL mortgage without prior approval of the Corporation's Board of Directors. However, an Applicant may reduce the interest rate on any superior or inferior mortgage loan without the Board's permission, provided that no other terms of the loan are changed. The Corporation must be notified in writing of any such change.

Following construction completion, the Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.0105(5), F.A.C., are met, the original combined loan to value ratio for the superior mortgage and the SAIL mortgage is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding SAIL loan balance. To calculate the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the SAIL loan balance, the following calculation shall be used: divide the amount of the original SAIL mortgage by the combined amount of the original SAIL mortgage and the original superior mortgage; then multiply the quotient by the amount of the increase in the superior mortgage from the current balance after deducting refinancing costs. For example, if the amount of the original SAIL mortgage is $2,000,000, the original superior mortgage is $4,000,000, with a current balance of $3,000,000, a proposed new superior mortgage of $5,000,000, and refinancing costs of $200,000, then the amount of the increase in the superior mortgage after deducting refinancing costs would be $1,800,000, and the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the SAIL loan balance would be $594,000. This $594,000 would be applied first to accrued interest and then to principal.

(16) All SAIL loans shall be in conformance with applicable federal and state statutes, including the Fair Housing Act as implemented by 24 CFR Part 100, which is adopted and incorporated herein by reference, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which is adopted and incorporated herein by reference. These provisions are available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links. The Corporation shall allow units dedicated to occupancy by the Elderly in a Development designed for occupancy by elderly households pursuant to authorization by HUD under the Fair Housing Amendments of 1988 as implemented by 24 CFR Part 100.

(17) Rent controls shall not be allowed on any Development except (i) as required in conjunction with the issuance of tax-exempt bonds or federal Housing Credits and (ii) when the Sponsor has committed to set aside units for ELI Persons, in which case rents for such units shall be restricted at the level applicable for federal Housing Credits.

(18) The documents creating, evidencing or securing each SAIL loan must provide that any violation of the terms and conditions described in Rule Chapter 67-48, F.A.C., constitutes a default under the SAIL loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

(19) A failure to pay any principal or interest due under the terms of this section shall constitute a default on the SAIL loan.

(20) If, after a four-month rent-up period commencing after issuance of the last certificate of occupancy on the units, an Applicant is unable to meet the agreed-upon demographic commitment for Elderly, Homeless, Farmworker or Commercial Fishing Worker, the Applicant may request to rent such units to Very Low-Income persons or households without demographic restriction.

(a) The written request must provide documentation of marketing efforts implemented over the past four-month period which demonstrate the inclusion of sources of potential residents, advertising to be used, other means of encouraging residents to rent at the Development, and priority to the original targeted group of residents. If the Corporation determines that prior marketing efforts were insufficient, a revised plan which is satisfactory to the Corporation must be submitted and implemented for a four-month period prior to reconsideration.

(b) The Board will require Applicants to provide additional amenities or resident programs suitable for the proposed resident population.

(c) The Board will require Applicants with 0 percent loans, as described in paragraphs 67-48.010(3)(a) and (b), F.A.C., to modify loan documents to conform to the terms and conditions of 1 percent loans, as described in paragraphs 67-48.010(3)(b) and (c), F.A.C., or to accelerate payments of SAIL loan principal or interest.

(21) The Applicant shall provide to the Corporation an annual budget of income and expenses for the Development, certified as accurate by an officer of the Development, no later than 30 days prior to the beginning of the Development's fiscal year.

(22) Failure to provide the Corporation and its servicer with the SAIL available Cash Flow Statement detailing the information needed to determine the annual payment to be made pursuant to this rule chapter shall constitute a default on the SAIL loan.

(23) For SAIL loans applied for prior to March 17, 2002, at the borrower's request, the Corporation will include up to 20 percent of total Developer fees per year as a Development Expense when calculating the interest due on the SAIL loan for the 2003 calendar year for the billing issued in 2004 pursuant

to paragraph 67-48.010(8)(b), F.A.C., and for the billing for interest due each calendar year thereafter. Development Expense will not include Developer fees for determination of payment of interest on SAIL loans applied for prior to March 17, 2002 for the 2002 calendar year or any previous calendar year. For purposes in this paragraph, Development Expense has the same meaning as Project Expense and Eligible Project Expense as those terms are used in SAIL loans applied for prior to March 17, 2002.

(24) The Compliance Period for a SAIL Development shall be, at a minimum, a period of 12 years from the date the first residential unit is occupied. For SAIL Developments that ~~which~~ contain occupied units at the time of closing ~~to be Substantially Rehabilitated~~, the Compliance Period shall begin not later than ~~60 days from~~ the termination of the last ~~annual~~ lease executed prior to ~~in effect at the time of~~ closing of the SAIL loan.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.010, 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, _____.

67-48.0105 Sale, Transfer or Refinancing of a SAIL Development.

(1) Any sale, conveyance, assignment, or other transfer of interest or the grant of a security interest in all or any part of the title to the Development other than a superior mortgage shall be subject to the Corporation's prior written approval. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(2) The SAIL loan shall be assumable upon sale or transfer of the Development if the following conditions are met:

(a) The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

(b) The proposed transferee agrees to maintain all set-asides and other requirements of the SAIL loan for the period originally specified or longer; and

(c) The proposed transferee and release of transferor receives a favorable recommendation from the Credit Underwriter and approval by the Board of Directors of the Corporation.

All assumption requests must be submitted in writing to the Director of Special Assets and contain the specific details of the transfer and assumption. In addition to any related professional fees, the Corporation shall charge a non-refundable assumption fee as outlined in the Universal Application instructions.

(3) If the SAIL loan is not assumed since the buyer does not meet the criteria for assumption of the SAIL loan, the SAIL loan (principal and any outstanding interest) shall be repaid from the proceeds of the sale in the following order of priority:

(a) First mortgage debt service, first mortgage fees;

(b) SAIL compliance and loan servicing fees;

(c) An amount equal to the present value of the compliance monitoring fee, as computed by the Corporation and its servicer, times the number of payment periods for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. The present value discount rate shall be 2.75 percent per annum. Such amount shall be reduced by the amount of any compliance monitoring fees collected by the Corporation for the Development, provided:

1. The compliance monitoring fee covers some or all of the period following the anticipated SAIL repayment date; and

2. The Development has substantially equivalent set-asides for Very Low-Income persons or households mandated through another program of the Corporation for which the compliance monitoring fee was collected.

(d) Unpaid principal balance of the SAIL loan;

(e) Any interest due on the SAIL loan;

(f) Expenses of the sale;

(g) If there will be insufficient funds available from the proposed sale of the Development to satisfy paragraphs (3)(a)-(f) above, the SAIL loan shall not be satisfied until the Corporation has received:

1. An appraisal prepared by an appraiser selected by the Corporation or the Credit Underwriter indicating that the purchase price for the Development is reasonable and consistent with existing market conditions;

2. A certification from the Applicant that the purchase price reported is the actual price paid for the Development and that no other consideration passed between the parties and that the Development Cash Flow reported to the Corporation during the term of the SAIL loan was true and accurate;

3. A certification from the Applicant that there are no Development funds available to repay the SAIL loan, including any interest due, and the Applicant knows of no source from which funds could or would be forthcoming to pay the SAIL loan; and

4. A certification from the Applicant detailing the information needed to determine the final billing for SAIL loan interest. Such certification shall require submission of financial statements and other documents that may be required by the Corporation and its servicer.

(4) The Corporation may renegotiate and extend the loan in order to extend or retain the availability of housing for the target population. Such renegotiations shall be based upon:

(a) Performance of the Applicant during the SAIL loan term;

(b) Availability of similar housing stock for the target population in the area;

(c) Documentation and certification by the Applicant that funds are not available to repay the Note upon maturity;

(d) A plan for the repayment of the loan at the new maturity date;

(e) Assurance that the security interest of the Corporation will not be jeopardized by the new term(s); and

(f) Industry standard terms which may include amortizing loans requiring regularly scheduled payments of principal and interest.

All loan renegotiation requests, including requests for extension, must be submitted in writing to the Director of Special Assets and contain the specific details of the renegotiation. In addition to any related professional fees, the Corporation shall charge a non-refundable renegotiation fee as outlined in the Universal Application instructions.

(5) The Board shall approve requests for mortgage loan refinancing only if Development Cash Flow is improved, the Development's economic viability is maintained, the security interest of the Corporation is not adversely affected, and the Credit Underwriter provides a positive recommendation.

(6) The Board shall deny requests for mortgage loan refinancing which require extension of the SAIL loan term or otherwise adversely affect the security interest of the Corporation, unless the criteria outlined in subsection 67-48.0105(5), F.A.C., are met, the Credit Underwriter recommends that the approval of such a request is crucial to the economic survival of the Development, or unless the Board determines that public policy will be better served by the extension as a result of the Applicant agreeing to further extend the Compliance Period or provide additional amenities or resident programs suitable for the resident population. Further, the Board shall limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

The Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.010(15), F.A.C., are met, the original combined loan to value ratio for the superior mortgage and the SAIL mortgage is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding SAIL loan balance.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0105, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, Repromulgated 2-7-05, Amended 1-29-06, 4-1-07, Repromulgated_____.

67-48.013 SAIL Construction Disbursements and Permanent Loan Servicing.

(1) SAIL loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the SAIL loan to the Total Development Cost, unless approved by the Credit Underwriter.

(2) Ten (10) business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw. The request shall set forth the amount to be paid and shall be accompanied by documentation specified by the Corporation's servicer including claims for labor and materials to date of the last inspection.

(3) The Corporation and its servicer shall review the request for a Draw, and the servicer shall provide the Corporation with approval of the request or an alternative recommendation, after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation.

(4) The Corporation shall disburse construction Draws through Automated Clearing House (ACH). The Applicant may request disbursement of construction Draws via a wire transfer. The Applicant will be charged a fee of $10 for each wire transfer requested. This charge will be netted against the Draw amount.

(5) The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Applicant in connection with the request for a Draw, if

(a) The Corporation or the Corporation's servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; or

(b) The percentage of progress of construction of the improvements differs from that shown on the request for a Draw.

(6) The servicer may request submission of revised construction budgets.

(7) Based on the Applicant's progress of construction, if the Corporation determines that further analysis by the Credit Underwriter is required prior to the release of the final Draw, the Applicant shall pay to the Credit Underwriter a fee based on an hourly rate determined pursuant to the contract between the Corporation and the Credit Underwriter.

(8) Retainage in the amount of 10 percent per Draw shall be held by the servicer during construction until the Development is 50 percent complete. At 50 percent completion, no additional retainage shall be held from the remaining Draws. Release of funds held by the Corporation's servicer as retainage shall occur pursuant to the SAIL loan agreement.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.013, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated_____.

PART III HOME INVESTMENT PARTNERSHIPS PROGRAM

67-48.014 HOME General Program Procedures and Restrictions.

(1) Unless otherwise provided in the Application instructions, the Corporation shall utilize up to 10 percent of the HOME allocation for administrative costs pursuant to 24 CFR Part 92.

(2) The Corporation shall utilize at least 15 percent of the HOME allocation for CHDOs pursuant to 24 CFR Part 92. In order to apply under the CHDO set-aside, the CHDO must have at least 51 percent ownership interest in the Development held by the General Partner entity and meet all other CHDO requirements as defined by HUD in 24 CFR Part 92 and other Corporation requirements identified in the CHDO Checklist. The CHDO Checklist is adopted and incorporated herein by reference, effective 10-17-06, and is available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links or by contacting the HOME-Rental Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(3) Within the rental cycle administered pursuant to Rule Chapter 67-48, F.A.C., the Corporation will distribute funds as provided in the Universal Application instructions, through a competitive request for proposal (RFP) process, or both.

(4) The maximum per-unit subsidy amount of HOME funds that the Corporation shall invest on a per-unit basis in affordable housing shall not exceed the per-unit dollar limits established by the Corporation as identified in the current Application instructions and included on the HOME Rental FHFC Subsidy Limits chart, which is adopted and incorporated by reference, effective 10-1-2007 ~~10-16-06~~. A copy of such chart is available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links or by contacting the HOME-Rental Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(5) The minimum amount of HOME funds that must be invested in a Rental Development is $1,000 times the number of HOME-Assisted Units in the Development.

(6) A Development qualifies as affordable housing and for HOME funds if, with respect to income and occupancy:

(a) 80 percent of the HOME-Assisted Units are occupied by families whose annual income does not exceed 60 percent of the median family income for the area, as determined by HUD, with adjustments for family size, and

(b) 20 percent of the HOME-Assisted Units are occupied by families whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD, with adjustments for family size.

(c) When the income of a resident increases above 80 percent of area median income, the next unit that becomes available in the Development must be rented to a HOME income-eligible resident. If the income of a Very Low-Income household increases above the limits for a Very Low-Income household, then the Developer must rent the next available unit to a Very Low-Income household. The amount of rent the resident whose income has increased must pay is the lesser of the amount payable by resident under state or local law or 30 percent of the adjusted monthly income for rent and utilities.

(d) High HOME rent means 80 percent of the HOME-Assisted Units in a Development must have rents set at no more than the lesser of the Section 8 Fair Market Rent (FMRs) or rents that are 30 percent for a Family at 65 percent of median income limit, minus resident-paid utilities. Low HOME rent means 20 percent of the HOME-Assisted Units in a Development must have rents set at no more than the lesser of the Section 8 Fair Market Rent (FMRs), or 30 percent of the gross income of a Family at 50 percent of the area median income, minus resident-paid utilities. With respect to rent limits, the HOME Rent Chart at 65 percent or 50 percent, or the Fair Market Rent, less the applicable utility allowance, is the maximum rent that can be charged for a HOME Rent-Restricted Unit. HOME-Assisted Units with Section 8 subsidy must compare the Section 8 gross rent (resident rent, subsidy amount, and utility allowance) to the maximum applicable HOME high or low rent limit minus utilities. However, Developments with project-based rental assistance may utilize the project-based rents as compared to the HOME High and Low rents. Compliance with the HOME rent restrictions will take precedence over the Developer's acceptance of a full Section 8 (resident-based) subsidy for the HOME-Assisted Units.

(e) The minimum Compliance Period for Rehabilitation Developments is 15 years from the date the first residential unit is occupied. For Developments that contain occupied units at the time of closing, the Compliance Period shall begin the earlier of (i) ~~not later than 60 days from~~ the termination of the last ~~annual~~ lease executed prior to ~~in effect at the time of~~ closing of the HOME loan or (ii) at project completion as defined in 24 CRF § 92.2. The Compliance Period will be extended until the loan is repaid as enumerated in subsection 67-48.020(1), F.A.C.

(f) The minimum Compliance Period for newly-constructed rental housing is 20 years from the date the first residential unit is occupied. The Compliance Period will be extended until the loan is repaid as enumerated in subsection 67-48.020(1), F.A.C.

(g) The minimum percentage of HOME-Assisted Units within a Development must be at least equal to the percentage (ratio) calculated by dividing the HOME loan amount by the Total Development Cost. This percentage will be utilized to determine the minimum number of HOME-Assisted Units required within a Development. HOME-Assisted Units must be identified at the time of Application. For purposes of meeting affordable housing requirements for a Development,

the HOME-Assisted Units counted may be changed over the Compliance Period, so long as the total number of HOME-Assisted Units remains the same, and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the original HOME-Assisted Units.

(h) The Development will remain affordable, pursuant to commitments documented within the executed Land Use Restriction Agreement without regard to the term of the mortgage or to transfer of ownership.

(7) The Development must comply with all applicable provisions of 24 CFR Part 92 and Rule Chapter 67-48, F.A.C.

(8) A Development that is under construction may be eligible to apply for HOME funds only if the final building permit is dated no earlier than six (6) months prior to the Application Deadline, the Development is able to provide evidence of compliance with federal labor standards (if 12 or more HOME-Assisted Units are developed under a single contract) for any work already completed, and the Development is able to provide evidence of compliance with HUD environmental requirements as well as all other federal HOME regulations as listed in Rule 67-48.014, F.A.C., and 24 CFR Part 92. The federal requirements may require completion of activities prior to submission of an Application for HOME funding.

(9) Any single contract for the development (rehabilitation or new construction) of affordable housing with 12 or more HOME-Assisted Units under the HOME Program must contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the United States Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. §§ 3142 – 3144, 3146 and 3147 (2002), which is adopted and incorporated herein by reference, 24 CFR § 92.354, 24 CFR Part 70 (volunteers), which is adopted and incorporated herein by reference, and 40 U.S.C. § 3145 (2002), which is adopted and incorporated herein by reference, will be paid to all laborers and mechanics employed for the construction or rehabilitation of the Development, and such contracts must also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. §§ 3701 – 3706 and 3708 (2002), which is adopted and incorporated herein by reference, the Copeland Act (Anti-Kickback Act), 40 U.S.C. § 3145 (2002), and the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.), which is adopted and incorporated herein by reference. The foregoing provisions are available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(10) All HOME Developments must conform to the following federal requirements which are available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links:

(a) Equal Opportunity and Fair Housing as enumerated in 24 CFR § 92.202 and 92.250, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), which is adopted and incorporated herein by reference, Fair Housing Act (42 U.S.C. §§3601-3620), which is adopted and incorporated herein by reference, Age Discrimination Act of 1975, as amended (42 U.S.C. §6101), which is adopted and incorporated herein by reference, Executive Order 11063 (amended by Executive Order 12259), which is adopted and incorporated herein by reference, and 24 CFR § 5.105(a), which is adopted and incorporated herein by reference.

(b) Affirmative Marketing as enumerated in 24 CFR § 92.351.

(c) Environmental Review as enumerated in 24 CFR § 92.352, 24 CFR Part 58, which is adopted and incorporated herein by reference, and National Environmental Policy Act of 1969, which is adopted and incorporated herein by reference.

(d) Displacement, Relocation, and Acquisition as enumerated in 24 CFR § 92.353, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4201-4655), which is adopted and incorporated herein by reference, 49 CFR Part 24, which is adopted and incorporated herein by reference, 24 CFR Part 42 (Subpart C), which is adopted and incorporated herein by reference, and Section 104(d) "Barney Frank Amendments," which is adopted and incorporated herein by reference.

(e) Lead-based Paint as enumerated in 24 CFR § 92.355, and 24 CFR Part 35, which is adopted and incorporated herein by reference.

(f) Conflict of Interest as enumerated in 24 CFR § 92.356, 24 CFR §§ 85.36 and 84.42, which are adopted and incorporated herein by reference.

(g) Debarment and Suspension as enumerated in 24 CFR Part 24, which is adopted and incorporated herein by reference.

(h) Flood Insurance as enumerated in Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4106), which is adopted and incorporated herein by reference.

(i) Handicapped Accessibility as enumerated in Section 504 of the Rehabilitation Act of 1973 (implemented in 24 CFR Part 8) and 24 CFR § 100.205, which are adopted and incorporated herein by reference.

(j) Americans with Disabilities Act as enumerated in 42 U.S.C. § 12131; and 47 U.S.C. §§ 155, 201, 218 and 225, which are adopted and incorporated herein by reference.

(k) Equal Opportunity Employment as enumerated in Executive Order 11246 (implemented in 41 CFR Part 60), which is adopted and incorporated herein by reference.

(l) Economic Opportunity as implemented in 24 CFR Part 135, which is adopted and incorporated herein by reference.

(m) Minority/Women Employment as enumerated in 24 CFR § 85.36(e) and Executive Orders 11625, 12432, and 12138, which are adopted and incorporated herein by reference.

(n) Site and Neighborhood Standards as enumerated in 24 CFR § 983.6(b), which is adopted and incorporated herein by reference.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.014, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-48.015 Match Contribution Requirement for HOME Allocation.

(1) The Corporation is required by HUD to match non-federal funds to the HOME allocation as specified in 24 CFR Part 92.

(2) A Match Credit Fund funded by the state of Florida has been appropriated to the Corporation. The funds are to be used for demonstration Developments, pilot programs, or other Developments selected and approved by the Corporation's Board of Directors. Such pilot programs or Developments shall be counted as the Corporation's required match for HUD purposes and may be any eligible activity acceptable to 24 CFR Part 92 and approved by the Corporation's Board of Directors.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(4) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.015, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-48.017 Eligible HOME Activities.

HOME funds may be used for acquisition (must include new construction and/or Rehabilitation), new construction, reconstruction, or moderate or substantial rehabilitation of non-luxury housing with suitable amenities or for tenant based rental assistance pursuant to 24 CFR Part 92.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.017, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, 3-17-02, Amended 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-48.018 Eligible HOME Applicants.

(1) Unless the Board approves a competitive allocation process outside the Universal Cycle, an Applicant is not eligible to apply for HOME Program funding if any of the following pertain to the proposed Development:

(a) The Applicant has received an allocation of Housing Credits or a Competitive Housing Credit commitment for the proposed Development, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning the HC funding from a prior cycle;

(b) The Applicant has already accepted a preliminary commitment of funding for the proposed Development through the HOME Program, the SAIL Program, or the RRLP Program, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its prior HOME Program, SAIL Program, or RRLP Program funding.

(c) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing, excluding Predevelopment Loan Program funds, intended to foster the development or maintenance of affordable housing.

(2) Applicants for HOME loans may include CHDOs, public housing authorities, local governments, Non-Profit organizations, and private for-profit organizations. The Applicant must be a legally-formed, existing entity at the time of Application Deadline. Pursuant to 24 CFR Part 92, Applicants may not request additional HOME funding during the period of affordability.

(3) For tenant based rental assistance, eligible public housing authorities shall be limited to those public housing authorities that provide a copy of their most recent Section Eight Management Assessment Program (SEMAP) and can demonstrate compliance with 24 CFR § 982.401, which is incorporated by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(a) Eligible public housing authorities shall use the HOME Investment Partnership Program, state of Florida, TBRA Agreement (Rev. 09/06), which is incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(b) An eligible public housing authority's request for funding shall be based upon demonstration of recipient need.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.018, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, Amended 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, 1-29-06, 4-1-07, _____.

67-48.019 Eligible and Ineligible HOME Development Costs.

(1) HOME funds may be used to pay for the following eligible costs as enumerated in 24 CFR Part 92:

(a) Development hard costs as they directly relate to the identified HOME Assisted Units only for:

1. New construction, the costs necessary to meet local and state of Florida building codes and the Model Energy Code referred to in 24 CFR Part 92;

2. Rehabilitation, the costs necessary to meet local and state of Florida rehabilitation building codes and at a minimum, the Section 8 Housing Quality Standards under 24 CFR Part 92;

3. Both new construction and rehabilitation, costs to demolish existing structures, improvements to the Development site and utility connections;

(b) The cost of acquiring improved or unimproved real property. A HOME Development and HOME loan that involves acquisition must include Rehabilitation or new construction in order to be an eligible Development.

(c) Soft costs as they relate to the identified HOME-Assisted Units. The costs must be reasonable, as determined by the Corporation and the Credit Underwriter, and associated with the financing, development, or both. These costs may include:

1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups;

2. Costs to process and settle the HOME financing for a Development, such as credit reports, fees for evidence of title, recordation, building permits, attorney fees, cost certifications, and estimates;

3. Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C.;

4. Impact fees;

5. Costs of Development audits required by the Corporation;

6. Affirmative marketing and fair housing costs;

7. Temporary relocation costs as required under 24 CFR Part 92;

(2) HOME funds shall not be used to pay for the following ineligible costs:

(a) Development reserve accounts for replacements, unanticipated increases in operating costs, or operating subsidies, except as described in 24 CFR § 92.206(d)(5);

(b) Public housing;

(c) Administrative costs;

(d) Developer fees unless the HOME funds include Rehabilitation or new construction; or

(e) Any other expenses not allowed under 24 CFR Part 92.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.019, Amended 11-9-98, 2-24-00, Repromulgated 2-22-01, Amended 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, _____.

67-48.020 Terms and Conditions of Loans for HOME Rental Developments.

All HOME Rental Development loans shall be in compliance with the Act, 24 CFR Part 92 and, at a minimum, contain the following terms and conditions:

(1) The HOME loan may be in a first, second, or subordinated lien position. The term of the loan shall be for a minimum period of 15 years for Rehabilitation Developments and 20 years for new construction Developments. The term of the HOME loan may be extended to coterminate with the first mortgage term upon the recommendation of the Credit Underwriter and approval by the Corporation.

(2) The annual interest rate will be determined by the following:

(a) All for-profit Applicants that own 100 percent of the ownership interest in the Development held by the general partner entity will receive a 1.5 percent per annum interest rate loan.

(b) All qualified non-profit Applicants that own 100 percent of the ownership interest in the Development held by the general partner entity will receive a 0 percent interest rate loan. For purposes of determining the annual HOME interest rate, the definition of Non-Profit found at Rules 67-48.002 and 67-48.0075, F.A.C., shall not apply; instead, qualified non-profit Applicants shall be those entities defined in 24 CFR Part 92, 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.

(c) All Applicants consisting of a non-profit and for-profit partnership will receive a 0 percent interest rate loan on the portion of the loan amount equal to the qualified non-profit's ownership interest in the Development held by the general partner entity. A 1.5 percent interest rate shall be charged for loans on the portion of the loan amount equal to the for-profit's interest in the Development held by the general partner entity. After closing, should the Applicant sell any portion of the Development ownership, the loan interest rate ratio will be adjusted to conform to the new percentage of ownership.

(3) The loans shall be non-amortizing and repayment of principal shall be deferred until maturity, unless otherwise recommended by the Credit Underwriter and approved by the Corporation. Interest payments on the loan shall be paid to the Corporation's servicer annually on the date specified in the Note.

(4) As approved by the Board of Directors, loans which finance demonstration Developments or Developments located in a state or federally declared disaster area may be provided with forgivable terms.

(5) The accumulation of all Development financing, including the HOME loan and all existing debt within a Development, may not exceed the Total Development Cost, as determined and certified by the Credit Underwriter.

(6) Before disbursing any HOME funds, there must be a written agreement with the Applicant ensuring compliance with the requirements of the HOME Program pursuant to this rule chapter and 24 CFR Part 92.

(7) A representative of the Applicant and the managing agent of the Development must attend a Corporation-sponsored training session on income certification and compliance procedures.

(8) If the Development has 12 or more HOME-Assisted Units to be developed under a single contract, the General Contractor and all available subcontractors shall attend a Corporation-sponsored preconstruction conference regarding federal labor standards provisions.

(9) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective August 10, 2006, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(10) All loans must provide that any violation of the terms and conditions described in this rule chapter or 24 CFR Part 92 constitute a default under the HOME loan documents allowing the Corporation to accelerate its loan and seek foreclosure as well as any other remedies legally available to it.

(11) If a default on a HOME loan occurs, the Corporation will commence legal action to protect the interest of the Corporation. The Corporation shall acquire real and personal property or any interest in the Development if that acquisition is necessary to protect any HOME loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of Chapters 253 and 270, F.S.; and, if that sale, transfer, or conveyance cannot be consummated within a reasonable time, lease the Development for occupancy by Eligible Persons.

(12) The Corporation or its servicer shall monitor the compliance of each Development with all terms and conditions of the HOME loan and shall require that such terms and conditions be recorded in the public records of the county where the Development is located. Violation of any term or condition shall constitute a default during the term of the HOME loan.

(13) The Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the HOME mortgage without prior approval of the Corporation's Board of Directors. However, an Applicant may reduce the interest rate on any superior or inferior mortgage loan without the Board's permission, provided that no other terms of the loan are changed. The Corporation must be notified of any such change.

Following construction completion, the Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.0205(3), F.A.C., are met, the original combined loan to value ratio for the superior mortgage and the HOME mortgage is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding HOME loan balance. To calculate the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the HOME loan balance, the following calculation shall be used: divide the amount of the original HOME mortgage by the combined amount of the original HOME mortgage and the original superior mortgage; then multiply the quotient by the amount of the increase in the superior mortgage from the current balance after deducting refinancing costs. For example, if the amount of the original HOME mortgage is $2,000,000, the original superior mortgage is $4,000,000, with a current balance of $3,000,000, a proposed new superior mortgage of $5,000,000, and refinancing costs of $200,000, then the amount of the increase in the superior mortgage after deducting refinancing costs would be $1,800,000, and the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the HOME loan balance would be $594,000. This $594,000 would be applied first to accrued interest and then to principal.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(7), (8), (9) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.020, 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, _____.

67-48.0205 Sale, Transfer or Refinancing of a HOME Development.

(1) The HOME loan shall be assumable upon Development sale, transfer or refinancing if the following conditions are met:

(a) The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

(b) The proposed transferee agrees to maintain all set-asides and other requirements of the HOME loan for the period originally specified; and

(c) The proposed transferee and Application receives a favorable recommendation from the Credit Underwriter and approval by the Corporation's Board of Directors.

All assumption requests must be submitted in writing to the Director of Special Assets and contain the specific details of the transfer and assumption. In addition to any related professional fees, the Corporation shall charge a non-refundable assumption fee as outlined in the Universal Application instructions.

(2) If the Development is sold and the proposed transferee does not meet the criteria for assumption of the loan, the HOME loan shall be repaid from the proceeds of the sale. If there will be insufficient funds available from the proposed sale of the Development, the HOME loan shall not be satisfied until the Corporation has received:

(a) An appraisal prepared by an appraiser selected by the Corporation indicating that the purchase price for the Development is reasonable and consistent with existing market conditions;

(b) A certification from the Applicant that the purchase price reported is the actual price paid for the Development and that no other consideration passed between the parties and that the income reported to the Corporation during the term of the loan was true and accurate; and

(c) A certification from the Applicant that there are no Development funds available to repay the loan and the Applicant knows of no source from which funds could or would be forthcoming to pay the loan.

(3) The Board shall approve requests for mortgage loan refinancing only if Development cash flow is improved, the Development's economic viability is maintained, the security interest of the Corporation is not adversely affected, and the Credit Underwriter provides a positive recommendation.

(4) The Board shall deny requests for mortgage loan refinancing which require extension of the HOME loan term or otherwise adversely affect the security interest of the Corporation unless the criteria outlined in subsection 67-48.0205(3), F.A.C., are met, the Credit Underwriter recommends that the approval of such a request is crucial to the economic survival of the Development or unless the Board determines that public policy will be better served by the extension as a result of the Applicant agreeing to further extend the Compliance Period or provide additional amenities or resident programs suitable for the resident population. Further, the Board shall limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(7), (8), (9) FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0205, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, Repromulgated 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated_____.

67-48.022 HOME Disbursements Procedures and Loan Servicing.

(1) HOME loan proceeds shall be disbursed during the construction/rehabilitation phase in an amount per Draw on a pro-rata basis with the other financing unless otherwise approved by the Corporation or the Credit Underwriter.

(2) Ten (10) business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw in a form and substance acceptable to the Corporation's servicer.

(3) The request shall set forth the amount to be paid and shall be accompanied by documentation as specified by the Corporation's servicer. Such documentation shall include invoices for labor and materials to date of the last inspection.

(4) The Corporation's servicer and the Corporation shall review the request for Draw and the Corporation's servicer shall provide the Corporation with approval of the request or an alternative recommendation of an amount to be paid after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation. For all Developments consisting of 12 or more HOME-Assisted Units to be developed under a single contract, the borrower shall submit weekly payrolls of the General Contractor and subcontractors in accordance with Federal Labor Standards as enumerated in 24 CFR § 92.354.

(5) Retainage in the amount of 10 percent per Draw shall be held by the servicer during construction until the Development is 50 percent complete. At 50 percent completion, no additional retainage shall be held from the remaining draws. Release of funds held as retainage shall occur in accordance with the HOME loan documents.

(6) The Corporation or its servicer shall elect to withhold any Draw or portion of any Draw, in addition to the retainage, notwithstanding any documentation submitted by the borrower in connection with a request for a Draw, if:

(a) The Corporation or the servicer determines at any time that the actual cost budget or progress of construction differs from that shown on the loan documents.

(b) The percentage of progress of construction of improvements differs from that shown on the request for a Draw.

(c) Developments subject to and not in compliance with Federal Labor Standards.

(7) To the extent excess HOME funds in the budget remain unused, the Corporation has the right to reduce the HOME loan by that amount.

(8) If 100 percent of the loan proceeds have not been expended within six (6) months prior to the HUD deadline pursuant to 24 CFR § 92.500, the funds shall be recaptured by the Corporation.

(9) The request for final disbursement of HOME funds, excluding retainage, shall be submitted within 60 days of completion of construction as evidenced by certificates of occupancy.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(1) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.022, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated_____.

PART IV HOUSING CREDIT PROGRAM

67-48.023 Housing Credits General Program Procedures and Requirements.

(1) Unless the Board approves a competitive allocation process outside the Universal Cycle, an Applicant is not eligible to apply for Competitive Housing Credits if any of the following pertain to the proposed Development:

(a) The Applicant has received an allocation of Housing Credits or a Competitive Housing Credit commitment for the proposed Development, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning the HC funding from a prior cycle;

(b) The Applicant has already accepted a preliminary commitment of funding for the proposed Development through the SAIL Program, the HOME Program, or the RRLP Program, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning the prior SAIL Program, HOME Program, or RRLP Program funding.

(c) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing, excluding Predevelopment Loan Program funds, intended to foster the development or maintenance of affordable housing.

(2) Each Applicant shall comply with this rule chapter and with Section 42 of the IRC and federal regulations issued pursuant thereto and in effect at the time of the Funding Cycle. Noncompliance, outside of the compliance cure period, by an Applicant, or any Principal, Affiliate or Financial Beneficiary of an Applicant or Developer shall result in disqualification from participation in the current HC Funding Cycle and for a period of not less than one year. The Applicant and its Principals, Affiliates and Financial Beneficiaries will continue to be ineligible to participate in future HC Funding Cycles until such time as all noncompliance issues are cured.

(3) Each Housing Credit Development shall comply with the minimum Housing Credit Set-Aside provisions, as specified in Section 42(g)(1) of the IRC, with respect to the reservation of 20 percent of the units for occupancy by persons or families whose income does not exceed 50 percent of the area median income, or the reservation of 40 percent of the units for occupancy by persons or families whose income does not exceed 60 percent of the area median income. Further, each Housing Credit Development shall comply with any additional Housing Credit Set-Aside chosen by the Applicant in the Application.

(4) The Development shall provide safe, sanitary and decent residential rental housing and shall be developed, constructed and operated in accordance with the commitments made and the facilities and services described in the Application at the time of submission to the Corporation. Applications will not be considered approved to receive an allocation of Housing Credits until the Corporation issues a Preliminary Allocation/Preliminary Determination to the Applicant and all contingencies of such documents are satisfied. Allocations are further contingent on the Applicant complying with its Application commitments, Rule Chapter 67-48, F.A.C., and Section 42 of the IRC.

(5) All of the dwelling units within a Development shall be rented or available for rent on a continuous basis to members of the general public. The owner of the Development shall not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be rented to Eligible Persons. All Developments must comply with the Fair Housing Act as implemented by 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which are adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(6) Each Competitive Housing Credit Development that receives a Carryover Allocation Agreement and each HC Development financed with tax-exempt bonds shall complete the Final Cost Certification Application within 75 Calendar Days after all the buildings in the Development have been placed in service. All other Developments shall complete the Final Cost Certification Application no later than the date that is 30 Calendar Days before the end of the calendar year for which the Final Housing Credit Allocation is requested. The Corporation may grant extensions for good cause upon written request.

(7) The Final Cost Certification Application (Form FCCA) shall be used by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C. Such form shall be completed, executed and submitted to the Corporation, along with the executed Extended Use Agreement, IRS Forms 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the required certified public accountant opinion letter, an unqualified audit report prepared by an independent certified public accountant, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the Form FCCA instructions. The Final Housing Credit Allocation will not be issued until such time as all required items are received and processed by the Corporation. The Final Cost Certification Application is adopted and incorporated herein by reference, effective January 2007, and is available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321. IRS Form 8821, Rev. April 2004, is adopted and incorporated herein by reference

and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links.

(8) After the final evaluation and determination of the Housing Credit Allocation amount has been made by the Corporation and the Extended Use Agreement has been executed in accordance with Rule 67-48.029, F.A.C., the Forms 8609 are issued to the Applicant of the Housing Credit Development, as provided below. IRS Low-Income Housing Credit Allocation Certification Form 8609, Rev. December 2006 ~~2005~~, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links. The Corporation will issue only one complete set of Forms 8609 per Development which will be no earlier than total Development completion, ~~and~~ the Corporation's acceptance and approval of the Development's Final Cost Certification Application, and determination by the Corporation that all financial obligations for which an Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant is in arrears to the Corporation or any agent or assignee of the Corporation have been satisfied.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.023, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-48.027 Tax-Exempt Bond-Financed Developments.

(1) Tax-Exempt Bond-Financed Developments, as defined in Section 42(h)(4)(B) of the IRC, which applied for 4 percent Housing Credits when applying for tax exempt bonds from the Corporation in calendar year 2000 or later shall:

(a) Have 50 percent or more of the aggregate basis of any building and the land on which the building is located financed by tax-exempt bonds;

(b) Be subject to the monitoring and credit underwriting fees as stated in Chapter 67-21, F.A.C.;

(c) Be deemed to have met all HC Program scoring threshold requirements upon the closing of the bonds with the Corporation;

(e) Be subject to the provisions of this rule chapter, specifically the applicable provisions of Part I and Part IV, except for Rules 67-48.0072 ~~67-48.026~~ and 67-48.028, F.A.C.;(d) Receive a Preliminary Determination upon the Corporation's issuance of a loan commitment in reference to the tax-exempt bonds;

(f) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application requirements of Rule 67-48.023, F.A.C.;

(g) Provide an IRS Form 8821 for each Financial Beneficiary of the Development prior to Final Housing Credit Allocation; and

(h) Pay the assigned Credit Underwriter for a comprehensive market study of the housing needs of Low Income individuals in the area to be served by the Development. The market study must be completed by a disinterested third party and a copy of the completed market study must be on file with the Corporation prior to the Final Housing Credit Allocation.

(2) Tax-Exempt Bond-Financed Developments, as defined in Section 42(h)(4)(B) of the IRC, seeking to obtain Housing Credits from the Treasury receiving the bonds from the Corporation prior to calendar year 2000 or receiving bonds from another source other than the Corporation, and not competing for Housing Credits under the state of Florida Allocation Authority shall:

(a) Have 50 percent or more of the aggregate basis of any building and the land on which the building is located financed by tax-exempt bonds;

(b) Be subject to the Application fee specified in this rule chapter;

(c) Meet the HC Program threshold requirements pursuant to the Qualified Allocation Plan and shall have completed loan closings on all required financing;

(d) Participate in the credit underwriting process pursuant to this rule chapter, unless such Development has received its tax-exempt bond financing through the Corporation, in which case the Development must be underwritten to the extent necessary to determine Development feasibility and Housing Credit need;

(e) Be subject to the credit underwriting fees as set forth in this rule chapter;

(f) Be subject to the administrative fee specified in this rule chapter;

(g) Receive a Preliminary Determination from the Corporation upon satisfying the requirements of paragraphs (a) through (f) above. A Development may receive a Preliminary Determination prior to the bonds being issued and the submission of an Application, if the Corporation receives a credit underwriting report prepared by one of the Corporation's contracted Credit Underwriters which recommends a Housing Credit Allocation and the issuance of tax-exempt bonds, and receives evidence of a loan commitment in reference to the tax-exempt bonds. The administrative fee must be paid within seven days of the date of the Preliminary Determination;

(h) Be subject to a Developer fee limitation as specified in this rule chapter;

(i) Be subject to the provisions of this rule chapter, specifically the applicable provisions of Part I and Part IV, except for Rule 67-48.028, F.A.C.;

(j) Provide an IRS Form 8821 for each Financial Beneficiary of the Development prior to Final Housing Credit Allocation;

(k) Be subject to the provisions in this rule chapter, pertaining to the required Extended Use Agreement;

(l) Be subject to the monitoring fee specified in this rule chapter, unless such Development has received tax-exempt bond financing through the Corporation;

(m) After bonds are issued to the Development, make Application to the Corporation as required in Rules 67-48.004 and 67-48.0072 ~~67-48.026~~, F.A.C. Applicant shall submit its Application completed in accordance with the Universal Application Package instructions for receipt by the Corporation no later than July 1 of the year the Development is placed in service; and

(n) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application requirements of Rule 67-48.023, F.A.C.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.027, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07,_____.

67-48.028 Carryover Allocation Provisions.

(1) If an Applicant cannot complete its Development by the end of the year in which the Preliminary Allocation is issued, the Applicant must enter into a Carryover Allocation Agreement with the Corporation by December 29th of the year in which the Preliminary Allocation is issued. The Carryover Allocation allows the Applicant up to the end of the second year following the Carryover Allocation to have the Development placed-in-service.

(2) An Applicant shall have tax basis in the Housing Credit Development which is greater than 10 percent of the reasonably expected basis in the Housing Credit Development within six (6) months of the date of the execution of the Carryover Allocation Agreement or the Housing Credits will be deemed to be returned to the Corporation. Certification that the Applicant has met the greater than 10 percent basis requirement shall be signed by the Applicant's attorney or certified public accountant.

(3) All supporting Carryover documentation and the signed certification evidencing the required basis must be submitted to the Corporation within six (6) months of the date of the execution of the Carryover Allocation Agreement or the Housing Credits will be deemed to be returned.

(4) The Applicant for each Development for which a Carryover Allocation Agreement has been executed shall submit quarterly progress reports to the Corporation using Progress Report Form Q/M Report, which will be provided by the Corporation. If the Form Q/M Report does not demonstrate continuous and adequate development and construction progress, the Corporation will require monthly submission of Form Q/M Report until satisfactory progress is achieved, until the Development is placed in service, or until a determination is made by the Corporation that the Development cannot be placed in service by the Carryover deadline and the Housing Credits are returned to the Corporation in accordance with the terms of the Carryover Allocation Agreement. Form Q/M Report shall include a written statement describing the current status of the Development; the financing, construction and syndication activity since the last report; the reasons for any changes to the anticipated placed-in-service date; and any other information relating to the status of the Development which the Corporation may request. The first report shall be due to the Corporation by the first Monday in April of the calendar year following Carryover qualification.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, Amended 1-6-98, Formerly 9I-48.028, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, Amended 4-1-07, Repromulgated_____.

67-48.029 Extended Use Agreement.

(1) Pursuant to Section 42(h)(6) of the IRC, the Applicant and the Corporation shall enter into an Extended Use Agreement. The purpose of the Extended Use Agreement is to set forth the Housing Credit Extended Use Period, the Compliance Period, and to evidence commitments made by the Applicant in the Application. Such commitments, for example, include the Housing Credit Set-Aside commitment, resident programs, and Development amenities.

(2) The following provisions shall be included in the Extended Use Agreement:

(a) The Applicable Fraction for Housing Credit Set-Aside units for each taxable year in the Housing Credit Extended Use Period shall not be less than the Applicable Fraction;

(b) Eligible Persons occupying set-aside units shall have the right to enforce in any state of Florida court the extended use requirement for set-aside units;

(c) The Extended Use Agreement shall be binding on all successors and assigns of the Applicant; and

(d) The Extended Use Agreement shall be executed prior to the issuance of a Final Housing Credit Allocation to an Applicant. Following execution, the Extended Use Agreement shall be recorded pursuant to Florida law as a restrictive covenant.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.029, Amended 11-9-98, 2-24-00, Repromulgated 2-22-01, 3-17-02, 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated 1-29-06, 4-1-07,_____.

67-48.030 Sale or Transfer of a Housing Credit Development.

An owner of a Housing Credit Development, its successor or assigns which has been granted a Final Housing Credit Allocation shall not sell the Housing Credit Development without having first notified the Treasury of the impending sale and complying with the Treasury's procedure or procedures for completing the transfer of ownership and utilizing the Housing

Credit Allocation. The owner of a Housing Credit Development shall notify the Corporation in writing of an impending sale and of compliance with any requirements by the Treasury for the transfer of the Housing Credit Development. The owner of a Housing Credit Development shall notify the Corporation in writing of the name and address of the party or parties to whom the Housing Credit Development was sold within 14 Calendar Days of the transfer of the Housing Credit Development.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, Amended 1-6-98, Formerly 9I-48.030, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, Repromulgated 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, _____.

67-48.031 Termination of Extended Use Agreement and Disposition of Housing Credit Developments.

The Housing Credit Extended Use Period for any building shall terminate upon the date a building is acquired through foreclosure or instrument in lieu of foreclosure or if no buyer can be found who is willing to maintain the Housing Credit Set-Aside of the Development. In the event the Aapplicant is unable to locate a buyer willing to maintain the set-aside provisions of the Extended Use Agreement, the following steps shall be taken, as set forth in Section 42(h)(6) of the IRC, before a building is converted to market-rate use:

(1) After the fourteenth year of the Compliance Period, unless otherwise obligated under the Extended Use Agreement, a Land Use Restriction Agreement under another Corporation program, or if Aapplicant has already knowingly and voluntarily waived its right to request the Corporation find a buyer to acquire the Aapplicant's interest in the Housing Credit Set-Aside portion of the building, an Aapplicant may submit a written request to the Corporation to find a buyer to acquire the Aapplicant's interest in the Housing Credit Set-Aside portion of the building. When submitting a written request, Aapplicants shall utilize the Qualified Contract Package in effect at the time of the written request and shall remit payment of the required Qualified Contract Package fee. The Qualified Contract Package consists of the forms and instructions, obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or on the Corporation's Website under the 2008 ~~2007~~ Universal Application link labeled Related Information and Links, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to request the Corporation find a buyer to acquire the Aapplicant's interest in the Housing Credit Set-Aside portion of the building. The Qualified Contract Package, Rev. 09-07 ~~09-06~~, is adopted and incorporated herein by reference.

(2) All information contained in a Qualified Contract Package request is subject to independent review, analysis and verification by the Corporation or its agents. The Corporation shall request additional information to document the qualified contract price calculation or other information submitted, if the submitted documentation does not support the price indicated by the certified public accountant (CPA) hired by the owner. The Corporation shall then engage its own CPA to perform a qualified contract price calculation. Cost of such service shall be paid for by the owner. Following the Corporation's receipt and complete review of the completed Qualified Contract Package, the Corporation shall have one year to present a "qualified contract", as defined in Section 42(h)(6)(F) of the IRC, for the Development. The one year time period shall commence upon the Corporation's receipt and final review of all of the accompanying information required by the Qualified Contract Package and the Corporation and the owner have agreed to the qualified contract price in writing.

(3) The Corporation shall not agree to the qualified contract price in writing until the Applicant has satisfied any financial obligations for which the Applicant or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation.

(4) The Applicant is responsible for all real estate broker fees incurred from the sale of the Development.

(5)~~(3)~~ At the conclusion of the review process established by Rule 67-48.031, F.A.C., each Aapplicant will be provided with its qualified contract price calculation and notice of rights.

(6)~~(4)~~ Written arguments to any recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its qualified contract price calculation shall 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, excluding the 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 ~~on~~ the date of issuance of ~~contained in~~ 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. The one year time period the Corporation has to present a "qualified contract" will toll upon the filing of a petition to contest a qualified contract price calculation and will recommence upon the issuance of the Board's final order.

(7)~~(5)~~ The Aapplicant shall cooperate with the Corporation and its agents with respect to the Corporation's efforts to present a "qualified contract" for the purchase of the Aapplicant's interest in the Housing Credit Set-Aside portion of the Development and the Aapplicant's failure to cooperate will toll the one year time period the Corporation has to present a "qualified contract". The Corporation shall actively seek to obtain a qualified buyer for acquisition of the Housing Credit

Set-Aside portion of the building for an amount not less than the Applicable Fraction as specified in the Extended Use Agreement of:

(a) The sum of the outstanding indebtedness secured by the building;

(b) The adjusted investor equity in the building; and

(c) Other capital contributions not reflected in the amounts above, and reduced by cash distributions from the Development.

(8)~~(6)~~ If the Corporation presents a "qualified contract" and the A~~a~~pplicant fails to enter into a bona fide contract to acquire the Development, as defined in Section 42(h)(6)(F) of the IRC, the A~~a~~pplicant shall irrevocably waive any right to further request that the Corporation present a "qualified contract" for the purchase of the A~~a~~pplicant's interest in the Housing Credit Set-Aside portion of the Development and the Development will remain subject to the requirements of the Extended Use Agreement.

(9)~~(7)~~ In the event no buyer is found to acquire the Housing Credit Set-Aside portion of the building within one year as described herein, the Housing Credit Extended Use Period shall be terminated, and the units converted to market-rate.

(10)~~(8)~~ Pursuant to Section 42(h)(6)(E)(ii) of the IRC, the termination of an Extended Use Agreement shall not be construed to permit the termination of a tenancy, the eviction of any existing resident of any set-aside unit, or any increase in the gross rent with respect to any set-aside unit before the close of the three-year period following such termination. In no case shall any portion of a Housing Credit Development be disposed of prior to the expiration of the Extended Use Agreement.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.031, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, Amended 2-7-05, 1-29-06, 4-1-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Deborah Dozier Blinderman, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 33, No. 36, September 7, 2007

DEPARTMENT OF FINANCIAL SERVICES

Division of Funeral, Cemetery, and Consumer Services

RULE NO.: RULE TITLE:

69K-9.004 Consumer Brochure

PURPOSE AND EFFECT: Section 497.282(9), F.S., requires licensees to display and provide to all potential customers a brochure which explains how and by whom cemeteries and preneed sales are regulated, summarizes consumer rights, and provides the address and phone number of the Division of Funeral, Cemetery, and Consumer Services. The format and content of the brochure shall be prescribed by rule. Section 497.282(9), F.S., authorizes the Department to publish such brochures and to require cemetery and preneed licensees to purchase and make such brochures available in the licensee's offices to all potential customers.

SUMMARY: The proposed rule implements Section 497.282(9), F.S., by requiring all cemetery and preneed licensees to display and provide to all potential customers a consumer brochure.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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.

SPECIFIC AUTHORITY: 497.103(5)(b), 497.167(5), 497.282(9) FS.

LAW IMPLEMENTED: 497.167(5), 497.282(9) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, February 11, 2008, 2:00 p.m.

PLACE: Alexander Building, 2020 Capital Circle S.E., Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Diana Marr (850)413-3039 or diana.marr@fldfs.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Marr, Director, Division of Funeral, Cemetery, and Consumer Services, Alexander Building, 2020 Capital Circle S.E., Tallahassee, Florida 32399-0361 (850)413-3039

THE FULL TEXT OF THE PROPOSED RULE IS:

69K-9.004 Consumer Brochure.

Each cemetery and preneed licensee offering to provide burial rights, merchandise, or services to the public shall display in its offices for free distribution to all potential customers, and provide to all customers before the contract is signed by the purchaser, a brochure entitled "Pre-Need Funeral & Cemetery Arrangements," Form DFS-N1-1698, effective 10/06. The brochures shall be purchased from the Department and cannot be printed by a licensee or a private vendor for a licensee. Brochures shall be purchased, at Department cost, by submitting the "Brochure Purchase Order," Form DFS-N1-1729, effective 10/06, or by submitting a written request to the Department of Financial Services, Division of Funeral, Cemetery and Consumer Services, 200 East Gaines Street, Tallahassee, FL 32399-0361. Brochures shall be sold in increments of 100 with a minimum order of 100 brochures. Both forms are incorporated by reference in Rule 69K-1.001, F.A.C.

Specific Authority 497.103(5)(b), 497.167(5), 497.282(9) FS. Law Implemented 497.167(5), 497.282(9) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Diana Marr, Director, Division of Funeral, Cemetery, and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Karen Chandler, Deputy Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 7, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 20, 2007

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NOS.:	RULE TITLES:
5C-24.001	Definitions
5C-24.002	General Requirements
5C-24.003	Official Certificate of Veterinary Inspection (OCVI)

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 27, July 6, 2007 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Animal Industry

RULE NO.:	RULE TITLE:
5C-28.001	Dog and Cats – Intrastate Transfer of Ownership

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 27, July 6, 2007 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-14.003	Definitions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 2, January 11, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-14.004	Separate Promotions

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 2, January 11, 2008 issue of the Florida Administrative Weekly has been withdrawn.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to http://www.dep.state.fl.us/ under the link or button titled "Official Notices."

LAND AND WATER ADJUDICATORY COMMISSION

Capital Region Community Development District

RULE NO.:	RULE TITLE:
42CC-1.002	Boundary

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 41, October 12, 2007 issue of the Florida Administrative Weekly has been withdrawn.