

2. Assure that medications are maintained with appropriate temperature, light, and humidity standards, as established by the United States Pharmacopoeia, during drug storage and shipment;

3. Comply with all applicable State and Federal law and regulations regarding the sale of over-the-counter products identified as precursors to the manufacture of or compounding of illegal drugs; and,

4. Maintain a Continuous Quality Improvement Program as described in Rule 64B16-27.300, Florida Administrative Code.

Specific Authority 465.005, 465.0155 FS. Law Implemented 465.003, 465.015(2)(c), 465.0155, 465.0196, 465.026 FS. History—New _____.

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE TITLE: RULE NO.:

Licensure by Certification of Credentials 64B20-2.001

PURPOSE AND EFFECT: The Board proposes to review the existing language in this rule to determine if amendments are necessary.

SUBJECT AREA TO BE ADDRESSED: Licensure by certification of credentials.

SPECIFIC AUTHORITY: 468.1135(4), 456.013(7) FS.

LAW IMPLEMENTED: 456.013(7), 468.1145(2), 468.1185 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pamela E. King, Executive Director, Board of Speech-Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

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

**Section II
Proposed Rules**

DEPARTMENT OF INSURANCE

RULE TITLES: RULE NOS.:

Part III Minimum Reserve Standards for Individual and Group Health Insurance Contracts

Scope 4-154.201

Definitions 4-154.202

Categories of Reserves 4-154.203

Specific Minimum Standards for Morbidity, Mortality and Interest 4-154.204

Tables 4-154.210

PURPOSE, EFFECT AND SUMMARY: To update Health Reserves to be consistent with new NAIC Standards. This involves minimum reserve standards for individual group health insurance contracts.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 624.308(1), 625.121(14), 625.081 FS.

LAW IMPLEMENTED: 624.307(1), 625.081, 625.121 FS.

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

TIME AND DATE: 9:00 a.m., October 8, 2003

PLACE: Room 143, 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 program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kerry Krantz, Bureau of Life and Health Insurer Solvency, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0333, (850)413-5038

THE FULL TEXT OF THE PROPOSED RULES IS:

4-154.201 Scope.

(1)(a) This rule chapter applies to all individual and group health insurance policies, including single premium credit disability insurance. All other credit insurance is not subject to this rule chapter. Credit disability is defined under Section 627.677(2), Florida Statutes ~~except for credit disability insurance as defined under Section 627.677(2), Florida Statutes.~~

(b) No change.

(2) through (5) No change.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Amended _____.

4-154.202 Definitions.

As used in this rule chapter, the following terms have the following meaning:

(1) through (26) No change.

(27) Commonly Accepted Actuarial Practice. Practices consistent with standards of practice established by the Actuarial Standards Board as of December 31, 2002 ~~June 30, 1998~~ as embodied in "Actuarial Standards of Practice" which are hereby incorporated herein by reference.

(28) through (31) No change.

(32) Rating Block. A grouping of contracts determined by the valuation actuary based on common characteristics, such as a policy form or forms having similar benefit designs.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Amended _____.

4-154.203 Categories of Reserves.

Adequacy of an insurer's health insurance reserves shall be determined on the basis of all three categories combined. However, these standards emphasize the importance of determining appropriate reserves for each of the three categories separately.

(1) Claim Reserves.

(a) No change.

(b) Minimum Standards for Claim Reserves.

1. No change.

2.(2) All Other Benefits.

a.(a) Interest. The maximum interest rate for claim reserves is specified in subsection 4-154.204(2), F.A.C.

b.(b) Morbidity or other Contingency. The reserve shall be based on the insurer's experience, if that experience is considered credible, or upon other assumptions used by the company designed to place a sound value on the liabilities.

c.(c) Claim Reserve Methods Generally.

(1)+ A reserving method shall be used to estimate claim liabilities if it is:

(A)+ A generally accepted actuarial reserving method following commonly accepted actuarial practice; or

(B)+ A reasonable method approved by the Department after a public hearing prior to the statement date; or

(C)+ A combination of these methods.

(II)2. At its option, an insurer may estimate some of all of its claim liabilities either separately or by using aggregate methods. Approximations based on groupings and averages may also be employed. Adequacy of the claim reserves, however, shall be determined in the aggregate.

(2)(3) No change.

(3)(4) Contract Reserves.

(a) General.

1. Contract reserves shall be required, unless otherwise specified in subparagraph 2. below, for:

a. No change.

b.(I) All individual and group contracts for which, due to the gross premium pricing structure at issue, the value of the future benefits at any time exceeds the value of any appropriate future valuation net premiums at that time.

(II)(A) This evaluation may be applied on a rating block basis if the total premiums for the block were developed to support the total risk assumed and expected expenses for the block each year, and a qualified actuary certifies the premium development.

(B) The actuary shall state in the certification that premiums for the rating block were developed such that each year's premium was intended to cover that year's costs without any prefunding.

(C) For group policies having retrospective pricing agreements, if the premium is also intended to recover costs for any prior years, the actuary shall also disclose the reasons for and magnitude of such recovery.

(III) The values specified in this sub-subparagraph shall be determined on the basis specified in paragraph (b) below entitled "Minimum Standards for Contract Reserves".

2. through 4. No change.

(b) through (c) No change.

(d) Tests for Adequacy and Reasonableness of Contract Reserves.

1. A review shall be made annually by a qualified actuary of the insurer's prospective contract liabilities on contracts valued by tabular reserves to determine the continuing adequacy and reasonableness of the tabular reserves, giving consideration to future gross premiums. If the review indicates that the prospective reserves are no longer adequate subject to the minimum standards at paragraph (3)(4)(b) above, the insurer shall add increments to the tabular reserves in order to meet or exceed the minimum standard.

2. No change.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Amended _____.

4-154.204 Specific Minimum Standards for Morbidity, Mortality and Interest.

Specific minimum standards for morbidity, mortality and interest which apply to claim reserves according to year of incurral and to contract reserves according to year of issue:

(1) Morbidity.

(a) Minimum morbidity standards for valuation of specified individual contract health insurance benefits are as follows:

1. Disability Income Benefits Due to Accident or Sickness.

a. No change.

b. Claim Reserves:

(I) For claims incurred on or before December 31, 2002, the minimum morbidity standard in effect for contract reserves on currently issued contracts as of the date the claim is incurred.

(II)(A) For claims incurred on or after January 1, 2003, the 1985 Commissioners Individual Disability Table A (85CIDA) with claim termination rates multiplied by the following adjustment factors:

<u>Duration</u>	<u>Adjustment Factor</u>	<u>Adjusted Termination Rates*</u>
<u>Week</u>		
1	0.366	0.04831
2	0.366	0.04172
3	0.366	0.04063
4	0.366	0.04355
5	0.365	0.04088
6	0.365	0.04271
7	0.365	0.04380
8	0.365	0.04344
9	0.370	0.04292
10	0.370	0.04107
11	0.370	0.03848
12	0.370	0.03478
13	0.370	0.03034
<u>Month</u>		
4	0.391	0.08758
5	0.371	0.07346
6	0.435	0.07531
7	0.500	0.07245
8	0.564	0.06655
9	0.613	0.05520
10	0.663	0.04705
11	0.712	0.04486
12	0.756	0.04309
13	0.800	0.04080
14	0.844	0.03882
15	0.888	0.03730
16	0.932	0.03448
17	0.976	0.03026
18	1.020	0.02856
19	1.049	0.02518
20	1.078	0.02264
21	1.107	0.02104
22	1.136	0.01932
23	1.165	0.01865
24	1.195	0.01792
<u>Year</u>		
3	1.369	0.16839
4	1.204	0.10114
5	1.199	0.07434
6 and later	1.000	**

* The adjusted termination rates derived from the application of the adjustment factors to the DTS Valuation Table termination rates shown in exhibits 3a, 3b, 3c, 4, and 5 (Transactions of the Society of Actuaries (TSA) XXXVII, pp.

457-463) is displayed. The adjustment factors for age, elimination period, class, sex, and cause displayed in exhibits 3a, 3b, 3c, and 4 should be applied to the adjusted termination rates shown in this table.

** Applicable DTS Valuation Table duration rate from exhibits 3c and 4 (TSA XXXVII, pp. 462-463).

(B) The 85CIDA table so adjusted for the computation of claim reserves shall be known as 85CIDC (The 1985 Commissioners Individual Disability Table C).

2. through 4. No change.

5. Single Premium Credit Disability.

a. Contract Reserves:

(I) For contracts issued on or after January 1, 2003:

(A) For plans having less than a 30 day elimination period, the 1985 Commissioners Individual Disability Table A (85CIDA) with claim incidence rates increased by 12 percent.

(B) For plans having a 30 day and greater elimination period, the 85CIDA for a 14 day elimination period with the adjustment in (A).

(II) For contracts issued prior to January 1, 2003, each insurer may elect either (A) or (B) to use as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in (I), all future valuations must be on that basis.

(A) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the contract was issued, or

(B) The standard as defined in (I), applied to all contracts.

b. Claim Reserves: Claim reserves are to be determined as provided in paragraph 4-154.203(1)(c), F.A.C.

6.5. No change.

(b) Minimum morbidity standards for valuation of specified group contract health insurance benefits shall be as follows:

1. No change.

2. Single Premium Credit Disability.

a. Contract Reserves:

(I) For contracts issued on or after January 1, 2003:

(A) For plans having less than a 30 day elimination period, the 1985 Commissioners Individual Disability Table A (85CIDA) with claim incidence rates increased by 12 percent.

(B) For plans having a 30 day and greater elimination period, the 85CIDA for a 14 day elimination period with the adjustment in (A).

(II) For contracts issued prior to January 1, 2003, each insurer may elect to use either (I) or (II) as the minimum standard. Once an insurer elects to calculate reserves for all contracts on the standard defined in (I), all future valuations must be on that basis.

(A) The minimum morbidity standard in effect for contract reserves on currently issued contracts, as of the date the contract was issued, or

(B) The standard as defined in (I), applied to all contracts.

b. Claim Reserves: Claim reserves are to be determined as provided in paragraph 4-154.203(1)(c), F.A.C.

3.2. No change.

(c) No change.

(2) No change.

(3) Mortality.

(a) through (d) No change.

(e) For single premium credit insurance using the 85 CIDA table, no separate mortality shall be assumed.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Amended _____.

4-154.210 Tables.

(1) No change.

(2) The tables in subsection (1) above are available from the Bureau of Life & Health Insurer Solvency and Market Conduct Review, 200 East Gaines Street, Tallahassee, Florida 32399-0327.

Specific Authority 624.308(1), 625.121(14), 625.081 FS. Law Implemented 624.307(1), 625.081, 625.121 FS. History—New 4-14-99, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health Insurer Solvency, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Chief, Bureau of Life and Health Insurer Solvency, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 14, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 8, 2002

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
General Eligibility Requirements	4-202.008
Annual Statement	4-202.012
Forms Incorporated by Reference	4-202.015

PURPOSE, EFFECT AND SUMMARY: The amendments update the forms used for donor annuity agreements. The changes are being made to reflect that the forms are now Office of Insurance Regulation forms rather than Department of Insurance forms. The amendment also provides a website address where the forms can be obtained.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 627.481 FS.

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

TIME AND DATE: 9:00 a.m., October 7, 2003

PLACE: Room 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 program, please advise the Department at least 5 calendar days before the program by contacting the person listed below.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bruce Lulofs, Bureau of Specialty Insurers, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0331, (850)413-2490

THE FULL TEXT OF THE PROPOSED RULES IS:

4-202.008 General Eligibility Requirements.

(1) Any person engaging in the business of issuing donor annuity agreements must shall notify the Office Department in writing in a form prescribed by the Office Department in Form OIR-C1 DI4-1208 (rev. 6/96), Notification to the Florida Office of Insurance Regulation Department of Insurance as a Qualifying Issuer of Donor Annuity Agreements Pursuant to Section 627.481, Florida Statutes, adopted in paragraph 4-202.015(1)(a), F.A.C. The notice must shall be made on by August 13, 1996, or the date on which the person first enters into a donor annuity agreement.

(2) Any person subject to Section 627.481, Florida Statutes, that fails to submit the required notification form is subject to penalty as provided in Section 626.9521, Florida Statutes.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.481 FS. History—New 6-23-92, Amended 1-7-97, _____.

4-202.012 Annual Statement.

(1) Within 60 days of the end of each fiscal year, each qualifying issuer of donor annuity agreements in this state must submit a sworn statement on the form prescribed by the Office Department in Form OIR-A3 DI4-1209 (rev. 6/96), Sworn Statement in Lieu of Annual Statements for Issuers of Donor Annuity Agreements, adopted in paragraph 4-202.015(1)(c), F.A.C., attesting that the issuer has met all requirements of law.

(2) Issuers that fail to submit the sworn statement in subsection (1) shall submit Failure to submit the statement referenced in (1) shall result in the Department requiring the issuer to submit an annual report in a form prescribed by the Department in Form DI4-485 (rev. 6/96), Annual Report, adopted in Rule 4-202.015(1)(b), F.A.C., including audited financial statements, and any information relating to the operations of the issuer necessary to determine compliance.

Specific Authority 624.308 FS. Law Implemented 624.307, 624.307(1), 627.481 FS. History—New 6-23-92, Amended 1-7-97, _____.

4-202.015 Forms Incorporated by Reference.

(1) The following forms are incorporated ~~into this rule chapter~~ by reference to implement the provisions of Section 627.481, Florida Statutes:

Title	Form Number
(a) Notification to the Florida <u>Office of Insurance Regulation</u> Department of Insurance as a Qualifying Issuer of Donor Annuity Agreements Pursuant to Section 627.481, Florida Statutes	<u>OIR-C1</u> DI4-1208 (rev. <u>07/03</u> 6/96)
(b) Annual Report	DI4-485 (rev. 6/96)
(b) <u>(e)</u> Sworn Statement in Lieu of Annual Statements For Issuers of Donor Annuity Agreements	<u>OIR-A3</u> DI41209 (rev. <u>07/03</u> 6/96)

(2) ~~These forms shall become effective on the date this rule becomes effective.~~ Copies of the forms may be obtained from the Office of Insurance Regulation ~~Department of Insurance~~, Bureau of Specialty Insurers, Larson Building, Tallahassee, FL 32399-0331 ~~0300~~, or on the Department of Financial Services website at www.fldfs.com.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.481 FS. History—New 7-15-90, Formerly 4-117.015, Amended 6-23-92, 1-7-97, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bruce Lulofs, Bureau of Specialty Insurers, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Al Willis, Bureau Chief, Bureau of Specialty Insurers, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 25, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003

DEPARTMENT OF INSURANCE

Division of State Fire Marshal

RULE CHAPTER TITLE: Fire Extinguishers and Preengineered Systems

RULE CHAPTER NO.: 4A-21

RULE TITLE: "Appropriate Training" for Servicing Fire Extinguishers and Preengineered Systems

RULE NO.: 4A-21.115

PURPOSE AND EFFECT: Provides direction for fire equipment dealers when servicing fire extinguishers and preengineered systems in obtaining "appropriate training" as used in Section 633.061, Florida Statutes.

SUMMARY: Provides a definition for, and clarifies the meaning of, "appropriate training" as used in Section 633.061, Florida Statutes.

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

Any person who wishes to provide information regarding the statement of regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 633.01 FS.

LAW IMPLEMENTED: 633.061, 633.065 FS.

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

TIME AND DATE: 9:00 a.m., October 7, 2003

PLACE: Jimmie B. Keel Regional Library, 2902 Bearss Avenue, Tampa, Florida 33618

Pursuant to the provisions of the Americans with Disabilities Act and Section 286.26, Florida Statutes, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting: Millicent King, (850)413-3619.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, 200 East Gaines Street, Tallahassee, Florida 32399-0342, (850)413-3171

THE FULL TEXT OF THE PROPOSED RULE IS:

4A-21.115 "Appropriate Training" for Servicing Fire Extinguishers and Preengineered Systems Defined; Limitations; Restrictions.

(1) The following training constitutes "appropriate training" as used in subsection (1) of Section 633.061, Florida Statutes, for the purpose of servicing fire extinguishers and preengineered systems:

(a) Any training provided by the manufacturer of the fire extinguisher or preengineered system for the servicing of the fire extinguisher or preengineered system being serviced or to be serviced; or

(b) Any training which provides competence in the servicing of fire extinguishers and preengineered systems in accordance with the manufacturer's maintenance procedures and with the applicable National Fire Protection Association standards, as determined and confirmed by written approval of the division. To obtain written approval from the division, it is the responsibility of the individual or firm providing the training to demonstrate to the division that the training is equivalent to the manufacturer's specifications and training.

(2)(a) For purposes of this section, "servicing" means the inspection, testing, and repair a fire extinguisher or preengineered system.

(b) This section only applies to the servicing of fire extinguishers and preengineered systems.

(c) This section is not applicable to installing, recharging, marking, or hydrotesting any fire extinguisher or preengineered system subject to Sections 633.061 and 633.065, Florida Statutes.

(3) If the servicing of any equipment based on any training provided for in paragraphs (1)(b) or (1)(c) is performed within one year of installation of the fire extinguisher or preengineered system or within the period of time of the manufacturer's warranty if longer than one year, and such servicing voids or in any manner negatively affects the manufacturer's warranty required by Section 633.065(1)(d), Florida Statutes, or a longer warranty if provided by the manufacturer, such servicing is prohibited.

(4) If maintaining the UL or other nationally recognized listing of any equipment as required by Section 633.065(1)(b), Florida Statutes, is contingent upon servicing being performed by a person who is trained by the manufacturer, and if servicing performed by someone other than a person trained by a manufacturer negatively affects the UL or other nationally recognized listing of any equipment, such servicing is prohibited.

Specific Authority 633.01 FS. Law Implemented 633.061, 633.065 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Goodloe, Chief, Bureau of Fire Prevention, Division of State Fire Marshal, Bureau of Fire Prevention, 200 East Gaines Street, Tallahassee, FL 32399-0342, (850)413-3620

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Randall A. Napoli, Director, Division of State Fire Marshal, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 11, 2003

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLE: Registration
 RULE NO.: 5J-12.002

PURPOSE AND EFFECT: The purpose and effect of this rule change is to identify the current Registration Application and set the guideline to change the registration period from annually to biennially.

SUMMARY: This rule identifies the current Registration Application and sets new registration guidelines for a biennial registration period.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 559.2201, 570.07(23) FS.

LAW IMPLEMENTED: 559.904, 559.916 FS.

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

TIME AND DATE: 10:00 a.m., October 8, 2003

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-12.002 Registration.

(1)(a) Any person who intends to operate a motor vehicle repair shop shall, before engaging in such activities, ~~annually~~ apply for and obtain a registration certificate from the Department using form DACS 10900, Registration Application, Motor Vehicle Repair Act, effective 1-18-95, revised 9-13-01 ~~and 5-3-03~~, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Motor Vehicle Repair, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

(b) through (d) No change.

(2) No change.

(3) The Department will register motor vehicle repair shops whose current registration expires on or after September 1, 2003, and who have fully complied with Section 559.901-559.9221, Florida Statutes, and the Rules adopted thereunder in the following manner:

(a) All motor vehicle repair shops renewing their registration with the Department and whose name begins with a number or the letter A through J will be registered for a period of one year. All motor vehicle repair shops registering under this section will be required to pay a one year registration fee;

(b) All motor vehicle repair shops renewing their registration with the Department whose name begins with the letter K through Z will be registered for a period of two years. All motor vehicle repair shops registering under this section will be required to pay a two year registration fee;

(c) All motor vehicle repair shops registering with the Department for the first time will be required to be registered for a two year period and pay a two year registration fee;

(d) Subsection (3) will expire on July 1, 2004.

Specific Authority 559.2201, 570.07(23) FS. Law Implemented 559.904, 559.916 FS. History—New 1-18-95, Amended 5-24-95, 2-11-98, 1-20-03,

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2003

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF CORRECTIONS

RULE TITLE: Transition Assistance Program

RULE NO.: 33-601.504

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement Section 944.7065, F.S., which requires that each inmate released from incarceration be provided with a 100 hour comprehensive transition course that covers job readiness and life management skills.

SUMMARY: The proposed rule establishes a transitions skills program for inmates being released from incarceration.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 944.09, 944.701, 944.706, 944.708 FS.

LAW IMPLEMENTED: 20.315, 944.291, 944.708, 944.611, 944.613, 944.7065 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.504 Transition Assistance Program.

(1) through (2) No change.

(3)(a) The department shall provide participation in a standardized release orientation program to every eligible inmate within 6 months prior to the inmate’s release date. The release orientation program shall consist of pre-release or post-release instruction that includes, ~~but is not limited to:~~

1. through 6. No change.

(b) The transition skills program will be provided to all inmates and all inmates will be required to complete the course prior to release except for the following:

1. Emergency releasees;

2. Inmates who are not to be released from incarceration such as those released to detainers to other state or federal authorities where the inmate will be detained or incarcerated. However, pursuant to Section 944.703, F.S., the Department of Corrections shall determine whether cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be of short duration.

3. Inmates who are unable to attend due to mental or medical conditions as supported by written medical staff direction or opinion.

4. Inmates who are in the reception process.

5. Inmates who have completed the reception process but cannot complete the course.

6. Inmates who are serving a Florida sentence in another jurisdiction.

(c) The classification officer shall review all inmates at the facility who are within 180 days of release to verify completion of the transition skills program.

(d) The Institutional Classification Team (ICT) shall ensure that inmates mandated for the 100-Hour Transition Skills Program are informed of this assignment in accordance with classification procedures and that the consequences of the refusal are explained. The explanation shall include:

1. The inmate is required to participate in the mandatory transition skills program.

2. Disciplinary action in accordance with Chapter 33-601, F.A.C., will be imposed as a consequence of the inmate refusing to work or participate in mandatory programs.

3. In addition to disciplinary action, no inmate will be eligible to participate in a work release center assignment or work release program if he or she refuses to participate in the mandatory transition skills program or has not subsequently completed the program.

4. Disciplinary action will also be taken if the inmate agrees to enter the mandatory transition skills program but is subsequently reassigned due to behavior problems or the inmate's unwillingness to actively participate in program activities and follow program rules as determined by transition services staff.

(e) If an inmate refuses to participate after program enrollment, the refusal shall be documented in the Offender Based Information System (OBIS).

1. The inmate shall be required to sign Form DC5-415, Refusal of Mandatory 100-Hour Transition Skills Program. Form DC5-415 is hereby incorporated by reference. Copies of this form are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is _____.

2. If the inmate refuses to sign Form DC5-415, the refusal shall be noted on the referral form and witnessed by two staff members.

3. If the inmate refuses to participate and later recants, the inmate shall be allowed to request to participate by completing an Inmate request, Form DC6-236, and submitting it to the classification officer. Form DC6-236 is incorporated by reference in Rule 33-103.019, F.A.C.

(b) through (c) renumbered (f) through (g) No change.

(4) through (7) No change.

(8) The department is authorized to enter into contracts with the Agency for Workforce Innovation ~~Department of Labor and Employment Security~~ for the provision of job placement. The department is authorized to enter into contracts with the Department of Children Health and Family Rehabilitative Services, the Salvation Army, and other public or private organizations, including faith-based service groups, for the provision of basic support services in the various counties of the state for other provisions and special needs as the receiving agencies for inmate releasees.

Specific Authority 944.09, 944.701, 944.706, 944.708 FS. Law Implemented 20.315, 944.291, 944.701-708, 944.611, 944.613, 944.7065 FS. History--New 1-19-86, Amended 11-8-86, 5-18-87, 4-20-89, 1-29-92, 5-21-92, 1-5-93, 11-16-97, Formerly 33-7.008, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bernard Cohen

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 14, 2003

DEPARTMENT OF CORRECTIONS

RULE TITLE:
Special Management Meal

RULE NO.:
33-602.223

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to correct staff titles and provide clarification of the process for placement of inmates on the special management meal.

SUMMARY: The proposed rule corrects staff titles and clarifies the process for placement of inmates on the special management meal.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 20.315, 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09 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: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-602.223 Special Management Meal.

(1) No change.

(2) Requirements for Utilization of Special Management Meal.

(a) through (e) No change.

(f) The special management meal shall be utilized at all institutions with the exception of those designated for youthful offenders. The Bureau of Food Services shall provide orientation in the preparation and service of the special management meal. The Director Bureau of Security and Institutional Support Food Services, based on documentation from the administrator of the food services section, shall certify to the Assistant Secretary Director of Institutions, the warden, and the contractor food service director the successful completion of special management meal preparation and service that training. Certification is required before the institution is authorized to utilize the special management meal. The special management meal will then be authorized for use on a case-by-case basis at those institutions as provided in this rule.

(3) through (7) No change.

(8) An inmate may be placed on the special management meal for a maximum of 7 days before being returned to regular meals for a minimum of one day. If an inmate engages in any of the behavior described in subsection (2) above after being returned to regular meals ~~or at the end of a 7 day period on~~

~~special management meal status~~, the inmate may be placed on special management meal status again by following the above procedures.

Specific Authority 20.315, 944.09 FS. Law Implemented 20.315, 944.09 FS. History—New 1-11-88, Amended 3-4-92, 5-27-97, 11-25-98, Formerly 33-3.0085, Amended 8-1-00, 1-2-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Greg Drake

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2003

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.”

DEPARTMENT OF HEALTH

Board of Opticianry

RULE TITLE: Board Certification Course Requirements and Course Approval

RULE NO.: 64B12-14.004

PURPOSE AND EFFECT: The Board proposes to update the existing rule text.

SUMMARY: The Board is adding a new section to the rule clarifying that certification courses that are taken to acquire Board certification may not also be used to satisfy the biennial continuing education course requirements.

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

Any person who wishes to provide information regarding the statement of estimated costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 484.002(6), 484.005(4) FS.

LAW IMPLEMENTED: 484.002(6) 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 Opticianry, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-14.004 Board Certification Course Requirements and Course Approval.

Applicants for Board certification must submit with their application proof of satisfactory completion of Board approved courses which meet the requirements of this rule.

(1) through (6) No change.

(7) Board certification courses may be taken for the purpose of fulfilling continuing education course requirements, but only if they are not taken to obtain Board certification as described herein.

Specific Authority 484.002(6), 484.005(4) FS. Law Implemented 484.002(6) FS. History—New 7-7-87, Formerly 21P-14.004, 61G13-14.004, 59U-14.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Opticianry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2003

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Executive Director

RULE NO.: 64B16-25.130

PURPOSE AND EFFECT: The Board proposes the rule amendment to follow Emergency Rule 64BER03-1, F.A.C., which expanded the qualifications of the Board’s executive director.

SUMMARY: The proposed rule amendment removes the requirement that the executive director be an actively licensed Florida pharmacist.

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

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 465.005 FS.

LAW IMPLEMENTED: 48.111(2), 456.004, 456.009 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD’S NEXT MEETING TO BE HELD ON OCTOBER 15, 2003 IN TALLAHASSEE, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lucy C. Gee, Acting Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-25.130 Executive Director.

The Executive Director is hereby designated as the agent of the Board for the service of legal process upon the Board. ~~The Executive Director shall be a pharmacist actively licensed in the State of Florida.~~

Specific Authority 465.005 FS. Law Implemented 48.111(2), 456.004, 456.009 FS. History—New 10-17-79, Formerly 21S-8.04, 21S-8.004, Amended 7-30-91, Formerly 21S-25.130, 61F10-25.130, 59X-25.130, Amended 10-29-97, _____

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: June 10, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2003

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE TITLE: Definition of Compounding

RULE NO.: 64B16-27.700

PURPOSE AND EFFECT: The Board proposes the rule amendment to implement Section 465.0265, Florida Statutes, and to conform with Rule 64B16-28.450, F.A.C., to allow the transfer of patient specific compounded prescriptions.

SUMMARY: The proposed rule amendment updates the definition of compounding to include the transfer of patient specific compounded prescriptions from one pharmacy to another pharmacy when authorized as centralized prescription filing pursuant to Section 465.0265, Florida Statutes, and Rule 64B16-28.450, F.A.C.

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

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 465.0265 FS.

LAW IMPLEMENTED: 465.0265 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON OCTOBER 15, 2003 IN TALLAHASSEE, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lucy C. Gee, Acting Executive Director, Board of Pharmacy/MQA, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

THE FULL TEXT OF THE PROPOSED RULE IS:

64B16-27.700 Definition of Compounding.

“Compounding” is the professional act by a pharmacist or other practitioner authorized by law, employing the science or art of any branch of the profession of pharmacy, incorporating ingredients to create a finished product for dispensing to a patient or for administration by a practitioner or his agent; and shall specifically include the professional act of preparing a unique finished product containing any ingredient or device defined by Sections 465.003(7),(8), F.S. The term also includes the preparation of nuclear pharmaceuticals and diagnostic kits incident to use of such nuclear pharmaceuticals. The term “commercially available products,” as used in this section, means any medicinal product as defined by Section 465.003(7),(8), F.S., that are legally distributed in the State of Florida by a drug manufacturer or wholesaler.

(1) No change.

(2) The preparation of drugs or devices for sale or transfer to pharmacies, practitioners, or entities for purposes of dispensing or distribution is not compounding. Except that the supply of patient specific compounded prescriptions to another pharmacy under the provisions of Section 465.0265, Florida Statutes, and Rule 64B16-28.450, F.A.C., is authorized.

Specific Authority 465.005 FS. Law Implemented 465.003(12), 465.0155, 465.0265 FS. History—New 10-1-92, Formerly 21S-27.700, 61F10-27.700, 59X-27.700, Amended _____

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: February 5, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 27, 2002

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE TITLE: Examination Fee

RULE NO.: 64B20-3.003

PURPOSE AND EFFECT: The board proposes to repeal the rule requiring a fee for examination applicants.

SUMMARY: The Department of Health is no longer administering an examination for initial licensure. The exam is a national exam and the applicants pay the exam fee directly to the provider.

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

Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 468.1145(1) FS.
 LAW IMPLEMENTED: 468.1145(3) FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Speech-Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-3.003 Examination Fee.

Specific Authority 468.1145(1) FS. Law Implemented 468.1145(3) FS. History—New 3-14-91, Formerly 21LL-3.003, 61F14-3.003, Amended 2-13-95, Formerly 59BB-3.003, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech-Language Pathology and Audiology
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech-Language Pathology and Audiology
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 21, 2003

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Mental Health Program

RULE TITLES:	RULE NOS.:
Operation and Administration of State Mental Health Treatment Facilities	65E-5.601
Rights of Residents of State Mental Health Treatment Facilities	65E-5.602

PURPOSE AND EFFECT: The purpose and effect of the rule development is to establish procedures to be followed by the staff of state civil mental health treatment facilities under the Baker Act where the substantial interests of the residents of the facilities are impacted. The rules will amend Chapter 65E-5, F.A.C., to conform to current titles, laws, or regulations.

SUMMARY: The subject matter to be addressed in this proposed rule includes: rights and privileges of individuals in state civil mental health facilities, including voting in public elections, abuse reporting, confidentiality, and resident grievance process, operation and administration of state civil mental health facilities.

SPECIFIC AUTHORITY: 394.457(5) FS.
 LAW IMPLEMENTED: 394.457(2), 394.459(5) FS.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 10:00 a.m., October 15, 2003
 PLACE: Mental Health Program Office, Department of Children and Family Services, 1317 Winewood Blvd., Building, 6, Conference Room A, Tallahassee, FL 32399-0700
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Charles M. Kimber, Mental Health Program Office, Department of Children and Families, 1317 Winewood Blvd., Building, 6, Room 223, Tallahassee, FL 32399-0700

THE FULL TEXT OF THE PROPOSED RULES IS:

65E-5.601 Operation and Administration of State Mental Health Treatment Facilities.

(1) In order to protect the health and safety of individuals residing in state civil mental health facilities, the department shall specify the procedure for reporting critical incidents in Departmental Operating Procedure.

(2)(a) In order to protect the welfare of the individuals residing in state civil mental health facilities, the department shall establish a uniform grievance procedure for residents of all state civil mental health treatment facilities. At a minimum, the policy should address the process for filing a grievance and establish accountability for managing the issue to resolution. This procedure shall be explained during the orientation process and in written orientation materials.

(b) Any grievance may be verbal or written. When the grievance is verbal, the facility will provide a party not named in the dispute to assist the resident in writing the grievance. The grievance shall detail the issue and the remedy sought. All resident grievances shall be addressed to the resident advocate and the unit director or treatment team leader. The Resident Advocacy Office shall monitor all grievances.

(c) The grievance shall be date-stamped upon receipt by the unit director or treatment team leader. Where possible, the grievance should be resolved in the shortest period. At a minimum, the resident shall receive a written response to the grievance within 14 calendar days from date of receipt. The resident or the resident's representative may appeal the disposition of a grievance to the facility administrator.

(d) The procedure for filing a grievance shall be conspicuously posted in the living areas where the residents can read the procedure. The procedure shall be available in other languages of the resident population.

(3) The department shall specify, in operating procedure, the format for the clinical records of individuals residing in state civil mental health treatment facilities.

(4) The department shall develop statewide operating procedures for the management and operations of state civil mental health treatment facilities.

(5) The department shall require each state civil mental health treatment facility to develop a system of quality improvement or performance improvement.

Specific Authority 394.457(5) FS. Law Implemented 394.457(2), 394.459(5) FS. History—New _____

65E-5.602 Rights of Residents of State Mental Health Treatment Facilities.

(1) Residents shall have ready access to telephones. Any restriction on telephone usage shall be documented in the clinical record. Such documentation shall specify the reason for the restriction, its duration, and the treatment goals and interventions aimed at lifting the restriction. At no time, shall there be a restriction of telephone access to his or her legal counsel, the Florida Abuse Registry, Local or Statewide Advocacy Councils, or the Advocacy Center for Persons with Disabilities.

(2) The Department shall develop operating procedures to protect the confidentiality of records within the facility and in transport to other facilities and other therapeutic services.

(3) Each state civil mental health treatment facility shall post instructions conspicuously in living areas and visiting areas where residents and visitors can read the instructions on how to report a complaint.

(4) Each state civil mental health treatment facility shall establish visiting hours for each of its residential units. The visiting hours shall be based on the needs of residents and their visitors and shall minimize interruption of the individual's treatment program schedules. Each state civil mental health treatment facility shall post its visiting hours in places where residents and visitors frequent. Visiting hours shall be provided to the resident, family, and representatives at the time of admission. Visitors may request exceptions to posted visiting hours with the Unit Director or treatment team leader.

(5) Each state civil mental health treatment facility shall establish with the local county supervisor of elections, a process for allowing eligible residents to register and to vote in public elections. The process shall be published and provided to each resident and conspicuously posted in living areas where residents can read it. The resident's representative shall also be informed of the process. The facility shall make available voter registration forms, applications for absentee ballots, and absentee ballots.

(6) No state civil mental health treatment facility shall initiate any mental health treatment, including psychotropic medication, until express and informed consent for psychiatric treatment is obtained from a person legally qualified to give it, except in the following situations:

(a) Where emergency treatment is ordered by a physician, as defined in s. 394.455(21), F.S., to preserve the immediate safety of the resident or others in the facility;

(b) When a person is admitted to a state mental health treatment facility and has a current prescription for psychotropic medication(s), is unable to provide express and informed consent, is determined by the admitting physician to be in need of the medication prescribed prior to admission and an alternative decision maker is being pursued through the court; or

(c) When a Court Order is obtained after adequate notice and hearing.

(7)(a) Any limitation or restriction of a resident's access to the grounds or treatment program shall be based on clearly documented evidence of risks to self or others.

(b) The time span during which residents are allowed access to the grounds shall be specified conspicuously and posted in living areas. Access to grounds may be limited during the hours a resident is scheduled to attend prescribed programming. Access to grounds status shall be established and documented in the clinical record for all newly admitted persons within 72 hours of admission.

(c) An individualized plan shall be developed and documented in the clinical record for residents who have been identified by the treatment team as experiencing significant loss of independent access to grounds.

(d) Those residents certified by the facility as experiencing long-term loss of independent access to grounds based on physical health issues or adaptive deficits shall be provided opportunities to go outside unless medically contraindicated.

(e) Any change to access to the grounds status shall be based on the treatment team's assessment.

(f) Decisions about changes in access to grounds status shall be based in part on an assessment of risk, with criteria influencing access changes being documented and filed in the person-centered record.

(g) An assessment of risk shall consider, at a minimum, the following categories of risk:

1. Suicide attempts or threats;

2. Intentional self-injury;

3. Homicide;

4. Assault;

5. Elopement;

6. Substance abuse;

7. Physically vulnerable;

8. Psychotropic medication issues; and

9. Other potentially harmful behaviors.

(h) With the exception of emergency situations, physicians write treatment orders prescribing a change in access to grounds status.

(i) Residents who are restricted to their residence shall not leave without a specific order designating a location, the level of staff supervision required, and the length of time to be spent at the location.

(j) Teams shall show progressive actions taken to manage significant, recurring issues for residents in the least restrictive manner possible. The exception shall be those changes where a resident's access to the grounds is limited due to serious, acute health/safety matters. Interventions must be documented in order to show the use of the least intrusive, most positive methods for the restoration of freedom of movement and follow through with treatment before the use of more restrictive options.

(k) Residents who disagree with limitations to grounds access shall have a right to a review of those limitations. Each treatment facility shall publish procedures to insure the limitations are reviewed. The resident or the resident's representative may appeal the restriction to the facility administrator through the grievance process.

(l) Residents shall retain their access to grounds status when transferred from one residential area to another, unless their psychological or physical condition has changed, requiring a limitation to grounds access by a physician's order and based on a comprehensive risk assessment.

(m) Residents who do not have full access to the grounds shall be provided the opportunity to exit the building for outside time and physical exercise on a daily basis, excluding severe weather conditions, for at least a half-hour per day. Residents have the right to decline to go outside, if they so chose.

(n) All residents with full or prescribed access to grounds (as indicated in their individualized service plan) shall be provided with an orientation to grounds and boundaries of the facility.

(8) Restraint and seclusion shall be used only in situations of emergency as a safety measure, when there is imminent and substantial danger of bodily harm to the individual or others. Where possible, behavioral crises shall be prevented. The use of restraint or seclusion shall be individualized to the needs of the resident and his or her ability to regain control.

Specific Authority 394.457(5) FS. Law Implemented 394.457(2), 394.459(5),(12) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Charles Kimber

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sally Cunningham

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 16, 2003

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-25.002
Notice of Program and Invitation and Application to Participate	67-25.005
Program Documents	67-25.006
Allocation of Proceeds	67-25.007
Program Fees	67-25.008
Commitment and Origination Periods	67-25.009
Builders Commitments	67-25.010
Loan Processing	67-25.011
Eligible Persons	67-25.012
Transfer of Single-Family Residence by Eligible Borrower	67-25.013
Rental of Bond Financed Residences	67-25.014
Interest Rate on Program Loans and Financing Programs	67-25.015
Private Mortgage Insurance	67-25.0155
Rating of Bonds	67-25.017

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-25, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall: administer and implement the Single Family Mortgage Revenue Bond Program provisions authorized by Florida Statutes, Section 420.507(12), F.S., and identify the definitions for terms.

SUMMARY: Currently, Rule Chapters 67-8, 67-14, 67-19 and 67-25, F.A.C., set forth the policies and procedures implemented by the Florida Housing Finance Corporation in the use of the Single Family Mortgage Revenue Bond Program. The Corporation made the decision to consolidate, conform and compile all of the information prescribing the policies and procedures implemented for the Single Family Mortgage Revenue Bond program into Rule Chapter 67-25, F.A.C. Additionally, the Corporation has reviewed the contents of this rule to ensure that the language contained therein is still in line with the Statute, current goals of the Corporation and reflects any material changes that have taken place within the structure of the Single-Mortgage Revenue Bond Program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to 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: 120, 420.502, 420.503, 420.507, 420.508, 420.509 FS.

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

TIME AND DATE: 11:00 a.m., October 3, 2003

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Formal Conference Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Keantha Belton, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-25.002 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act, as found in Chapter 420, Part V sections 420.501 through 420.516, part V, Florida Statutes, as amended.

(2) "Acquisition Price" means the cost of acquiring a single-family residence from the seller as a completed residential unit. "Agency" means the Florida Housing Finance Agency, created pursuant to the act.

(3) "Annual Family Income" means the mortgagor's annualized gross income. Annualized gross income is gross monthly income multiplied by twelve (12). Gross monthly income is the sum of monthly gross pay; any additional income from overtime, part-time employment, bonuses, dividends, interest royalties, pensions, Veterans Administration (VA) compensation, net rental income, etc.; and other income (such as alimony, child support, public assistance, sick pay, social security benefits, unemployment compensation, income received from trusts, and income received from business activities or investments.) The income to be taken into account in determining the gross monthly income is the income of the mortgagor (or mortgagors) and any other person who is expected to principally and permanently reside in the residence being financed the current annual income, as determined by federal regulations, if any, for eligible persons or families residing or intending permanently to reside in the single family residence.

(4) through (5) No change.

(6) "Average Area Purchase Price" means the average purchase price of single-family residences in the county wherein the single-family residence is located. "Acquisition Cost" means the cost of acquiring a single family residence from the seller as a completed residential unit.

(7) through (11) No change.

(12) "Conventional Mortgage Loan" means a Mortgage Loan other than an FHA Insured Mortgage Loan, USDA-RD Guaranteed Mortgage Loan, VA Guaranteed Mortgage Loan or HUD Section 184 Guaranteed Mortgage Loan, satisfying the requirements of Freddie Mac, Fannie Mae or a private mortgage insurance provider, as applicable. Qualified mortgage loan which is not insured by FHA or guaranteed by VA.

(13) "Correspondent Lender" means a lender which does not meet all of the qualification requirements for designation as, or has not made an Application as a Participating Lender pursuant to the terms of the Mortgage Purchase Agreement, but wishes to originate loans under the Program under an agreement executed by a Participating Lender, wherein such Correspondent Lender is approved by the Participating Lender to originate and sell, transfer, or assign to the Participating Lender, Mortgage Loans under the Indenture.

(14)(13) "Eligible Person or Families" or "Eligible Borrower" means a person or persons or family or families:

(a) Who intend to ~~intending~~ intending principally and permanently to reside as a household in the Home as their principal a single-family residence;

(b) Whose total annual family income does not exceed the appropriate maximum annual family income established by the Corporation under the specific Single-Family Mortgage Revenue Bond particular single family program for which a qualified mortgage loan is being applied; and

(c) To the extent required by applicable federal law, if any, with respect to each person who purchases a single-family residence not located within a targeted area, each such person who is executing the mortgage is a first time home buyer.

(15)(14) "Eligible Properties" or "Home" means single-family attached or detached residential units:

(a) ~~That are those properties for single family attached or detached residences~~ financed by Qualified Mortgage Loans whose acquisition prices costs do not exceed the maximum acquisition prices costs as defined in subsection 67-25.002(23), F.A.C., of this rule shall be established by the Corporation in its program documents for a particular bond issue;

(b) Which are taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting conventional or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RD;

(c) That may consist of two-, three-, four-family dwelling units and all of which units were first occupied as homes at least five (5) years before the Loan with respect to such Home which:

1. Is designed and intended primarily for residential housing;

2. Is determined by a qualified appraisal to have an expected useful life of not less than 30 years or term of the First Mortgage, whichever is less; and

3. Will be occupied by the owner as his or her principal residence within a 60 days after financing is provided. Such amounts shall in no event exceed amounts allowable under applicable federal law, if any. In establishing the maximum acquisition costs the Corporation shall take into consideration applicable federal law relating to maximum acquisition costs;

market conditions, the cost and condition of available housing, private housing market conditions and the total median income and assets of persons and families within the state.

(16)(15) “Existing Home” means any residential dwelling which has been occupied and is not considered new construction.

(17)(16) “FHA” means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Corporation or instrumentality created or chartered by the U.S. to which the powers of the Federal Housing Administration have been transferred.

(18)(17) “FHA Insurance” means FHA mortgage insurance on residences issued under one of the following FHA programs pursuant to the National Housing Act of 1937, as amended:

- (a) Section 203(b) – home unsubsidized;
- (b) Section 234(c) – condominiums;
- (c) Section 203(v) – veterans status.

(19)(18) “First Time Home Buyer” means eligible persons or families, except eligible persons or families acquiring a single-family residence in a targeted area, who have not had an ownership interest in a principal single-family residence at any time during the preceding 3-year period prior to ending on the date the mortgage is executed, other than a construction period loan, bridge loan or other similar temporary initial financing with a term generally not exceeding 24 months with respect to the single-family residence.

(20)(19) “Laws” means all applicable statutes, laws, ordinances, regulations, orders, rules or directives of the United States, the state of Florida or any county therein.

(21) “Lender Guide” means the guide prepared by the Servicer for the origination and delivery of Mortgage Loans to be purchased by the Servicer and the eligibility, credit and security underwriting standards applicable thereto.

(22)(20) “Low Income” means 80 percent of the median income for the county in which the single-family residence is located or of the median income of the state, whichever is greater.

(23)(21) “Maximum Acquisition Price Cost” means the maximum purchase price of a Single Family Residence, as prescribed in the IRS Revenue Procedures 94-55, hereby incorporated by reference. A copy may be obtained by contacting the Single Family Bonds Program Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329. Acquisition Price limits are also subject to the applicable FHA/VA/RD limits for the Counties, maximum acquisition cost for new one-family dwellings and existing one-family dwellings in the targeted and non-targeted areas in each county, as determined by the Corporation pursuant to the 1954 code and the code, as applicable.

(24)(22) “Maximum Annual Family Income” means, with respect to Mortgage Loans originated on new and existing Single Family Residences, the applicable limits announced by

the Corporation which amounts shall be based on state and area median income figures published by the United States Department of Housing and Urban Development annually, hereby incorporated by reference, and any other requirements relating to a particular county in the State. A copy of these figures may be obtained by contacting the Single Family Program Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329. The the maximum annual family income limits are as established by the Corporation under a specific bond program as set forth in the Program Documents, such determination being based on the market conditions, the amount of total income and assets of persons or families which are available for housing needs, family size, the cost and condition of available housing facilities, the ability of persons or families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing. However, such maximum annual family income for any program shall not exceed applicable federal law, if any, and in no event shall it exceed 150 percent of the median family income in the county in which the single family residence is located, or the median family income of the state, whichever is greater.

(23) through (25) renumbered (25) through (27) No change.

(28) “Mortgage Loan” an interest-bearing obligation secured by a mortgage constituting a first lien on a Single Family Residence in the State which is in the form of a mortgage or other instrument approved by the FHA in the case of an FHA insured loan, VA in the case of a loan guaranteed by VA, RD in the case of a loan guaranteed by RD, Fannie Mae or Freddie Mac in the case of a conventional loan, or as approved by Florida Housing for other loans, which incorporates the Tax-Exempt Financing Rider in the form in the Lender Guide, if applicable (or such other rider as may be applicable), and which meets the requirements set forth in the Master Mortgage Purchase Agreement. As used herein, “Mortgage Loan” does not include loans generated under the Corporation’s second mortgage loan programs.

(29) “Mortgage Note” means the then-effective form of mortgage note required by FHA for FHA insured loans and the form required by VA for VA guaranteed loans, and the form required by Fannie Mae or Freddie Mac for conventional loans and by RD for RD loans, as applicable, with appropriate riders, executed to evidence the mortgagor’s obligation to repay the Mortgage Loan.

(30)(26) “New Construction” means a residential dwelling unit which has not previously been occupied as a residence.

(31)(27) “Participating Lender” means the entity signing a Master Mortgage Purchase Agreement and all applicable Supplements to the Master Mortgage Purchase Agreement, which by virtue of executing represents that it is a home mortgage lending institution or entity.

(a) Participating in the local private home lending market;

(b) That is an FHA-approved mortgagee (with direct endorsement underwriting authority preferred), or a VA-approved lender (with automatic approval authority preferred), or an RD approved lender (unless waived by the Corporation or its designee);

(c) With respect to Conventional Mortgage loans, is a Fannie Mae and/or Freddie Mac approved lender in good standing, has errors and omissions coverage of at least \$300,000, meets the requirements of the Corporation or its designee with respect to financial status and is acceptable to a Fannie Mae and/or Freddie Mac PMI Insurer, if applicable;

(d) Which can make the representations and warranties and covenants set forth in the Master Mortgage Purchase Agreement; and

(e) Which has agreed to and will originate Mortgage Loans itself or through Correspondent Lenders. ~~“Participant means a Qualified Lending Institution participating in the Corporation’s single family bond program.”~~

~~(32)(28)~~ “Program” or “Single-Family Bond Program” means the Corporation’s ~~Single-Family Mortgage Revenue Bond Program~~ pursuant to which a trustee, on behalf of the Corporation, will purchase Qualified Mortgage Loans from the participating ~~lenders~~ or obligations secured by Qualified Mortgage Loans from Qualified Lending Institutions.

~~(33)(29)~~ “Qualified Appraiser” means an individual or firm that is qualified as an appraiser by the society of real estate appraisers or the American Institute of Real Estate Appraisers and acceptable or approved by FHA, VA, ~~Fannie Mae, Freddie Mac NMA or FHLMC~~ or any private mortgage insurance provider to provide appraisal reports.

~~(34)(30)~~ “Qualified Lending Institution” means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, the First Housing Development Corporation of Florida, or other financial institution or governmental Corporation authorized to transact business in the state of Florida which institution customarily provides services in the financing of mortgages for real property in Florida. All Qualified Lending Institutions must be qualified FHA, VA, FNMA or FHLMC originators and servicers as required by the program documents. The Corporation shall have the right to require representatives of the Qualified Lending Institution to attend educational programs related to their participation in the bond programs in order for the Qualified Lending Institution to remain eligible to participate in Corporation programs.

~~(35)(31)~~ “Qualified Mortgage Loan” means any loan under ~~an~~ the Corporation programs made to an eligible borrower and evidenced by a mortgage note which is secured by a related mortgage on the eligible property.

~~(36)(32)~~ “Single-Family Residence” or “Home” means a residential unit used as a single-family residence, which is taxed as real property under the laws of the state and is located in the Sstate, including a condominium unit and a manufactured home meeting conventional or FHA FNMA standards, ~~each of which is acceptable to any insurer providing private mortgage insurance, under the program or FHA, VA or RD as applicable, but not a.~~ The dwelling structure may consist of two-, three- or four-family dwelling units, one unit of which is to be occupied by the mortgagor of the units and all of which units were first occupied as homes at least five (5) years before the Loan with respect to such Home which residence: unless each unit in such residence is owner occupied, and land appurtenant to the residential unit which:

(a) Is designed and intended primarily for residential housing;

(b) Is determined by qualified appraisal as provided herein to have an expected useful life of not less than 30 years or the term of the mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within a reasonable time after financing is provided. For purposes of this subparagraph, 60 days shall be deemed a reasonable time;

(d) Acquisition ~~price cost~~ does not exceed the maximum acquisition ~~price cost~~; and

(e) Appurtenant land reasonably maintains the basic livability of the residence and does not provide, other than incidentally, a source of income to the Eeligible Bborrower, including child care services on a regular basis for compensation.

~~(37)(33)~~ “Targeted Area” means ~~the territory or area within the state which the Corporation determines to be a qualified census tract or an area of chronic economic distress within the meaning of the code and, if applicable, the 1954 code and regulations thereunder: those areas within the State listed as Federally Designated Census Tracts, Areas of Chronic Economic Distress (if any) and areas in need of economic revitalization as determined by local government officials and adopted by Resolution, hereby incorporated by reference. A copy of the listing of such areas can be obtained by contacting the Single Family Bonds Program Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329.~~

~~(38)(34)~~ “VA” means the Department of Veterans Affairs Administration, an agency of the United States of America, or any successor to its functions, or other agency or instrumentality created or chartered by the U.S. to which the powers of the Veterans Administration have been transferred.

Specific Authority 420.507(12),~~(24)~~ FS. Law Implemented 420.5093, 420.509(11)(c) FS. History—New 4-15-87, Formerly 91-25.002, Amended

67-25.005 Notice of Program and Invitation and Application to Participate Offer to Originate.

(1) No change.

(2) The Corporation shall establish a minimum ~~offer allocation amount~~ for participation in a program ~~based upon the amount of the bond issue, prior to origination history and market conditions~~ or make funds available on a first-come, first-served basis based upon the amount of the bond issue, prior origination history and current market conditions. The Invitation and Application to Participate offer to originate shall be accompanied by a statement from the Qualified Lending Institution indicating its experience in originating the Qualified Mortgage Loans in categories and areas requested, indicating the current financial condition of the ~~Qualified Lending Institution~~ and ~~indicating~~ the location of the office or offices that will be originating Qualified Mortgage Loans. (1) The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intention to provide funding for Qualified Mortgage Loans and inviting ~~Qualified Lending Institutions~~ to submit the Invitation and Application to Participate offers to originate to the Corporation within the time frame designated by the Corporation under a specific bond issue at least 7 days prior to selection. The ~~offer to originate Invitation and Application to Participate~~ submitted by the ~~Qualified Lending Institution~~ shall indicate to the Corporation the amount of Qualified Mortgage Loans the Qualified Lending Institution anticipates originating for each type of qualified mortgage loan permitted under the program, unless funding is being offered by the Corporation on a first-come, first-served basis in which case lenders will not be required to specify an allocation amount.

Specific Authority 420.507 (12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.005, Amended _____.

67-25.006 Program Documents.

(1) The following documents are required for the marketing of the bonds. The marketing of the bonds requires the generation and approval of certain program documents, including but not limited to:

~~(a)(1)~~ Trust indenture;

~~(b)(2)~~ Program administration and mortgage servicing agreement; and

~~(3)~~ Mortgage origination agreement; and

~~(c)(4)~~ Preliminary and final official statements.

(2) The following documents pertain to the Qualified Lending Institutions:

(a) Invitation and Application to Participate;

(b) Master Mortgage Purchase Agreement;

(c) Supplement to the Master Mortgage Purchase Agreement; and

(d) Lender Guide.

(3) The program parameters and guidelines to be used shall be determined by the Corporation shall be based on market conditions, housing needs of the public and the best interest of the public prior to the issuance of the bonds and shall be published at bond closing. The documents shall be binding on the Corporation and shall fully describe the specific bond program, its parameters and procedures.

Specific Authority 420.507 (12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.006, Amended _____.

67-25.007 Allocation of Proceeds.

(1) The Corporation shall determine if funds will be made available statewide for Qualified Lending Institutions on a first-come, first-served basis or via allocations to Qualified Lending Institutions based upon the amount of the bond issue, prior origination history and current market conditions. In the event that the Corporation does not make funds available on a first-come, first-served basis, the Corporation shall review all offers to originate Invitations and Applications to Participate and shall designate those qualified lending institutions that shall receive allocations of the bond proceeds for purchasing Qualified Mortgage Loans and the amount of allocation that each such institution will be allocated. Participating Lenders will be notified of their acceptance via the Notice of Acceptance.

(2) In determining the allocations the Corporation shall consider:

(a) The ability of the Qualified Lending Institution to originate, process and, if applicable, service program loans.

(b) The location of the Qualified Lending Institution.

(c) The financial stability, origination and servicing experience of the Qualified Lending Institution.

(d) The overall origination history of the Qualified Lending Institution.

(e) The origination history of the Qualified Lending Institution under Corporation programs.

(f) The availability of decent, safe and sanitary housing persons or families of low, moderate, or middle income in the geographic area for which the funds have been requested.

(g) The availability, cost and stability of a supply of adequate funds for housing financing in the areas and categories for which funds have been requested.

(h) The effect of the allocation on the marketability of the funds.

(i) The requirements of state and federal law regarding the use of the proceeds.

(j) The effect of the allocation on creating a stable and viable source of funding for housing financed throughout the state of Florida.

Specific Authority 420.507(12) FS. Law Implemented 420.507(14), 420.508 FS. History—New 4-15-87, Formerly 91-25.007, Amended _____.

67-25.008 Program Fees.

(1) No change.

(2) The Corporation shall also charge a commitment fee to the participant at the time of allocation of the proceeds. If funds are made available on a first-come, first-served basis, the Corporation shall not charge a commitment fee. This commitment fee may be recouped by the participant upon the origination and closing of loans under the program by charging a loan origination fee to the eligible borrowers.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.008, Amended.

67-25.009 Commitment and Origination Periods.

(1) The Corporation shall determine the length of the commitment period for its bond programs based on the size of the bond issue, market conditions and the best interest of the public. For purposes of this rule, commitment period shall mean the period during which participants may make loan commitments to eligible borrowers. At the end of such commitment period, the Corporation shall forfeit any remaining allocation of a participant which has failed to make commitments up to the amount of its allocation if it determines that it is in the best interest of the program and the public interest and shall make the remaining funds accessible to all Participating Lenders statewide on a first-come, first-served basis, if applicable.

(2) The Corporation shall determine the length of the origination period for its bond programs based on federal requirements as outlined in Internal Revenue Code, Section 143, hereby incorporated by reference, the size of the bond issue, market conditions and the best interest of the public. A copy of the Internal Revenue Code, Section 143, may be obtained by contacting the Single Family Bonds Program Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329. For purposes of this rule, origination period shall mean the period during which participants may originate Qualified Mortgage Loans under a bond program.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.009, Amended.

67-25.010 Builders Commitments.

(1) The Corporation recognizes the need to encourage new construction through the use of bond proceeds and accordingly may authorize or require the setting aside by Qualified Lending Institutions of portions of the funds available for mortgage origination to finance the purchase of newly constructed, not previously occupied, residences in an amount not to exceed 25% of the bond proceeds. The Corporation shall authorize or require such set-asides based upon a determination by the Corporation that the size of the issue and market conditions will allow such set-asides and that such set-asides would be in

the best interest of the public. If such set-asides are allowed, the Corporation shall allow the Qualified Lending Institution to sub-commit the new construction set-aside to builders and to charge the builders a fee for such sub-commitment not in excess of the commitment fee paid to the Corporation for the same funds.

(2) In the case of set-asides for builders, participants will be given a time period established in the program documents, ~~within which~~ to issue firm commitments to eligible borrowers. ~~FA~~ failure to issue such commitments within the time period prescribed will result in a forfeiture of the remaining portion of the set-aside. In the event of forfeiture, the funds shall be made available to all Participating Lenders statewide on a first-come, first-served basis for spot loans or reallocation pursuant to the program documents.

Specific Authority 420.507(12) FS. Law Implemented 420.507(14), 420.507(21), 420.508 FS. History—New 4-15-87, Formerly 91-25.010, Amended.

67-25.011 Loan Processing.

All applicants for and all Qualified Mortgage Loans shall be processed by the Participating Lenders ~~participants~~ in accordance with the Participating Lenders' participants' standard underwriting criteria and additional ~~other~~ criteria which may be imposed by FHA, VA or other parties insuring and guaranteeing the bonds or the Qualified Mortgage Loans. All closed Qualified Mortgage Loans shall be presented to the trustee or to the Qualified Lending Institution issuing obligations secured by ~~the such~~ Qualified Mortgage Loans for purchase of ~~the such~~ Qualified Mortgage Loans or obligations pursuant to the program documents.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.011, Amended.

67-25.012 Eligible Persons.

In determining the maximum annual family income of eligible persons under a single-family bond program, the Corporation shall take into consideration ~~such facts as~~ the following:

- (1) The amount of total income and assets which are available for housing needs of such persons or families;-
- (2) The size of the family;-
- (3) The cost and condition of available housing facilities;-
- (4) The ability of such persons or families to compete successfully in the normal private housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing; and-
- (5) If appropriate, those standards established for various federal programs determining eligibility based on income and such persons or families.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507(14), 420.507(21) FS. History—New 4-15-87, Formerly 91-25.012, Amended.

67-25.013 Transfer of Single-Family Residence by Eligible Borrower.

If all or any part of the single-family residence or an interest therein is sold or transferred by an eligible borrower under the ~~Program mortgage loan program~~ to an individual who does not meet the credit underwriting and eligible borrower standards of the ~~Program mortgage loan program~~, or if the purchase price for which the single-family residence is sold or transferred exceeds that allowed in the program documents, the Corporation shall, if such transfer jeopardizes the tax-exempt status of the bonds, sell the Qualified Mortgage Loan or declare the entire unpaid principal balance of the note including principal and unpaid accrued interest immediately due and payable if such action is in the best interest of the Corporation and the ~~Program bond program~~.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.013, Amended _____.

67-25.014 Rental of Bond Financed Residences.

(1) No bond-financed residence shall be rented without the prior consent of the Corporation or a mortgage servicer designated by the Corporation to service the Qualified Mortgage Loan used to finance the residence, ~~said consent to be based on guidelines set forth in this section.~~

(2) No change.

(3) All requests for rental of a bond-financed residence by a borrower who has occupied the residence for less than 24 months must be submitted by the designated servicer to ~~the executive director of the Corporation. The executive director of the Corporation shall authorize the designated servicer to consent to such request for the following reasons:~~

(a) The necessity of renting the residence is due to an obligatory temporary employment or military transfer and the distance required to commute as a result of such transfer would create an undue hardship on the borrower, and after which the borrower will return to occupy the home; or

(b) The necessity of renting the residence is due to a non-obligatory transfer to take advantage of better employment opportunities and the distance required to commute as a result of such transfer would create an undue hardship on the borrower and good faith efforts to sell the residence on the open market for a sales price which does not exceed the appraised fair market value of the residence, for a minimum period of 3 months have been unsuccessful; or

(c) The necessity of renting the residence is due to difficulty encountered in good faith efforts to sell the residence. For purposes of this subsection, difficulty encountered in good faith efforts to sell the residence shall be deemed to be the inability to sell the residence on the open market for a sales price which does not exceed the appraised fair market value of the residence, for a minimum period of 6 months; or

(d) The necessity of renting the residence is due to a demonstrated extreme economic hardship on the borrower.

(4) Requests for rental of bond-financed residences which have never been occupied by the borrower shall not be granted except in the case of extreme economic hardship. Such request shall be considered by the Corporation ~~at its regularly scheduled Corporation meetings.~~

(5) through (6) No change.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 420.508 FS. History—New 4-15-87, Formerly 91-25.009, Amended _____.

67-25.015 Interest Rate on Program Loans and Financing Programs.

(1) The Corporation shall establish the interest rate to be charged eligible borrowers for Qualified Mortgage Loans at the time of sale of the bonds based on market conditions and the best interest of the Corporation and the public. The interest rate established shall be no more than the interest rate on the bonds issued by the Corporation plus such arbitrage as is legally allowed without jeopardizing the Tax-Exempt status of the bonds. ~~However, the interest rate shall not exceed that which is legally allowed.~~ The difference between the interest rate on the bonds and the interest rate on the Qualified Mortgage Loans ~~shall either be retained by the Corporation or shall be utilized by the Corporation for any legal purpose pursuant to the Act aet.~~

(2) Flexible mortgage financing including ~~but not limited to~~ the use of graduated mortgage rates, variable rate mortgages and mortgage buy-downs is authorized so long as the use of such types of financing does not jeopardize the tax-exempt status of the bonds, does not violate any applicable laws, does not jeopardize the Tax-Exempt status of the bonds, does not violate any applicable laws or does not result in an average interest cost that substantially deviates from the fixed interest rate established by the Corporation at the time of the sale of the bonds and is determined to serve an appropriate public purpose in light of market conditions at the time of sale of the bonds. The parameters of such financing shall be specifically set out in the program documents and by Corporation.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History—New 4-15-87, Amended 2-1-89, Formerly 91-25.014, Amended _____.

67-25.0155 Private Mortgage Insurance.

For conventional loans under a whole loan program, all program loans must be insured under a primary policy of private mortgage insurance issued by a private mortgage insurer whose ability to pay claims is rated by a nationally recognized rating service or agency with a rating equivalent to or better than the rating required by Resolution of the Board of Directors of the Corporation or by Program Documents, whichever is higher, and which will write a policy or private mortgage insurance on a form prescribed by the Corporation and approved by the Insurance Commissioner and at rates to be

negotiated. Once the loan-to-value ratio reaches 78% of the original loan amount, the private mortgage insurance premium will be dropped in accordance with the Homeowner's Protection Act of 1998.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History--New

67-25.017 Rating of Bonds.

The Corporation shall determine what rating, if any, is required on the bonds. In making that determination, the Corporation will take into consideration the current marketing conditions and the best interest of the public.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507, 420.508 FS. History--New 4-15-87, Formerly 9I-25.017, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Keantha Belton, Single Family Bonds Manager, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197, Extension 1213

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2003, Corporation Board of Director's Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No. 33, August 15, 2003

FLORIDA HOUSING FINANCE COPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-45.001
General Program Restrictions	67-45.003
Application Procedures	67-45.004
Terms and Conditions of Loans	67-45.005
Loan Processing	67-45.006
Fees	67-45.007

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-45, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall: administer and implement Home Ownership Assistance Program provisions authorized by Florida Statutes, Section 420.5088(4), F.S., and identify the definitions for terms when used in conjunction with the Single Family Revenue Bond program.

SUMMARY: Periodically the Corporation reviews the contents of its Rule Chapters to ensure that the language contained therein is still in line with the Statute, current goals of the Corporation and to reflect any material changes that have taken place within the structure of the Down Payment Assistance Loan Program or the Single-Family Mortgage Revenue Bond Program. The proposed amendments accurately reflect the findings of such review.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to 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: 420.507, 420.5088 FS.

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

DATE AND TIME: 9:00 a.m., October 3, 2003

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Formal Conference Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Keantha Belton, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197, Extension 1213

THE FULL TEXT OF THE PROPOSED RULES IS:

67-45.001 Definitions.

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

(2) "Construction Loan" means a loan to a non-profit sponsor or developer under the Homeownership Florida Home Ownership Assistance Program's Construction Loan Program as more fully described in Rule Chapter 67-~~5044~~, F.A.C.

(3) "Corporation" means the Florida Housing Finance Corporation.

(4) "Down Payment Assistance Loan" or "Loan" means a Florida Home Ownership Assistance Program loan for which no interest is charged and which shall be limited to the lesser of 25 percent of the purchase price of the Home house or the amount necessary to enable an Eligible Borrower to meet credit underwriting criteria. The loan shall not exceed 30 years or the term of the First Mortgage of principal is deferred until the expiration of the term of the First Mortgage, or in the event of sale, transfer, refinancing or failure to occupy the Home as the primary residence as outlined in Rule Chapter 67-25.014, F.A.C. rental of the House, in which case the Loan is due and payable in full at that time. The Down Payment Assistance Loan may be used for down payment and ~~or~~ closing costs associated with the purchase of the Home financed with Single-Family Bond Program funds house.

(5) "Eligible Borrower" means a person or persons or family or families:

~~(a) Who receives a Down Payment Loan;~~

~~(a)(b)~~ Who intend to permanently reside as a household in the Home house as their principal single-family residence;

~~(b)(e)~~ Whose total annual family income at time of closing does not exceed 72 percent for a family of one or two persons or 80 percent for a family of three or more persons of the State or local median income, whichever is greater, adjusted for family size.

~~(c)(d)~~ Who may or may not be are participating in the Corporation's Single-Family Bond Program.

(6) "Fannie Mae" means the Federal National Mortgage Association, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U.S.C. 1716 et seq., or any successor thereto.

(7) through (9) No change.

(10) "Freddie Mac" means the Federal Home Loan Mortgage Corporation, or any successor thereto.

~~(11)(10)~~ "Home house" means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting conventional Fannie Mae or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RDHS. The dwelling structure may consist of, as applicable, but not a two-, three- or four-family dwelling units residence, unless each unit in such residence is owner occupied, and land appurtenant to the residential unit which one unit of which is to be occupied by the mortgagor of the units and all of which units were first occupied as homes at least five (5) years before the Loan with respect to such Home which:

(a) Is designed and intended primarily for residential housing;

(b) Is determined by a qualified appraisal to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within 60 days a reasonable time after financing is provided;

(d) Has a sales price which does not exceed the Maximum Acquisition ~~Price Cost~~ as defined in subsection 67-45.001(12), F.A.C., of this rule set forth in subsection 67-45.001(12), F.A.C.

(e) Maintains the basic livability of the residence and will not be used for business purposes to generate additional income for the Eligible Borrower does not provide, other than incidentally, a source of income to the Eligible Borrower (including child care services, on a regular basis for compensation).

~~(11)~~ "Lender" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, insurance company, or other financial institution or governmental agency authorized to transact business within the State of Florida which institution customarily provides services in the financing of mortgages for real property in

~~Florida. Lenders must be qualified FHA, VA, RHS, Government National Mortgage Association (GNMA), FannieMae, or Federal Home Loan Mortgage Corporation Association (FHLMC) originators and servicers or sellers and servicers as required by the program documents and approved as a participant for the particular Single-Family Bond Program, or any other public or private loan program approved by the Corporation's Board of Directors, under which the Down Payment Assistance Loan is subordinated.~~

(12) "Maximum Acquisition ~~Price Cost~~" means the maximum purchase price of a Single Family Residence, as prescribed in the IRS Revenue Procedures 94-55, hereby incorporated by reference. A copy of this document may be obtained by contacting the Single Family Bonds Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1397. Acquisition Price limits are also subject to the applicable FHA/VA/RD limits for the Counties means the Maximum Acquisition Cost under the Corporation's Single-Family Bond Program.

(13) "Participating Lender" means the entity signing a Master Mortgage Purchase Agreement and all applicable Supplements to the Master Mortgage Purchase Agreement, which, by virtue of executing represents that it is a home mortgage lending institution or entity:

(a) Participating in the local private home lending market;

(b) That is an FHA-approved mortgagee (with direct endorsement underwriting authority preferred), or a VA-approved lender (with automatic approval authority preferred), or an RD approved lender (unless waived by the Corporation or its designee);

(c) With respect to Conventional Mortgage loans, is a Fannie Mae or Freddie Mac approved lender in good standing, has errors and omissions coverage of at least \$300,000, meets the requirements of the Corporation or its designee with respect to financial status and is acceptable to a Fannie Mae or Freddie Mac PMI Insurer, if applicable;

(d) Which can make the representations and warranties and covenants set forth in the Mortgage Purchase Agreement; and

(e) Which has agreed to and will originate Mortgage Loans itself or through correspondent mortgage lending institutions.

~~(14)(13)~~ "Permanent Loan" or "Loan" means a loan to a borrower under the Homeownership Florida Home Ownership Assistance Program's Permanent Loan Program as more fully described in Rule Chapter 67-5046, F.A.C.

~~(15)(14)~~ "RDHS" means Rural Development Services (formerly the Farmer's Home Administration) of the United States Department of Agriculture, its successors and assigns.

~~(16)(15)~~ "Second Mortgage" means the recorded mortgage securing the Construction Loan, Down Payment Assistance Loan or Permanent Loan, which is subordinate only to the lien of the First Mortgage.

~~(17)(16)~~ “Single-Family Bond Program” means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation’s Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

~~(18)(17)~~ “VA” means the U.S. Department of Veterans Affairs, an agency of the United States of America, or any successor to its functions.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 91-45.001, Amended 12-26-99, 10-29-01, _____.

67-45.003 General Program Restrictions.

Loans will be subject to the following restrictions:

(1) In no case may an Eligible Borrower receive more than one Down Payment Assistance Loan or any other second mortgage loan offered by the Corporation both a Down Payment Assistance Loan and a Permanent Loan.

(2) Loans shall be made available only to Eligible Borrowers to finance Homes which do not exceed the Maximum Acquisition Price Cost.

(3) through (7) No change.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088 FS. History—New 8-7-95, Formerly 91-45.003, Amended 12-26-99, _____.

67-45.004 Application Procedures.

(1) Eligible Borrowers ~~shall~~ may apply for a Down Payment Assistance Loan with any Participating Lender which is processing the applicant’s First Mortgage Loan application.

(2) Prior to receiving funding for a Down Payment Assistance Loan, Eligible Borrowers shall meet all eligibility requirements as specified in the relevant Single-Family Bond Program documents. Applicants may apply for a Downpayment Assistance Loan with any Participant which is processing the Applicant’s First Mortgage loan application from funds available from a Corporation’s Single Family Loan Program.

(3) Eligible Borrowers shall execute a note and mortgage for this loan. Prior to funding a Downpayment Assistance Loan, Participants shall make application as required in the program documents of the relevant Single Family Loan Program.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.5088(2) FS. History—New 8-7-95, Formerly 91-45.004, Amended 12-26-99, 10-29-01, _____.

67-45.005 Terms and Conditions of Loans.

All Down Payment Assistance Loans must be in compliance with the Act and shall adhere to the terms and conditions outlined in Rule Chapter 67-50, F.A.C.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 8-7-95, Formerly 91-45.005, Amended _____.

67-45.006 Loan Processing.

(1) All applications and Loans shall be processed by the Participating Lenders in accordance with each Participating Lender’s standard underwriting criteria and any additional criteria ~~in regard to Second Mortgages which may be imposed~~ by FHA, VA, FannieMae, Freddie Mac, RD or other parties insuring or guaranteeing the First Mortgage loan.

(2) No change.

~~(3) Upon approval of an application by a Lender, the Corporation shall be contacted by telephone or telecopy, as provided in the applicable program documents, to ascertain the availability of sufficient funds for making the Loans. The Executive Director, or his or her designee, shall either confirm the availability of sufficient funds to make the Loan or shall inform the Lender that the amount requested for the Loan exceeds the funds available to fund the Loan.~~

~~(3)(4)~~ If sufficient funds are not available in to fund the full amount of the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation or its designee on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan in full, as requested.

~~(5) Confirmation of sufficient available funds for a requested Loan shall be provided first by a telephonic or electronic confirmation by the Corporation or its designee, and then confirmation of fund availability shall be made in writing by the Corporation or its designee to the Lender.~~

Specific Authority 420.507(12),(23) FS. Law Implemented 429.5088 FS. History—New 8-7-95, Formerly 91-45.006, Amended 12-26-99, 10-29-01, _____.

67-45.007 Fees.

In connection with the origination of a Down Payment Assistance Loan, the Lender may collect and retain from the Eligible Borrower a \$150.00 ~~\$50.00~~ application fee, payable at the time of application.

Specific Authority 420.507(12),(23) FS. Law Implemented 420.507(19) FS. History—New 8-7-95, Formerly 91-45.007, Amended 10-29-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Keantha Belton, Single Family Bonds Manager, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197, Extension 1213

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2003, Corporation Board of Director’s Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No. 33, August 15, 2003

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-51.001
Notice of Funding Availability	67-51.002
General Program Restrictions	67-51.003
Application Procedures	67-51.004
Terms and Conditions of Loans	67-51.005
Loan Processing	67-51.006
Fees	67-51.007

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-51, Florida Administrative Code (F.A.C.), is to establish the procedures by which the Florida Housing Finance Corporation shall: administer and implement the Homeownership Assistance for Moderate Income Loan Program provisions authorized by Florida Statutes, Section 420.507(41), F.S., and identify the definitions for terms when used in conjunction with the Single Family Revenue Bond Program.

SUMMARY: The proposed Rule prescribes the processes and procedures used for allocating Homeownership Assistance for Moderate Income Loan Program.

STATEMENT OF ESTIMATED REGULATORY COST: None.

SPECIFIC AUTHORITY: 420.507(12), 420.507(24) FS.

LAW IMPLEMENTED: 420.509, 420.509(11)(c) FS.

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

TIME AND DATE: 2:00 p.m., October 3, 2003

PLACE: Florida Housing Finance Corporation, Fifth Floor Formal Conference Room, 227 North Bronough Street, Tallahassee, FL 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wallisa Cobb, Single Family Bonds Program Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-51.001 Definitions.

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

(2) “Corporation” means the Florida Housing Finance Corporation.

(3) “Down Payment Assistance Loan” or “Loan” means a Florida Homeownership Assistance for Moderate Income Program loan in the amount up to \$5,000. The loan is amortized for a 10-year period with the interest rate to set between a minimum of 3 percent and a maximum interest rate of 5 percent, which shall be adjusted to be competitive with market rates. Repayment is due in the event of sale, transfer, refinancing or failure to occupy the Home as the primary residence without prior approval by the Corporation as outlined in Rule Chapter 67-25.014, F.A.C., in which case the

Loan is due and payable in full at that time. The Down Payment Assistance Loan shall be used for down payment and closing costs associated with the purchase of the Home financed with Single-Family Bond Program funds.

(4) “Eligible Borrower” means a person or persons or family or families:

(a) Who intend to permanently reside as a household in the Home as their principal single-family residence:

(b) Whose total annual family income at time of closing is equal to or greater than 80.01 percent of the State or local median income, whichever is greater and does not exceed 115 percent of the local median income limits.

(c) Who are may or may not be participating in the Corporation’s Single-Family Bond Program.

(5) “Fannie Mae” means the Federal National Mortgage Association, a corporation organized and existing under the Federal National Mortgage Association Charter Act, 12 U.S.C. 1716 et seq., or any successor thereto.

(6) “FHA” means the Federal Housing Administration of the U.S. Department of Housing and Urban Development or other Agency or instrumentality created or chartered by the United States government to which the powers of the Federal Housing Administration have been transferred.

(7) “First Mortgage” means the recorded mortgage secured via the Corporation’s First Time Home Buyer Program to which the Down Payment Assistance Loan is subordinated and which is superior to any other lien or encumbrance on the property.

(8) “Freddie Mac” means the Federal Home Loan Mortgage Corporation, or any successor thereto.

(9) “Home” means a residential unit used as a single-family residence, which is taxed as real property under the laws of the State of Florida and is located within the State, including a condominium unit and a manufactured home meeting conventional or FHA standards, which is acceptable to any insurer providing private mortgage insurance, FHA, VA or RD. The dwelling structure shall consist of two-, three- or four-family dwelling units, one unit of which is to be occupied by the mortgagor of the units and all of which units were first occupied as homes at least five (5) years before the Loan with respect to such Home which:

(a) Is designed and intended primarily for residential housing:

(b) Is determined by a qualified appraisal to have an expected useful life of not less than 30 years or the term of the First Mortgage, whichever is less;

(c) Will be occupied by the owner as his or her principal residence within 60 days after financing is provided.

(d) Has a sales price which does not exceed the Maximum Acquisition Price as defined in subsection 67-51.001(10), F.A.C. of this rule.

(e) Maintains the basic livability of the residence and will not be used for business purposes to generate additional income for the Eligible Borrower (including child care services on a regular basis for compensation).

(10) "Maximum Acquisition Price" means the maximum purchase price of a Single Family Residence, as prescribed in IRS Revenue Procedures 94-55, hereby incorporated by reference. A copy may be obtained by contacting the Single Family Bonds Program Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329. Acquisition Price limits are also subject to the applicable FHA/VA/RD limits for the Counties.

(11) "Participating Lender" means the entity signing a Master Mortgage Purchase Agreement and all applicable Supplements to the Master Mortgage Purchase Agreement, which by virtue of executing, represents that it is a home mortgage lending institution or entity:

(a) Participating in the local private home lending market;

(b) That is an FHA-approved mortgagee (with direct endorsement underwriting authority preferred), or a VA-approved lender (with automatic approval authority preferred), or an RD approved lender (unless waived by the Corporation or its designee);

(c) That with respect to Conventional Mortgage loans, is a Fannie Mae or Freddie Mac approved lender in good standing, has errors and omissions coverage of at least \$300,000, meets the requirements the Corporation or its designee with respect to financial status and is acceptable to a Fannie Mae or Freddie Mac PMI Insurer, if applicable;

(d) Which can make the representations and warranties and covenants set forth in Section 2 of the Mortgage Purchase Agreement; and

(e) Which has agreed to and will originate Mortgage Loans itself or through correspondent mortgage lending institutions.

(12) "RD" means Rural Development Service (formerly the Farmers Home Administration) of the United States Department of Agriculture, its successors and assigns.

(13) "Second Mortgage" means the recorded mortgage securing the Down Payment Assistance Loan, which is subordinate only to the lien of the First Mortgage.

(14) "Single-Family Bond Program" means the Single-Family Mortgage Revenue Bond Program implemented pursuant to Rule Chapter 67-25, F.A.C., or any other public or private loan program approved by the Corporation's Board of Directors as a substitute for the Single-Family Mortgage Revenue Bond Program.

(15) "VA" means the Department of Veterans Affairs, an agency of the United States of America, or any successor to its functions.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History--New _____.

67-51.002 Notice of Funding Availability.

The Corporation shall publish a notice in the Florida Administrative Weekly announcing its intent to provide funding for qualified mortgage loans under the Single-Family Bond Program and the Down Payment Assistance Loan Program. Such notice shall be published at least sixty (60) days prior to the anticipated availability of Loan funds.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History--New _____.

67-51.003 General Program Restrictions.

Loans will be subject to the following restrictions:

(1) In no case shall an Eligible Borrower receive more than one Down Payment Assistance Loan or any other second mortgage loan offered by the Corporation.

(2) Loans shall be made available only to Eligible Borrowers to finance Homes which do not exceed the Maximum Acquisition Price.

(3) Loans will be serviced by the Corporation or its designated servicer.

(4) Loans shall be evidenced by a properly executed note as evidence of the indebtedness and shall be secured by a properly executed and recorded mortgage, subject only to the lien of the First Mortgage.

(5) Prepayment of the Loans shall be permitted without penalty.

(6) Loans are not assumable.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History--New _____.

67-51.004 Application Procedures.

(1) Eligible Borrowers shall apply for a Down Payment Assistance Loan with any Participating Lender that is processing the applicant's First Mortgage Loan application.

(2) Prior to receiving funding for a Down Payment Assistance Loan, Eligible Borrowers shall meet all eligibility requirements as specified in the relevant Single-Family Bond Program documents.

(3) Eligible Borrowers shall execute a note and mortgage for this loan.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History--New _____.

67-51.005 Terms and Conditions of Loans.

All Down Payment Assistance Loans must be in compliance with the Act and shall adhere to the terms and conditions outlined in this Rule Chapter.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History--New _____.

67-51.006 Loan Processing.

(1) All applications and Loans shall be processed by the Participating Lenders in accordance with the Participating Lender's standard underwriting criteria and any additional criteria imposed by FHA, VA, Fannie Mae, RD or other parties insuring or guaranteeing the First Mortgage loan.

(2) Loan applications shall be reviewed by the lender originating the First Mortgage on a first-come, first-served basis.

(3) If funds are not available in the full amount of the Loan as requested, the application shall be deferred to a waiting list maintained by the Corporation or its designee on a first-come, first-served basis. Such application shall be considered as soon as sufficient funds become available to finance the Loan.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History—New _____.

67-51.007 Fees.

In connection with the origination of a Down Payment Assistance Loan, the Participating Lender shall collect from the Eligible Borrower a \$150 application fee, payable at the time of application.

Specific Authority 420.507(12), 420.507(24) FS. Law Implemented 420.509, 420.509(11)(c) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Wallisa Cobb, Single Family Bonds Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Esrone McDaniels, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 20, 2003, Corporation Board Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 29, No. 33, August 15, 2003

Any person requiring special accommodations at the Hearing because of a disability or physical impairment should contact Edny Sanchez-Gammons, Florida Housing Finance Corporation, (850)488-4197, at least five days prior to the Hearing. If you are hearing or speech impaired, please contact the Florida Housing Finance Corporation using the Florida Dual Party Relay System which can be reached at 1(800)955-9770 (Voice) or 1(800)988-8711 (TDD).

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Corporation Clerk	67-52.002
Final Orders	67-52.003
Custodian	67-52.004

PURPOSE, EFFECT AND SUMMARY: This Rule establishes procedures to address Florida Housing Finance Corporation's administration of official records and pleadings. The adoption of these revisions will increase the efficiency and effectiveness of Florida Housing Finance Corporation's administration of its programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to 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: 420.53(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 RULES IS: Maelene Tyson, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULES IS:

67-52.002 Corporation Clerk.

(1) The address for the Corporation Clerk is Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301.

(2) The Corporation Clerk shall receive all administrative petitions, motions, requests, pleadings and other papers and docket them, maintain the files of such proceedings, and prepare the record of any case which is appealed to the First District Court of Appeal.

(3) The Corporation Clerk shall accept for filing administrative petitions, motions, pleadings, requests, in accordance with the following:

(a) All petitions, motions, requests or pleadings must be filed in original with one copy;

(b) Petitions, motions, requests or other pleadings that are sent by facsimile or electronic mail, shall be accepted on the date transmitted. A copy of the original physically signed document shall be delivered within five business days of receipt of the copy sent by facsimile or electronic mail;

(c) All petitions, motions, requests, pleadings and other papers shall be legible, either printed or typed; preferably double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 120.53(1) FS. History—New _____.

67-52.003 Final Orders.

(1) The Corporation Clerk shall maintain all Corporation final orders and subject matter index and such orders pursuant to the requirements of Section 120.53, Fla. Stat.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 120.53(1) FS. History—New _____.

67-52.004 Custodian.

The Corporation Clerk shall be the custodian of all the Corporation's official records. The Corporation Clerk shall testify as to the authenticity of any Corporate documents maintained pursuant to Part V, Chapter 420, Florida Statutes.

Specific Authority 420.507(12) FS. Law Implemented 420.507, 120.53(1) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maelene Tyson, Corporation Clerk, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Wellington Meffert, General Counsel, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2003 (The notice was advertised as 67-51 in that edition of the FAW)

Section III

Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Cultural Affairs

RULE NO.: IT-1.001
 RULE TITLE: Division of Cultural Affairs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., published in the Vol. 29, No. 18, May 2, 2003 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE: Changes have been made to the proposed rule that address the comments made by the Joint Administrative Procedures Committee. The changes include:

- 1. Deleting the language in subsection 1T-1.001(7)(a)2.c. This sub-section was previously noticed with no changes.

Change:

- (7)(a)2.

~~e. The annual application deadline for Specific Project applications will be the first Monday of October.~~

SPECIFIC AUTHORITY: 255.043(4), 265.284(5)(d), 265.285(1)(c), 265.286(1),(4),(6), 265.2861(2)(b), 265.2865(6), 265.51, 265.605(1), 265.608, 265.609(1),(4),(6), 265.701(4) FS.

LAW IMPLEMENTED: 215.97, 255.043, 265.284, 265.285, 265.286, 265.2861, 265.2865, 265.51-56, 265.601-607, 265.608, 265.609, 265.701, 286.011, 286.012, 286.25 FS.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Downey, Director of the Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida 32301

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
Part III Minimum Reserve Standards for Individual and Group Health Insurance Contracts	
4-154.201	Scope
4-154.202	Definitions
4-154.203	Categories of Reserves
4-154.204	Specific Minimum Standards for Morbidity, Mortality and Interest
4-154.210	Tables

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule as noticed in Vol. 29, No. 18, May 28, 2003, of the Florida Administrative Weekly, has been withdrawn.

DEPARTMENT OF INSURANCE

RULE NO.:	RULE TITLE:
4-189.0055	Records and Reports of Information by Workers' Compensation Insurance Required

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 18, May 2, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed by the Joint Administrative Procedures Committee.

The following sentence is added at the end of subsection (3): Changes or amendments are made when there are economically justifiable reasons made by the industry or the Office.

The remainder of the rule reads as previously published.

DEPARTMENT OF INSURANCE

RULE NOS.:	RULE TITLES:
4-202.008	General Eligibility Requirements
4-202.012	Annual Statement
4-202.015	Forms Incorporated by Reference

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rules as noticed in Vol. 29, No. 33, August 15, 2003, of the Florida Administrative Weekly has been withdrawn.