

SPECIFIC AUTHORITY: 394.78(6) FS.
 LAW IMPLEMENTED: 394.74(2)(b),(c) FS.
 IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 10:00 a.m. – 4:00 p.m., August 2, 1999
 PLACE: 1317 Winewood Blvd., Building 4, Tallahassee, FL
 THE PERSON TO BE CONTACTED WITH REGARD TO THE PROPOSED RULE DEVELOPMENT IS: Ron Manasa
 THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

Section II Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Student Performance Standards
 RULE NO.: 6A-1.09401

PURPOSE AND EFFECT: This rule is being revised to provide student performance standards for students with disabilities entering ninth grade on or after the 1999-2000 school year in seeking a special diploma. The Sunshine State Standards for Special Diploma, 1999 are incorporated by reference and made a part of the rule to replace current student performance standards for special diploma for students in tenth through twelfth grades.

SUMMARY: This rule provides the State Standards for Special Diploma that will take effect for students entering the ninth grade on or after the 1999-2000 school year. These standards replace the current student performance standards for special diploma in effect for students in tenth through twelfth grades.

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 the notice.

SPECIFIC AUTHORITY: 229.565 FS.
 LAW IMPLEMENTED: 229.565, 229.57, 232.245, 232.2454 FS.

A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:
 TIME AND DATE: 9:00 a.m., August 12, 1999
 PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Mosrie, Director, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09401 Student Performance Standards.

(1) Standards to benchmark student achievement serve as guides to best practices for local curriculum designers to help schools implement school improvement strategies to raise student achievement. The benchmarked standards in paragraphs (1)(a)-(1)(g) of this rule describe what students should know and be able to do at four progression levels (grades Prek-2, 3-5, 6-8, 9-12) in the subjects of the arts, health/physical education, foreign languages, language arts, mathematics, science, and social studies. Sunshine State Standards for Special Diploma as incorporated by reference in paragraph (1)(h) of this rule describe what certain students with a disability should be able to do at three (3) proficiency levels (independent, supported, and participatory). Public schools shall provide appropriate instruction to assist students in the achievement of these standards. These standards and benchmarks are contained in the following publications and are hereby incorporated by reference and made a part of this rule.

- (a) Sunshine State Standards – Language Arts, 1996,
- (b) Sunshine State Standards – Mathematics, 1996,
- (c) Sunshine State Standards – Science, 1996,
- (d) Sunshine State Standards – Social Studies, 1996,
- (e) Sunshine State Standards – Foreign Languages, 1996,
- (f) Sunshine State Standards – The Arts, 1996, and
- (g) Sunshine State Standards – Health/Physical Education, 1996, ~~and-~~
- (h) Sunshine State Standards for Special Diploma, 1999.

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

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

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

Specific Authority ~~229.053(4)~~, 229.565 FS. Law Implemented 229.565, 229.57, 232.245, 232.2454 FS. History—New 6-18-96, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 1999
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Minimum Student Performance Standards
 RULE NO.: 6A-1.0941

PURPOSE AND EFFECT: This rule deletes reference to outdated publications and changes effective dates for Minimum Student Performance Standards for Florida schools 1994-95 through 2002-2003 (formerly through 1998-99) and Student Performance Standards for Florida Schools 1996-97 through 2001-2002 (formerly through 2000-2001). The effect of the amendment is to have standards for students in Florida schools in place for graduation requirement purposes.

SUMMARY: This rule deletes reference to outdated publications and changes effective dates for Minimum Student Performance Standards for Florida schools 1994-95 through 2002-2003 (formerly through 1998-99) and Student Performance Standards for Florida Schools 1996-97 through 2001-2002 (formerly through 2000-2001).

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 the notice.

SPECIFIC AUTHORITY: 229.565(1), 232.245 FS.

LAW IMPLEMENTED: 229.053(2)(a), 229.565(1), 229.57(3)(a)(c), 232.246(6)(a)(b) FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Mosrie, Director, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0941 Minimum Student Performance Standards.

State adopted minimum student performance standards approved by the State Board of Education are contained in the publications listed below which are hereby incorporated by this rule and made a part of the rules of the State Board of Education. Copies of these publications may be obtained from the Educational Products Distribution Section, Department of

Education, 325 West Gaines Street, The Florida Education Center, Tallahassee, Florida, 32399 at a price to be established by the Commissioner but which shall not exceed actual cost.

(1) ~~Minimum student performance standards for Florida schools 1985-86 through 1993-94, for beginning grades 3, 5, 8, and 11—reading, writing, and mathematics and for functional communication and mathematics skills for grade 11 and Minimum Student Performance Standards for Florida schools 1994-95 through 2002-2003 +1998-99, for beginning grades 3, 5, 8, and 11 – reading, writing, and mathematics and for functional communication and mathematics skills for grade 11.~~

(2) ~~Minimum student performance standards for Florida schools 1986-87 through 1993-94, for beginning grades 3, 5, 8 and 11—science and computer literacy.~~

(3) ~~Minimum student performance standards for Florida schools 1989-90 through 1993-94, for beginning grades 3, 5, 8 and 11—history, government, economics, and geography.~~

(4) ~~Minimum student performance standards for Florida schools 1985-86 through 1995-96, exceptional students in the following programs:~~

(a) ~~Hearing impaired students.~~

1. ~~Pre-kindergarten—Developmental skills, auditory development, language development, writing (penmanship), and mathematics.~~

2. ~~Grades 3, 5, 8 and 11—Reading, writing, and mathematics.~~

(b) ~~Educable mentally handicapped students. Grades 3, 5, 8, and 11—Reading, writing, mathematics, social personal skills, and basic career skills.~~

(c) ~~Trainable mentally handicapped students. Grades 3, 5, 8, and 11—Fundamental skills, social skills, and pre-vocational skills.~~

(2)(5) Student performance standards for Florida Schools 1996-97 through 2001-2002 ~~2000-2001~~, exceptional students – reading, writing, language, mathematics, and social and personal.

Specific Authority ~~229.053(1), 229.565(1), 232.245, 232.246~~ FS. Law Implemented 229.053(2)(a), 229.565(1), 229.57(3)(a)(c), ~~230.2319, 232.246(6)(a)(b)~~ FS. History—New 4-28-77, Amended 5-24-79, 7-16-79, 4-10-80, 3-4-84, 5-24-84, 11-27-85, Formerly 6A-1.941, Amended 5-16-89, 5-16-90, 6-14-94, _____

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Course Descriptions for Grades 6-12, 6A-1.09414
 Exceptional Student Education

PURPOSE AND EFFECT: This rule is revised to provide course descriptions to be consistent with state standards for special diploma as proposed for students entering the ninth grade on or after the 1999-2000 school year seeking a special diploma. The Florida Course Descriptions for Grades 6-12, Exceptional Student Education, 1999 is a guideline for school district personnel providing instruction for subject areas consistent with the Course Code Directory and Instructional Personnel Assignments.

SUMMARY: This revision removes from rule outdated documents and incorporates by reference Florida Course Descriptions for Grades 6-12, Exceptional Student Education, 1999.

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 the notice.

SPECIFIC AUTHORITY: 229.565(1), 230.23(7), 232.247 FS.

LAW IMPLEMENTED: 229.592, 230.23(7), 232.2454, 232.247, 233.09 FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Mosrie, Director, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09414 Course Descriptions for Grades 6-12, Curriculum Frameworks for Grades 9-12, Exceptional Student Education Courses.

A course description curriculum framework is a broad guideline which directs district personnel by providing specific instructional plans for a given subject area or area of study and which is consistent with the "Course Code Directory and Instructional Personnel Assignments" adopted in Rule 6A-1.09441, FAC. The document, "Florida Course Descriptions for Grades 6-12, Exceptional Student Education, 1999" is "Curriculum Frameworks for Grades 9-12, Exceptional Student Education Courses With Suggested Course Student Performance Standards, Revised 1991" and "Curriculum Frameworks for Grades 9-12, Exceptional

Student Education Courses, 1994 Supplement," are hereby incorporated by reference and made a part of the rules of the State Board. Copies of these documents may be obtained from the Educational Products Distribution Section, Department of Education, 325 West Gaines Street, The Florida Education Center, Tallahassee, Florida 32399, at a cost to be established by the Commissioner not to exceed actual cost.

(1) District school board variance authority. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description intended outcomes of each framework.

(2) Commissioner of Education waiver authority. The Commissioner of Education may approve a school's waiver request submitted by a district school board, to allow the school to substitute locally approved course requirements intended outcomes provided that locally approved requirements outcomes specified for the state approved course adequately address the major concepts/content and Sunshine State Standards for Special Diploma contained in the course description curriculum framework, and the waiver request fulfills the provisions of and as submitted in accordance with procedures specified in Section 229.592, Florida Statutes.

Specific Authority ~~229.053(1), 229.565(1), 230.23(7), 232.247, 233.011(3)(a)~~ FS. Law Implemented 229.592, 230.23(7), 232.2454, 232.247, 233.09, ~~233.011, 233.165~~ FS. History--New 7-9-86, Amended 12-28-86, 12-13-88, 12-11-89, 11-12-91, 6-6-93, 10-18-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Graduation Requirements for Certain 6A-1.0996
 Students with Disabilities

PURPOSE AND EFFECT: This rule provides graduation requirements for students with disabilities to obtain a special diploma. The rule is being revised to reference student performance standards for students with disabilities entering the ninth grade on or after the 1999-2000 school year who are seeking a special diploma. The effect of the rule revision will be to have a rule relating to exceptional student education that best meets the needs of students with disabilities.

SUMMARY: This rule will provide standards for students with disabilities working toward a special diploma. The standards would go into effect for students entering the ninth grade on or after the 1999-2000 school year. Changes to the rule include: specification of special diploma requirements for students at three levels of functioning (independence, supported and participatory); provision for obtaining a special diploma if Sunshine State Standards are mastered through successful completion of courses that meet graduation requirements for a standard diploma in lieu of mastery of special diploma standards (for those students who pass courses toward graduation for a standard diploma and have not passed the state assessment required for graduation); and continuation of options 1 and 2 for special diploma.

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 the notice.

SPECIFIC AUTHORITY: 229.565(1), 232.247 FS.

LAW IMPLEMENTED: 230.23(6)(a), 232.247 FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Mosrie, Director, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0996 Graduation Requirements for Certain ~~Exceptional~~ Students with Disabilities.

Each school board shall, pursuant to Section 232.247, Florida Statutes, prescribe special requirements for graduation for students who have been properly identified as educable mentally handicapped, trainable mentally handicapped, hearing impaired, specific learning disabled, emotionally handicapped, profoundly handicapped, physically impaired, or language impaired. The school board shall make provision for each student to use basic, vocational, and exceptional student education courses as appropriate for meeting graduation requirements. Any such student completing the special requirements shall be awarded a Special Diploma in the form prescribed by Rule 6A-1.0995(2), FAC.

(1) Special Diploma Options. ~~Effective with the 1994-95 school year,~~ School boards may award Special Diplomas based on two (2) options.

(a) One option shall include procedures for determining and certifying mastery of student performance standards for a special diploma for students who enter ninth grade in or before school year 1998-1999 ~~exceptional students~~ as prescribed in subsections (3)-~~(11)~~~~(10)~~ of this rule; or higher levels of student performance standards for ~~exceptional~~ students with disabilities adopted by the district school board; and minimum number of course credits specified by the district school board. For students entering ninth grade in or after 1999-2000 mastery is determined as indicated in subsections (12)-(13) of this rule.

(b) The second option shall include procedures for determining and certifying mastery of demonstrated employment and community competencies in accordance with subsection ~~(14)~~~~(12)~~ of this rule.

(2) Diploma procedures. Each school board shall develop procedures for ensuring that students may select and move between the Special Diploma options prescribed in subsection (1) of this rule, if both options are provided by the school district, and between courses of study leading to Standard or Special Diplomas, as appropriate.

(a) The individual educational plan (IEP) committee shall document whether the student is pursuing a course of study leading toward a Standard or Special Diploma on the IEP developed during the student's eighth grade year, or the IEP developed during the school year of prior to the student's fourteenth sixteenth birthday, whichever occurs first. This decision shall be reviewed annually.

(b) Nothing contained in this rule shall be construed to limit or restrict the right of an ~~an exceptional~~ student with a disability solely to a Special Diploma. The parents of each ~~exceptional~~ student eligible for a Special Diploma for ~~exceptional~~ students shall be notified through the IEP process in writing of the options available under this rule ~~prior to tenth grade testing~~.

(c) Special Diploma requirements shall be included in the district pupil progression plan adopted pursuant to Section 232.245, Florida Statutes.

(3) Educable mentally handicapped. Student performance standards for students identified as educable mentally handicapped shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade, student performance standards for students identified as educable mentally handicapped as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with the school year 1996-97, m~~ Mastery of the following student performance standards at the levels of for exceptional students as prescribed by Rule 6A-1.0941, FAC., Reading, Level IV; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(c)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as educable mentally handicapped.

(4) Trainable mentally handicapped. Student performance standards for students identified as trainable mentally handicapped shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade, student performance standards for students identified as trainable mentally handicapped as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level III; Writing, Level IV; Language, Level III; Mathematics, Level III; and Social and Personal, Level III as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(e)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as trainable mentally handicapped.

(5) Hearing impaired. Student performance standards for students identified as hearing impaired shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade, student performance standards for students identified as hearing impaired as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level V; Writing, Level V; Language, Level IV; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(e)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as hearing impaired.

(6) Physically impaired. Student performance standards for students identified as physically impaired shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade student performance standards for students identified as educable mentally handicapped as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

(c) Completion of the minimum number of course credits prescribed by the school board for students identified as physically impaired.

(7) Language impaired. Student performance standards for students identified as language impaired shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade student performance standards for any other exceptional students identified in this rule, as appropriate, shall be specified in the student's IEP; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level V; Writing, Level V; Language, Level III; Mathematics, Level V; and Social and Personal, Level VI as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(e)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as language impaired.

(8) Emotionally handicapped. Student performance standards for students identified as emotionally handicapped shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade student performance standards for students identified as educable mentally handicapped as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level V; Writing, Level V; Language, Level V; Mathematics, Level V; and Social and Personal, Level IV as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(e)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as emotionally handicapped.

(9) Specific learning disabilities. Student performance standards for students identified as specific learning disabled shall include:

~~(a) For students graduating prior to the school year 1996-97, mastery of the eleventh grade student performance standards for students identified as educable mentally handicapped as prescribed by Rule 6A-1.0941, FAC.; or~~

~~(a)(b) Beginning with school year 1996-97, m~~Mastery of the following student performance standards at the levels of for ~~exceptional students as prescribed by Rule 6A-1.0941, FAC.;~~ Reading, Level V; Writing, Level V; Language, Level VI; Mathematics, Level V; and Social and Personal, Level V as adopted by Rule 6A-1.0941, FAC.; and

~~(b)(e)~~ Completion of the minimum number of course credits prescribed by the school board for students identified as specific learning disabled.

(10) Profoundly handicapped. Student performance standards for students identified as profoundly handicapped.

(a) Students with profound handicaps shall include students identified as profoundly mentally handicapped, dual-sensory impaired, autistic, or severely emotionally disturbed as defined by Rule 6A-6.03021, FAC., and

(b) The determination of the requirements for a Special Diploma for students identified as profoundly handicapped shall be consistent with the requirements for any other ~~exceptional~~ students identified in this rule and shall be specified in the student's IEP.

(11) Eleventh grade student performance standards. For ~~exceptional~~ students defined in this rule, mastery of the eleventh grade, student performance standards, through successful completion of courses, as defined in Rule 6A-1.0941(1), FAC., shall be accepted in lieu of mastery of the student performance standards noted above for awarding of a special diploma.

(12) Special diploma requirements. For students entering ninth grade in or after 1999-2000, special diploma requirements shall include:

(a) demonstration of proficiency at the independent, supported, or participatory level of each Sunshine State Standard for Special Diploma prescribed in Rule 6A-1.09401(1)(h), FAC., as determined through the IEP process, and

(b) completion of the minimum number of course credits for a special diploma as prescribed by the school board.

(13) Sunshine State Standards. For students with disabilities as defined in this rule, mastery of the Sunshine State Standards through successful completion of courses that meet graduation requirements for a standard diploma, specified in Rule 6A-1.09401(1)(a)-(g), FAC., shall be accepted in lieu of Sunshine State Standards for Special Diploma noted in subsection (12) of this rule for awarding of a special diploma.

~~(14)~~(12) Employment and community competencies. Each school board's requirements for demonstration of mastery of specified employment and community competencies shall ensure:

(a) The student has achieved all the annual goals and short-term objectives which were specified on the IEP related to the employment and community competencies;

(b) The student is employed in a community-based job, for the number of hours per week specified in the student's training plan, for the equivalent of one (1) semester, and paid a minimum wage in compliance with the requirements of the Fair Labor Standards Act;

(c) The student has mastered the employment and community competencies specified in a training plan. The training plan shall be developed and signed by the student, parent, teacher, and employer prior to placement in employment and shall identify the following:

1. The expected employment and community competencies;
2. The criteria for determining and certifying mastery of the competencies;
3. The work schedule and the minimum number of hours to be worked per week; and
4. A description of the supervision to be provided by school district staff.

Specific Authority ~~229.565(1), 229.053(1)~~, 232.247 FS. Law Implemented 230.23(6)(a), 232.247 FS. History--New 10-30-88, Amended 6-14-94, ~~1994-95 through 2002-2003, 1995-96, 1996-97, 1997-98, 1998-99~~, c.f. Minimum Student Performance Standards for Florida Schools ~~1994-95 through 2002-2003, 1995-96, 1996-97, 1997-98, 1998-99~~ Beginning Grades 3, 5, 8, and 11, Reading, Writing, and Mathematics ~~Minimum Student~~

~~Performance Standards for Florida Schools 1985-86, 1986-87, 1987-88, 1988-89, 1989-90, 1990-91, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96~~ ~~Exceptional Student Programs for Students Identified as Hearing Impaired, Programs for Students Identified as Educable Mentally Handicapped, and Programs for Students Identified as Trainable Mentally Handicapped~~ Student Performance Standards for Florida Schools 1996-97 ~~through 2001-2002, 1997-98, 1998-99, 1999-2000, 2000-2001~~ Exceptional Students, Reading, Writing, Language, Mathematics, and Social and Personal Sunshine State Standards for Special Diploma, 1999

NAME OF PERSON ORIGINATING PROPOSED RULE:
John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Florida Teacher Certification Examination

RULE NO.: 6A-4.0021

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the revised set of competencies and skills required for professional teacher certification in Florida. In addition forms CG-20 and CG-22 have been updated. The effect will be the availability of updated forms for the examination and that revised competencies and skills will be used on the Florida Teacher Certification Examination and may be accessed by professional certification candidates, professors, and other interested individuals.

SUMMARY: This rule is amended to adopt the revised competencies and skills required for Florida professional teacher certification as well as updated application forms.

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 the notice.

SPECIFIC AUTHORITY: 231.15(1), 231.17(4)(5)(8)(11), 231.30 FS.

LAW IMPLEMENTED: 231.145, 231.15, 231.17, 231.30 FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: David Mosrie, Director, Division of Public Schools and Community Services, 325 West Gaines Street, Room 514, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-4.0021 Florida Teacher Certification Examination.

(2) Description of the examination and competencies to be demonstrated.

(c) The following competencies are to be demonstrated by means of the written examination:

9. The professional competencies and skills contained in the publication, "Competencies and Skills Required for Teacher Certification in Florida, Sixth Fifth Edition" which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained from the Department of Education, The Florida Education Center, Tallahassee, Florida 32399 at a price to be established by the Commissioner not to exceed actual cost, and

10. The subject area competencies and skills contained in the publication, "Competencies and Skills Required for Teacher Certification in Florida, Sixth Fifth Edition" which is hereby incorporated by reference and made a part of this rule. Copies of this publication may be obtained as described in subparagraph (2)(c)9. of this rule.

(4) Registration, late registration and refunds.

(a) Registration for the examination shall be for the initial examination or for one (1) or more subtests not previously passed. To register to take the examination, an applicant shall submit a completed application which shall be received by the test administration agency at least fifty (50) days preceding the examination date.

1. A complete application shall consist of the following:

a. A completed application Form CG-20-99, Florida Teacher Certification Examination Registration Application or Form CG-22-99, FTCE/FELE Florida Teacher Certification Examination Supplemental Registration Application, which includes the applicant's signature. Form CG-20-99, Florida Teacher Certification Examination Registration Application and Form CG-22-99, FTCE/FELE Florida Teacher Certification Supplemental Registration Application, effective October 1999 November, 1993 are hereby incorporated by reference and made a part of this rule. The form may be obtained without cost from the Bureau of Teacher Certification, Florida Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

(9) Scoring of the subject area specialty subtests.

(k) The subject area specialty subtests approved for use in the Florida Teacher Certification Examination are listed by subject area in the publication, "Competencies and Skills Required for Teacher Certification in Florida, Sixth Fifth Edition."

(16) This rule shall become effective October 1, 1999.

Specific Authority ~~229.053(1)~~, 231.15(1), 231.17(2)(4)(5)(8)(11), 231.30 FS. Law Implemented ~~229.053~~, 231.145, 231.15, 231.17, 231.30 FS. History—New 8-27-80, Amended 1-11-82, 1-6-83, 5-3-83, 10-5-83, 10-15-84, Formerly 6A-4.021, Amended 12-25-86, 4-26-89, 4-16-90, 7-10-90, 4-22-91, 10-3-91, 8-10-92, 11-28-93, 4-12-95, 7-1-96, 9-30-96, 10-1-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 29, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 12, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Definitions of Terms Used in Vocational Education and Adult Education Programs 6A-6.055

PURPOSE AND EFFECT: This rule is being amended to comply with changes made by the Legislature. The effect will be a rule with accurately reflects current statutory language and legislative intent. With the creation of the Workforce Development Education Fund and standardized program lengths, requirements related to the number of hours per week are no longer relevant.

SUMMARY: This rule sets common definitions for vocational and adult education programs offered in school districts and community colleges. The change deletes references to the number of hours that can be reported for funding purposes.

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 the notice.

SPECIFIC AUTHORITY: 239.205 FS.

LAW IMPLEMENTED: 228.061(4), 229.551(1)(g), 233.068, 239.205 FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joseph Stephens, Director, Division of Workforce Development, Department of Education, 325 West Gaines Street, Room 744, Tallahassee, Florida 32399-0400, (850)488-8961

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.055 Definitions of Terms Used in Vocational Education and Adult Programs.

(1) Definitions of terms necessary for managing a uniform coordinated system of vocational education for all levels of the state system of public education shall be published by the

Commissioner in a document titled, "Applied Technology and Adult Education Acronyms and Definitions, Second Edition" "Definitions for Vocational Education in Florida" with a designation of the effective date. These definitions are hereby incorporated in this rule and made a part of the rules of the State Board.

(2) Student membership hour. A student membership hour is defined as one (1) student in membership for sixty (60) minutes exclusive of time for change of class when engaged in on-campus laboratory, shop or classroom instruction, or at an approved on- the-job training station to which he or she has been assigned by proper authority, or away from school and engaged in an educational activity which constitutes a part of the school approved instructional program for that student.

(3) Maximum funding hours for cooperative education. In no case shall a secondary student enrolled in a secondary job preparatory program utilizing the cooperative education method of instruction or other types of programs incorporating on-the-job training be counted for more than twenty-five (25) clock hours per week of combined membership as prescribed by Rule 6A-6.055(2), FAC.

~~(4) A postsecondary student enrolled in a job preparatory postsecondary adult program may be counted for more than twenty five (25) clock hours per week. However, a student enrolled in a job preparatory program incorporating on-the job training, including apprenticeship, may not be counted for more than twenty five (25) clock hours per week combined membership in that program.~~

Specific Authority ~~239.205~~ ~~229.053(1)~~ FS. Law Implemented 228.061(4), 229.551(1)(g), 233.068, ~~239.205~~ FS. History—Amended 8-9-68, 4-11-70, 9-17-72, Revised 4-19-74, Repromulgated 12-5-74, Amended 5-25-82, Formerly 6A-6.55, Amended 7-20-89,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John A. Stewart, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Responsibilities for the School Food Service Program
RULE NO.: 6A-7.042

PURPOSE AND EFFECT: This rule is proposed to be amended to allow school districts flexibility relating to the sale of food and beverage items in competition with the district approved school food service program. In addition, forms incorporated by reference are recommended for adoption as

updated. The effect is to grant more local control to school boards and to incorporate the recently updated administrative forms.

SUMMARY: This rule is amended to grant to school boards the option of selling carbonated beverages to students in high schools by a school activity or organization authorized by the principal. Carbonated beverages may only be sold if a beverage of one-hundred percent fruit juice is sold at the same location and may not be sold where breakfast or lunch is being served or eaten.

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 the notice.

SPECIFIC AUTHORITY: 228.195(2), 229.053(1) FS.

LAW IMPLEMENTED: 228.195, 229.053(2)(1), 230.23(16) FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Wayne V. Pierson, Deputy Commissioner of Planning, Budgeting and Management, Department of Education, Room 1702, The Capitol, Tallahassee, Florida 32399-0400, (850)488-6539

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-7.042 Responsibilities for the School Food Service Program.

(2) Each district school board shall have the following responsibilities:

(c) To ~~control~~ ~~prohibit~~ the sale of food and beverage items in competition with the district approved food service program, including those classified as "foods of minimal ~~nutritional~~ nutritional value," listed in Code of Federal Regulations 210, Appendix B. These items may be sold in secondary schools only, with the approval of the school board, one (1) hour following the close of the last lunch period. A school board may allow the sale of carbonated beverages to students in high schools by a school activity or organization authorized by the principal at all times if a beverage of one hundred (100) percent fruit juice is sold at each location where carbonated beverages are sold. However, carbonated beverages may not be sold where breakfast or lunch is being served or eaten. Non-carbonated beverages, including one hundred (100) percent fruit juice, may be sold at all times during the day at any location. Consideration should be given to allowing only the sale of nutritious food and beverage items which meet at least United States Department of Agriculture dietary guidelines for Americans.

(4) Forms ESE 156, Preaward Nondiscrimination Compliance Review Summer Food Service Program for Children; ESE 195, Monthly Claim for Reimbursement Summer Food Service Program for Children; ESE 196, Summer Food Service Program for Children Application for Participation; ESE 197, Summer Food Service Program for Children Site Information Sheet; ESE 198, Summer Food Service Program for Children Agreement; ~~ESE 473, Request for Advance Funds - 1985 Summer Food Service Program for Children; ESE 486, Summer Food Service Program for Children Monitor's Site Review Form; ESE 476, Child Care Food Program Start-Up Application/Agreement for Recruiting Day Care Homes; ESE 367, Monthly Reimbursement Voucher Child Care Food Program; ESE 490, Child Care Food Program Application, Agreement & Policy Statement; ESE 535, Child Care Food Program Change in Food Service Program Application; ESE 003, Food Service Special Revenue Financial Report; ESE 157, Application for Change in Food Service Program; ESE 160, Requisition for Reimbursement; ESE 174, Monthly Reimbursement Voucher School Lunch and Breakfast Programs; ESE 177, Monthly Reimbursement Voucher Special Milk (Only) Program; ESE 178, Nonprofit Private School/Institution Financial Report Statement; ESE 299, Civil Rights Compliance Annual Report, and ESE 491, National School Lunch, School Breakfast and Commodity School Child Nutrition Program Application, Agreement & Policy Statement; ESE 472, Special Milk Program for Children Application, Agreement and Policy Statement; and are incorporated by reference in this rule to become effective July, 1985.~~ Form ESE 080, Breakfast Program Supplement Report ~~are is~~ hereby incorporated by reference and made a part of this rule to become effective ~~September, 1999~~ May, 1990. These forms may be obtained from the Administrator of Information Services and Accountability, Division of Technology and Administration ~~Public Schools~~, Department of Education, The Florida Education Center, Tallahassee, Florida 32399.

Specific Authority 228.195(2), 229.053(1) FS. Law Implemented 228.195, 229.053(2)(1), 230.23(16) FS. History-Amended 3-26-66, 4-17-72, 4-19-73, 10-20-73, Revised 6-17-74, Repromulgated 12-5-74, Amended 5-4-76, 10-18-77, 12-11-79, 1-7-81, 7-28-81, 9-23-81, 6-28-83, 10-15-84, 7-10-85, Formerly 6A-7.42, Amended 5-3-88, 5-16-90, 6-30-92, _____, c.f. National School Lunch Act as amended (42 USC) Sections 4 and 11, and Child Nutrition Act of 1966 as amended (42 USC) Sections 4 and 5, 7 CFR, Part 210, Section 210.6, CFR 210, Appendix B, CFR Parts 215, 220, 225, 226, 227, 235, 240, 245, 250, and 252.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 28, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 1999

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: Florida Federal Family Education Loan Program

RULE NO.: 6A-20.099

PURPOSE AND EFFECT: Procedures for this program are governed by the Higher Education Act of 1965 as amended, and by federal regulations specific to the program and do not need to be restated in State Board Rule. Subsections (2) through (4) of the rule are to be deleted to eliminate this unnecessary duplication.

SUMMARY: Subsections (2) through (4) duplicate provisions of the Higher Education Act of 1965 as amended. To eliminate the duplication, they are to be removed from the Florida Administrative Code.

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 the notice.

SPECIFIC AUTHORITY: 240.424(1) FS.
LAW IMPLEMENTED: 240.424, 240.429, 240.431, 240.465 FS.

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

TIME AND DATE: 9:00 a.m., August 12, 1999
PLACE: Room LL03, The Capitol, Tallahassee, Florida
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: C. Wayne Hood, Director, Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Room 255, Collins Building, Tallahassee, Florida 32399-0400, (850)488-4905

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-20.099 Florida Federal Family Education Loan Program.

(+) General purpose and authority of the Department of Education as the state guarantee agency. The primary purpose of the Florida Federal Family Education Loan Program (FFFELP) is to provide financial assistance to students in pursuit of postsecondary education. The Department of Education, hereinafter referred to as the Department, shall serve as the designated agency within the state to administer student loans and loan guarantees authorized by law for persons determined eligible under the applicable provisions of the Higher Education Act of 1965 as amended (ACT). The Department shall ensure that its programs meet the requirements of 34 CFR 600, 34 CFR 668 and 34 CFR 682.

The Department shall require participating parties in the FFFELP to comply with the ACT and the Code of Federal regulations as cited herein in this subsection.

~~(2) Lender of Last Resort. The Department shall implement the provisions to administer this program in accordance with the provision of the Act and 34 CFR 600, 34 CFR 668 and 34 CFR 682. Lenders that make FFFELP loans equaling or exceeding five (5) percent, by dollar volume, for the total loans made under the FFFELP during a state fiscal year shall, upon the Department's request, be required to serve as a lender of last resort for the next state fiscal year. Florida Lender of Last Resort loans shall be assigned to lenders of last resort on a rotation basis and in proportion to the corresponding total individual FFFELP loan dollar volume made by such lenders.~~

~~(3) Eligible Buyers. The Department shall permit a lender or holder to sell FFFELP Loans only to approved secondary markets and to other eligible lenders.~~

~~(4) Note Transfers. The Department shall require that lenders comply with the following loan transfer procedures:~~

~~(a) A FFFELP Loan note transferred from one lender to another shall individually bear effective words of "Pay to the Order of _____ without recourse on us or any of us.", or shall be subject to a blanket endorsement with other notes being assigned. Either the blanket endorsement or the note shall include the name of the seller and be signed and dated by an authorized official of the seller. If a blanket endorsement is used, each promissory note offered for purchase shall bear the following written reference to the blanket endorsement document: "Notice: This note is assigned in accordance with the _____ attached. _____ Assignment date: _____ Signed: _____."~~

~~(b) Assignment of the promissory note. Payment of a claim shall be contingent upon receipt from the lender of an assignment to the State of Florida of all right, title, and interest in the note. The assignment shall bear effective words of "Pay to the order of the State of Florida, Department of Education without recourse on us or any of us. (name of lender), By (signature of authorized officer), (name and title of authorized officer), (name and title of authorized officer), (date)." The lender shall not share in any amounts collected from the borrower by the Department on a loan assigned to the Department.~~

Specific Authority ~~229.053(1)~~; 240.424(1) FS. Law Implemented 240.424, 240.429, 240.431, 240.465 FS. History—New 4-19-96, Amended _____ c.f. Title 34, Parts 600, 668 and 628, Code of Federal Regulations

NAME OF PERSON ORIGINATING PROPOSED RULE:
Wayne V. Pierson, Deputy Commissioner for Planning, Budgeting and Management, Department of Education
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Gallagher, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 2, 1998

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Philosophy
RULE NO.: 6D-2.002

PURPOSE AND EFFECT: The purpose of this Rule is to establish the philosophy and mission of the Florida School for the Deaf and the Blind.

SUMMARY: This rule describes the philosophy and mission of the Florida School for the Deaf and the Blind.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.3305(2) FS., Chapter 99-280, L.O.F.

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

TIME AND DATE: 9:00 a.m., August 14, 1999

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-2.002 Philosophy.

The Florida School for the Deaf and the blind is a part of the public school system of the State, and has for its objective the education of hearing impaired and visually impaired students of the State, who meet enrollment criteria. The School provides support services which promote appropriate education and appropriate related evaluation and counseling services to sensory impaired students in the State. The mission of the Florida School for the Deaf and the Blind, ~~As a Center of Excellence,~~ is to utilize all available talent, energy, and resources to provide free appropriate public education for eligible sensory-impaired hearing impaired and visually impaired students of Florida ~~offer educational opportunities which promote the development of healthy minds and bodies; and provide adult lives of independence and self-sufficiently, meaningful personal, family and community lives, and useful, productive occupational lives.~~ As a school of academic excellence, the school shall strive to provide students and

opportunity to maximize their individual potential in a caring, safe, unique learning environment to prepare them to be literate, employable, and independent life-long learners. The school shall encourage input from students, staff, parents, and the community. As a diverse organization, the school shall foster respect and understanding for each individual.

Specific Authority 242.331(3) FS. Law Implemented 242.3305(2) FS., Chapter 99-280, L.O.F. History--New 12-19-74, Amended 8-26-86, 4-8-92,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 1999

DEPARTMENT OF EDUCATION

Florida School for the Deaf and the Blind

RULE TITLE: Human Resource, Management and Development
RULE NO.: 6D-16.002

PURPOSE AND EFFECT: The purpose of this Rule is to establish the role of the Human Resource Management and Development Department of the Florida School for the Deaf and the Blind.

SUMMARY: This rule establishes guidelines for the Florida School for the Deaf and the Human Resource Management and Development Department.

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: 242.331(3) FS.

LAW IMPLEMENTED: 242.331(4) FS.

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

TIME AND DATE: 9:00 a.m., August 14, 1999

PLACE: Wilson Music Building Auditorium, FSDB Campus, St. Augustine, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Elaine F. Ocuto, Executive Assistant to the President, Florida School for the Deaf and the Blind, 207 N. San Marco Avenue, St. Augustine, FL 32084-2799

THE FULL TEXT OF THE PROPOSED RULE IS:

6D-16.002 Human Resource, Management and Development.

(1) through (4) No change.

(5) The Human Resource Management and Development Policies and procedures Manual revised, ~~August 1999~~ ~~August, 1998~~, adopted by the Board of Trustees pursuant to the provisions of sections 242.331(3), F.S., shall be incorporated by this rule and made a part of the rules of the Board of Trustees.

(6) No change.

Specific Authority 242.331(3) FS. Law Implemented 242.331(4) FS. History--New 10-26-94, Amended 11-30-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Elmer Dillingham, Jr., President Florida School for the Deaf and the Blind

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Trustees of the Florida School for the Deaf and the Blind

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 1, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 23, 1999

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE: Logo Sign Program
RULE CHAPTER NO.: 14-85
RULE TITLE: Logo Sign Program
RULE NO.: 14-85.004

PURPOSE AND EFFECT: Rule 14-85.004 is being amended to correct the inadvertent deletion of 14-85.004(11)(e)4. in the May 25, 1999, amendment. In response to questions resulting from the Joint Administrative Procedures Committee review, a new 14-85.004(11)(e)4. was added and the intent was to renumber the existing "4." to "5." However, in the change notice and in the final filed version of the rule amendment, the new "4." was added and the existing "4." was deleted.

SUMMARY: This is an editorial amendment to reinstate the language of the previous 14-85.004(11)(e)4. as a new 14-85.004(11)(e)5.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 334.044(27), 479.261 FS.

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 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 SCHEDULED AND HELD.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-85.004 Logo Sign Program.

(1) through (10) No change.

(11) Permitting.

(a) through (d) No change.

(e) Annual Permit Renewal.

1. through 4. No change.

5. Failure to submit the Annual Permit Renewal by December 1, will result in expiration of the permit and removal of the business logo sign from the display panel. Should the business subsequently reapply for a permit, such reapplication will be processed as an initial permit application in accordance with this section.

(12) through (13) No change.

Specific Authority 334.044(2) FS. Law Implemented 334.044(27), 479.261 FS. History–New 6-26-85, Formerly 14-85.04, Amended 3-20-91, 10-10-96, 12-31-96, 10-8-97, 5-25-99.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kenneth Towcimak, Director, Office of Right of Way

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 24, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Accountancy

RULE TITLES:	RULE NOS.:
Definitions	61H1-38.001
Fifth Year of Accounting Education Program	61H1-38.002
General Requirements	61H1-38.003
Eligibility Criteria	61H1-38.004
Scholarships	61H1-38.005
Terms for Council Members	61H1-38.006
Fees	61H1-38.007

PURPOSE AND EFFECT: The Legislature has granted the Board authority under Section 473.3065, Florida Statutes, to establish standards and procedures under which minorities may apply for scholarship assistance. Rule Chapter 61H1-38 shall include those rules listed as Emergency Rules 61H1ER99-1 through 61H1ER99-7, effective April 14, 1999.

SUMMARY: The rules establish procedures for which applicants may submit applications for the Certified Public Accountant Education Minority Assistance Program.

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: 473.3065(3) FS.

LAW IMPLEMENTED: 473.3065 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: 8:30 a.m., Wednesday, August 4, 1999

PLACE: Marriott Westshore, 1001 North Westshore Blvd., Tampa, Florida 33607

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Martha P. Willis, Executive Director, Board of Accountancy, 2610 NW 43 Street, Gainesville, Florida 32606

THE FULL TEXT OF THE PROPOSED RULES IS:

61H1-38.001 Definitions.

Minority – As used herein, the term “minority” shall have the same meaning as set out in Section 288.703(3), F.S.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New

61H1-38.002 Fifth Year of Accounting Education Program.

As used in Section 473.3065(1), a student will be deemed to be enrolled in the “fifth year of accounting education program” so long as the student has completed or is in the final semester of completing a minimum of one hundred and twenty (120) semester hours of academic credit and either is in the process of matriculation in an academic program of higher learning in this state that will result in completion of at least thirty (30) semester hours in excess of that required fro a baccalaureate degree or, when the scholarship authorized under Section 473.3065, F.S., will be awarded, has been accepted into and will be enrolled in a different program of higher learning at an approved institution of higher learning in this state that will result in the completion of at least thirty (30) semester hours in excess of that required for a baccalaureate degree. Any program meeting this definition must be configured such that successful completion of the program will qualify a candidate to take the CPA examination on Florida under the provisions of Chapter 473, F.S., and the rules promulgated thereto.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New

61H1-38.003 General Requirements.

Approved Institutions – Residency scholarships will only be awarded to students who are Florida residents and who are enrolled in the fifth year of an accounting education program in an institution of higher learning in this state which is accredited by one of the accrediting bodies set forth in Rule 61H1-27.001, F.A.C.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New _____.

61H1-38.004 Eligibility Criteria.

A student who meets the foregoing general criteria shall be eligible to be chosen to receive a scholarship so long as the following criteria are met:

(1) Applicants must demonstrate a financial need which is defined as the cost of attendance at an institution of higher education less the expected family contribution and any gift aid for which the student is entitled. “Cost of attendance” is defined as a Board approved estimate of the expenses incurred by a typical financial aid student attending college. It includes direct educational costs (tuition, supplies, computers) as well as indirect costs (room and board, transportation, laundry, child care and personal expenses). Applicants will be required to authorize the Certified Public Accountant Education Minority Assistance Advisory Council (Council) to verify information submitted including financial assistance and educational costs. It is the intent that scholarship money from this source should not affect a student’s eligibility for other scholarships, but should reduce their self-help aid. However, the Council shall take other assistance into consideration when determining a student’s eligibility for a scholarship under this section.

(2) Applicants must be enrolled as full-time students in a fifth year accounting program as defined in 473.306(2), F.S., at an approved institution as defined in 61H1-27.001, F.A.C., and declared a major in accounting.

(3) Applicants must demonstrate scholastic ability of a minimum undergraduate grade point average of 2.5 based on a 4.0 scale.

(4) Applicants must academically in good standing as defined by the college or university.

(5) Applicants must be of “good moral character” as that term is defined in Section 473.306(4)(a), F.S.

(6) All applications must be postmarked by May 1 of the year to which the scholarship will apply.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New _____.

61H1-38.005 Scholarships.

(1) Scholarships will be awarded in the amount of \$3,000.00 per semester up to a maximum of two (2) semesters.

(2) Scholarship checks will be made payable jointly to the institution and the student and will be mailed during August for those enrolled in the fall term and during December for those enrolled in the winter term.

(3) A maximum of \$100,000.00 may be expended for all scholarships each year.

(4) A minimum of \$1,000.00 must be maintained in the program account.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New _____.

61H1-38.006 Terms for Council Members.

Initial terms will be phased in by appointing two (2) members for a two (2) year term to expire December 31, 2000, and two (2) members to a three (3) year term to expire December 31, 2001. Thereafter all terms will be three (3) years except for the Board Member who shall be appointed annually by the Board Chair.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New _____.

61H1-38.007 Fees.

An equal assessment per license out of existing licensing fees, as set forth in Section 473.3065, Florida Statutes, and not to exceed \$10 per license shall be made in an amount needed to collect \$105,000.00 during the first fiscal year of the fund and to collect \$100,000.00 per fiscal year thereafter in order to fund the authorized scholarships.

Specific Authority 473.3065(3) FS. Law Implemented 473.3065 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Accountancy
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Accountancy
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 16, 1999
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 1999

DEPARTMENT OF HEALTH

Board of Podiatric Medicine

RULE TITLE: Definitions
RULE NO.: 64B18-23.001

PURPOSE AND EFFECT: The proposed rule is intended to define the terms “human leg” and “surgical treatment.”

SUMMARY: The proposed rule provides definitions for the terms “human leg” and “surgical treatment.”

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: 461.005 FS.

LAW IMPLEMENTED: 461.003(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Jr., Executive Director, Board of Podiatric Medicine/MQA, 2020 Capital Circle, S. E., Bin # C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B18-23.001 Definitions.

(1) The term "human leg," as used in s. 461.003(3), Florida Statutes, means the entire lower extremity, extending from the head of the femur to the foot, but does not include the hip joint.

(2) The term "surgical treatment," as used in s. 461.003(3), Florida Statutes, means a distinctly operative kind of treatment, such as a cutting operation. As such, injections, x-rays, and other medical, palliative, and mechanical diagnostic techniques and treatments are not surgery.

Specific Authority 461.005 FS. Law Implemented 461.003(3) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Podiatric Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 18, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 16, 1998

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-21.002
Application and Selection Process for Loans	67-21.003
Applicant Administrative Appeal Process	67-21.0035
Selection Criteria and Guidelines for Selection of Developments	67-21.004
Determination of Method of Bond Sale	67-21.0045
Selection of Qualified Lending Institutions as Credit Underwriters, Originators or Servicers	67-21.005
Development Requirements	67-21.006
Fees	67-21.007
Terms and Conditions of Loans	67-21.008
Interest Rate on Mortgage Loans	67-21.009
Issuance of Revenue Bonds	67-21.010
No Discrimination	67-21.011
Advertisements	67-21.012
Private Placements of Multifamily Mortgage Revenue Bonds	67-21.013
Credit Underwriting Procedures	67-21.014
Use of Bonds with other Affordable Housing Finance Programs	67-21.015

Compliance Procedures	67-21.016
Transfer of Ownership	67-21.017
Refundings and Troubled Development Review	67-21.018
Issuance of Bonds for 501(c)(3)'s	67-21.019

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-21, Florida Administrative Code (FAC), is to establish the procedures by which the Florida Housing Finance Corporation shall administer the application process, determine loan amounts and issue multifamily mortgage revenue bonds for new construction or substantial rehabilitation of affordable rental units under the Multifamily Mortgage Revenue Bond Program.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior application cycles to determine what changes or additions should be made to the Rule or Application. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that apply for funding in 2000 application cycle.

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, 420.508 FS.

LAW IMPLEMENTED: 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: 2:00 p.m., August 3, 1999

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor, Seltzer Room, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gwen Lightfoot, Deputy Development Officer, 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:

67-21.002 Definitions.

(1) "Acknowledgment Resolution" means the official action taken by Florida Housing to reflect its intent to attempt to finance a Development provided that the requirements of Florida Housing, the terms of the Loan Commitment, and the terms of the Credit Underwriting Report are met. Such official action shall ~~will~~ not be taken until Florida Housing has received the information necessary to make the findings required by the Code and the Act.

(2) "Act" means the Florida Housing Finance Corporation Act, sections 420.501 through 420.517, Florida Statutes, as amended.

(3) "Affiliate" means any person that (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant (ii) serves as an officer or director of the Applicant or of any Affiliate of the Applicant, or (iii) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i) or (ii) above.

(4)(3) "Annual Recertification" means the compilation of the gross income of all persons or families qualified as lower-income tenants to continue to meet the requirements established in section 142(d) of the Code.

(5)(4) "Annual Household Income" means the gross income of a person, together with the gross income of all persons who intend to permanently reside with such person in the Development to be financed by Florida Housing, annual household income to be defined as that income as of the date of occupancy shown on the income certification promulgated from time to time by Florida Housing.

(6) "Applicant" means any person or entity, for profit or not-for profit, that is seeking a loan from Florida Housing for a multifamily Development and that has agreed to subject itself to the regulatory powers of Florida Housing by submitting an Application.

(7)(5) "Application" means the completed Form MFMRB2000 and its appendices ~~MRMRB2000~~ together with exhibits and the Application Fee submitted to Florida Housing by the Applicant Developer in accordance with the provisions of this Rule Chapter and in the Application in order to apply for the Multifamily Bond Program.

(8)(6) "Application Fee" means the non-refundable application fee to Florida Housing in an amount ~~not to exceed one percent of the requested Loan amount and as listed in 67-21.007, F.A.C. established in the Application.~~

(7) "Application Review" means the review of all applications by Florida Housing staff wherein a determination is made as to whether any application is complete.

(9)(8) "Authorized Investments" means any of the following securities:

(a) Investments permitted under s. 215.47(1) and (2), without regard to any limitations set forth therein.

(b) Investment agreements the issuer of which is rated or the guarantor of which is rated in one of the three highest rating categories by a nationally recognized rating service.

(10)(9) "Board" or Board of Directors means the Board of Directors of Florida Housing.

(11)(10) "Bond Counsel" means the ~~nationally recognized~~ attorney or law firm retained by Florida Housing to serve the specialized function generally described in the industry as bond counsel.

(12)(11) "Bonds" or "Revenue Bonds" means the Bonds of Florida Housing issued to finance Mortgage Loans, including any Bond, debenture, note, or other evidence of financial indebtedness issued by Florida Housing under and pursuant to the Act.

(13)(12) "Bond Trustee" or "Trustee" means a financial institution with trust powers which acts in a fiduciary capacity for the benefit of the bond holders, and in some instances Florida Housing, in enforcing the terms of the Program Documents.

(14)(13) "Code" is the Internal Revenue Code of 1986, as amended, or similar predecessor or successor provisions applicable to a Development to be financed under this rule, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States.

(15) "Completeness and Threshold Check" or "CTC" means the examination of the Application by a Credit Underwriter assigned by FHFC. This examination shall determine if all required information has been provided in the Application. Simultaneously, the Credit Underwriter shall verify and analyze all information in accordance with the Completeness and Threshold Check List found in Appendix A of the Application.

(16) "Contact Person" means a person with decision-making authority for the Applicant, Developer, or owner of the Development with whom the Corporation will correspond concerning the Application and the Development.

(17) "Corporation" or "Florida Housing" or "FHFC" means the Florida Housing Finance Corporation created pursuant to the Act.

(18)(14) "Cost of Issuance Fee" means the ~~non-refundable~~ fee charged by Florida Housing to the Applicant for the payment of the costs and expenses associated with the sale of Bonds and the loaning of the proceeds, including a fee for Florida Housing.

(19)(15) "Credit Enhancement or Guarantee Instrument" means a letter of credit, third party guarantee, insurance contract or other collateral or security pledged to Florida Housing or its Trustee for a minimum of ten years by a third party Credit Enhancer or financial institution securing, or insuring or guaranteeing the repayment of the mortgage loan or Bonds under Florida Housing's Pprogram. A Credit Enhancement or Guarantee Instrument of less than ten years must be approved by the Board prior to being accepted to secure any Bonds.

(20)(16) "Credit Enhancer" means a financial institution, insurer or other third party which provides a Credit Enhancement or Guarantee Instrument acceptable to Florida Housing securing repayment of the Mortgage Loan or Bonds issued pursuant to Florida Housing's Pprogram.

~~(21)(17)~~ "Credit Underwriter" means the legal representative under contract with Florida Housing having the responsibility for providing stated ~~agreed upon~~ credit underwriting services. Such services shall include, for example, a comprehensive analysis of the Applicant, the real estate, the economics, but not be limited to, reviewing the financial feasibility and viability of the Developments, the ability of the Applicant and the Development team to proceed, and the evidence of need for affordable housing in order to determine that the Development meets the Program requirements. The Credit Underwriter shall determine a recommended Bond amount and, at the direction of Florida Housing, recommending to Florida Housing the maximum amount of a Loan that should be made to a Development, whether an initial loan or a refunding, or the expected net operating income of the Development.

~~(22)(18)~~ "Credit Underwriting Report" means a report that is produced follows the Threshold Check and includes recommendations or suggestions submitted by the Credit Underwriter designated by Florida Housing and includes a thorough analysis of the proposed Development and a statement as to whether a loan is recommended, and if so, the amount recommended to review such information. The Credit Underwriter or Florida Housing may request such information as is necessary to properly analyze the credit risk being presented to Florida Housing and/or the bondholders. The Applicant Developer shall pay the cost of such credit underwriting in addition to any other fees payable to Florida Housing in conjunction with the Application and Program financing.

~~(19)~~ "Cross-collateralization" means the pledging of the security of one Development to the obligations of another development.

~~(23)(20)~~ "Demonstration Development" shall mean a development which provides a unique, demonstrated benefit to a population or area not adequately served by existing Florida Housing programs, and which Development may serve as a replicable model for future Florida Housing programs.

~~(24)~~ "Developer" means any individual, association, corporation, joint venturer or partnership which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable multifamily housing pursuant to this Rule Chapter. The Developer, as identified in an Application, may not change until the Development is complete.

~~(21)~~ "Developer, Applicant or Borrower" are considered synonymous for the purposes of this rule, depending upon the stage of the loan process and shall be considered to apply to related entities as determined by Florida Housing and shall mean any individual, association, corporation, joint venturer or partnership that is a sponsor or financial beneficiary of a multifamily Development and that is requesting a loan from

Florida Housing for such Development and that has agreed to subject itself to the regulatory powers of Florida Housing by submitting an Application.

~~(25)(22)~~ "Developer Fees" means the fee earned by the Developer of a Development. Developer Fees include Developer overhead, Developer profit, and the contingency reserve. Developer Fees are not included in the calculation of Total Development Costs. For new construction Developments, Developer fees shall be limited to 20 percent of Total Development Costs, excluding land costs and any reserves required by lenders. For acquisition and rehabilitation Developments, Such fee Developer fees shall be limited to 18 15 percent of Total Development Costs excluding land and building acquisition costs. A Developer Fee on the building acquisition cost shall be limited to 4% of the cost of the building(s) exclusive of land cost. Consulting fees, if any, must be paid out of the Developer Fee. Consulting fees include, for example, payments for Application consultants, construction management or supervision, or local government consultants. Fees for the Applicant's attorney(s) which are in excess of an amount equal to the greater of \$40,000 or 0.75% of the total amount of the Bonds must also be paid out of the Developer Fee. Fees for services provided by architects, accountants, appraisers, engineers or Financial Advisors may be included as part of the Total Development Costs, except those fees for a Financial Advisor that are in excess of \$18,000 must be paid out of the Developer Fee. In the event of extraordinary circumstances, Applicant may petition the Board for relief from the attorney fee and Financial Advisor caps, before Developer overhead, profit and acquisition costs, and any reserves required by lenders, plus five percent of total acquisition costs. For the purpose of the HUD Risk Sharing Program, if there exists an Identity of Interest relationship as defined herein between the Applicant, Borrower, or Developer and the General Contractor, the allowable fees shall in no case exceed the amount allowed for the Developer Fees pursuant to the HUD subsidy layering regulations review. Florida Housing shall not authorize fees to be paid fees for duplicative services or duplicative overhead. Any amounts paid to Developer consultants or agents (or attorneys in excess of an amount equal to the greater of \$40,000 or 0.75% of the principal amount of the Bonds) in connection with construction and financing of the Development (excluding attorneys employed by or on behalf of Florida Housing) shall be deducted against the total Developer Fees permitted hereunder.

~~(26)(23)~~ "Development" means any work or improvement located or to be located in the state, including real property, buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing, whether new construction, the acquisition of existing residential housing, or the remodeling, improvement, rehabilitation, or reconstruction of existing housing, which is intended for use as multifamily rental housing, together with such related nonhousing facilities as

Florida Housing determines to be necessary, convenient, or desirable. A Development shall constitute a "project" within the meaning of the Act.

(27) "Difficult Development Area" means any area designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to area median gross income in accordance with Section 42(d)(5), IRC.

(28)(24) "Disclosure Counsel" means the Special Counsel designated by Florida Housing to be responsible for the drafting and delivery of Florida Housing's disclosure documents such as including, but not limited to, preliminary official statements, official statements, reoffering memorandums or private placement memorandums and continuing disclosure agreements. The fees of Disclosure Counsel shall be set by contract with Florida Housing and shall be paid from the Cost of Issuance Fee or from the Good Faith Deposit submitted with the Loan Commitment.

(25) "Elderly Person" means a person 62 years of age or older.

(26) "Elderly Household" means a household of one or more natural persons or a family wherein the head or co-head of the household is an Elderly Person at initial move in.

(29)(27) "Elderly Housing" or "Elderly Unit" means housing or a unit being occupied or reserved for qualified persons pursuant to the Federal Fair Housing Act and Section 760.29(4), Florida Statutes Elderly Persons.

(30) "Eligible Persons" or "Eligible Household" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the Corporation to be of low or very low income. In determining the income standards of eligible persons for its various programs, the Corporation shall take into account the following factors:

(a) Requirements mandated by federal law.

(b) Variations in circumstances to the different areas of the state.

(c) Whether the determination is for rental housing.

(d) The need for family size adjustments to accomplish the purposes set forth in this Rule Chapter.

With respect to the use of Housing Credits, an "Eligible Person" or "Eligible Household" shall mean one or more persons or a family having a combined income which meets the income eligibility requirements of the Housing Credits Program and Section 42 of the Code.

(31)(28) "Executive Director" means the Executive Director or Chief Executive Officer of Florida Housing.

(32)(29) "Final Board Approval" means formal action by the Board of Directors to adopt a resolution to award a portion of Florida Housing's State Bond Allocation to a Development and which triggers preparation of final Program Documents.

(33)(30) "Financial Advisor" means, with respect to an issue of Bonds, a professional who is either under contract to Florida Housing or is engaged by the Applicant Developer who

advises on matters pertinent to the issue, such as structure, timing, marketing, fairness of pricing, terms, bond ratings, cash flow, and investment matters.

(34)(31) "Florida Housing" means the Florida Housing Finance Corporation as created by the Act.

(35)(32) "General Contractor" means an entity duly licensed in the State of Florida meeting the following criteria:

(a) The Development superintendent is an employee of the General Contractor and the costs of that employment are charged to the general requirements line item of the General Contractor's budget;

(b) The Development construction trailer and other overhead is paid directly by the General Contractor and charged to general requirements;

(c) Building permits are issued in the name of the General Contractor;

(d) Payment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit or other guarantee acceptable to Florida Housing) is, if required, issued in the name of the General Contractor; and

(e) No more than 20 percent of the construction cost is sub-contracted to any one entity.

(36)(33) "General Contractor's Fee" means a fee inclusive of general requirements, profit and overhead. General Contractor's Fees shall be limited to 14 percent of hard costs, excluding any hard cost contingencies. For the purpose of the HUD Risk Sharing Program, if there exists an Identity of Interest as defined herein between the Applicant Borrower and the General Contractor, the allowable fees shall in no case exceed the amount allowable pursuant to the HUD subsidy layering review. Additionally, fees shall ~~will~~ be allowed to be paid only to the person or entity that actually meets the definitional requirements to be considered a General Contractor. Florida Housing shall ~~will~~ not allow fees for duplicative services or duplicative overhead.

(37)(34) "Good Faith Deposit" means a total deposit equal to one percent of the Loan amount reflected in the Loan Commitment ~~or the Application, whichever is greater~~, paid by the Applicant Borrower to Florida Housing, which shall ~~will~~ be applied toward the Cost of Issuance Fee, and of which one-half is payable not later than 7 calendar days after the Board approves the final Credit Underwriting Report at the time of entering into final credit underwriting and the balance is payable at the time of execution of the Loan Commitment. If the Good Faith Deposit is exhausted, the Applicant shall ~~Developer will~~ be required to pay an additional deposit to ensure payment of the expenses associated with the processing of the Application, the sale of the Bonds, including document production and the securitization of the Loan. The Good Faith Deposit shall be remitted by certified check or wire transfer.

(38) "Housing Credit Program" means the federal tax credit program administered by FHFC in accordance with Section 42 of the Code and rule Chapter 67-48, F.A.C.

~~(39)~~~~(35)~~ “HUD Risk Sharing Program” means the demonstration program authorized by Section 542 of the Housing and Community Development Act of 1992.

~~(40)~~~~(36)~~ “Identity of Interest” means, for the purpose of the HUD Risk Sharing Program, any person or entity that has a one percent or more financial interest in the Development and in any entity providing services for a fee to the Development. Unless otherwise excluded, persons or entities that share in the net profits of the Development shall be construed as having an ownership interest to the extent that they share in Development or project revenues. The Identity of Interest definition shall not apply to the tax credit syndicator, limited partner investors, or professionals who are retained pursuant to a negotiated fee arrangement consistent with industry standards and which fee arrangement does not incorporate the payment of fees from Development operating revenues.

~~(41)~~~~(37)~~ “Income Certification,” “Tenant Income Certification” or “Form TIC-1” means that Form TIC-1 which is adopted and incorporated herein by reference, revised ~~February 1999~~ July 22, 1996, and which shall be used to certify the income of all tenants residing in a Set-aside unit in a Development.

~~(42)~~~~(38)~~ “Issuer” means the Florida Housing Finance Corporation.

~~(43)~~~~(39)~~ “Land Use Restriction Agreement” means that agreement among Florida Housing, the Bond Trustee and the Applicant Developer which sets forth certain restrictions on the use of the Development to comply with the Code, the Act, this rule, the policies of Florida Housing and any requirements of a Credit Enhancer. Such document may also be known as the “LURA” or the “Regulatory Agreement” and shall ~~will~~ be recorded prior to the Mortgage in the public records in the county where the Development is located, unless the Board or the Executive Director expressly agrees to subordinate the LURA to facilitate the financing.

~~(44)~~~~(40)~~ “Loan” means the loan made by Florida Housing to the Applicant Developer from the proceeds of the Bonds issued by Florida Housing.

~~(45)~~~~(41)~~ “Loan Agreement” means the Loan or Program Document wherein Florida Housing and the Applicant Developer specify the terms and conditions upon which the proceeds of the Bonds shall be loaned, and the terms and conditions for repayment of the Loan.

~~(46)~~~~(42)~~ “Loan Commitment” means the Loan or Program Document executed by Florida Housing and the Applicant Developer after the issuance of a favorable Credit Underwriting Report and filed with Florida Housing along with full payment of the Good Faith Deposit before substantive work commences on Program Documents other than the Loan Commitment. The Loan Commitment defines the conditions under which Florida Housing agrees to lend the proceeds of the Bonds to the Applicant Borrower for the purpose of financing all or a portion of a Development.

~~(47)~~ “Local Government” means a unit of local general-purpose government as defined in Section 218.31(2), F.S., (1995).

~~(48)~~~~(43)~~ “Local Public Fact Finding Hearing” means a public hearing requested by any person residing in the county or municipality in which the proposed Development is located and which is conducted by Florida Housing for the purpose of receiving public comment or input regarding the financing of a proposed Development with Bonds by Florida Housing.

~~(49)~~~~(44)~~ “Lower Income Tenants” means individuals or families whose annual income does not exceed either 50 percent or 60 percent; ~~(depending on the minimum Set-aside elected)~~ of the area median income as determined by HUD with adjustments for household size. In no event shall occupants of a Development unit be considered to be Lower Income Tenants if all the occupants of a unit are students ~~{as defined in Section 151(c)(4) of the Code}~~ or if the tenants do not comply with the provisions of the Code defining Lower Income Tenants. (See Section 142 of the Code.) If Taxable Bonds or Bonds that do not require State Bond Allocation are being used to finance the Development, Lower Income Tenants shall be defined as an individual or family with an Annual Household Income not in excess of 80 percent of the state or county median income, whichever median income is higher. In the event Bonds are issued on behalf of a corporation organized under Section 501(c)(3) of the Code, the set-aside shall not be less than that required by the 501(c)(3) documents.

~~(50)~~~~(45)~~ “Mortgage” means the instrument securing the Loan which creates a first, co-equal or acceptable subordinate lien on the Development, subject to permitted encumbrances.

~~(51)~~~~(46)~~ “Mortgage Loan” means the Loan secured by the Mortgage and evidenced by a Note or Mortgage Note.

~~(52)~~ “Notice of Funding Availability” or “NOFA” means the notification published in the Florida Administrative Weekly which shall contain the deadline for submission of Applications, the estimated funding amount, and any targeting requirements. Said notice shall be published at least 30 days prior to the deadline contained in such notice. The NOFA shall be mailed to all entries on FHFC’s Program mailing list.

~~(53)~~ “Principal” means any individual acting in their individual capacity or acting as president, vice president, treasurer or secretary, member of the board of directors or the legal or beneficial owner of 10% or more of any class of stock of a corporation which is a general partner of a limited partnership Applicant or Developer; or the general partner of a limited partnership that is the general partner of a limited partnership Applicant or Developer; or is a partner in a general partnership or joint venture acting alone or as a part of another entity that is an Applicant or Developer. With respect to a limited liability company either acting alone or as a part of another entity that is an Applicant or Developer, each manager and each member is a principal. With respect to a registered limited liability partnership either acting alone or as a member

of another entity that is an Applicant or Developer, each partner is a principal. With respect to a trust either acting alone or as a part of another entity that is an Applicant or Developer, any individual or entity owning 10% or more of the beneficial interest in the trust is a principal. A General Contractor, Management Agent, Architect/Engineer, Attorney that participates on an arms-length fee arrangement are not considered Principals of the Applicant entity.

~~(54)(47)~~ “Private Placement” or “Limited Offerings” means the sale of Florida Housing Bonds directly or through an Underwriter or Placement Agent to 35 or fewer initial purchasers who are not purchasing the Bonds with the intent to offer the Bonds for retail sale and who are Qualified Institutional Buyers.

~~(55)(48)~~ “Program” means Florida Housing’s ~~M~~ultifamily ~~M~~mortgage ~~R~~evenue ~~B~~ond ~~P~~rogram.

~~(56)(49)~~ “Program Documents or Loan Documents” means the Loan Commitment, Loan Agreement, Note, Mortgage, Credit Enhancement or Guarantee Instrument, Land Use Restriction Agreement, Trust Indenture, Preliminary and Final Official Statements, Intercreditor Agreement, Assignments, Bond Purchase Agreement, Compliance Monitoring Agreement, Mortgage Servicing Agreement and such other documents as are required by Florida Housing to issue and secure repayment of the Bonds and Mortgage, to protect the interests of the Bond owners and Florida Housing and, ~~if applicable,~~ to protect the tax-exempt status of the Bonds.

~~(57)(50)~~ “Public Policy Criteria” means the requirements and guidelines established by Florida Housing and set forth in 67-21.004, F.A.C. Applicants who seek a Loan from Florida Housing shall elect which Public Policy Criteria they ~~shall will~~ agree to incorporate into the design of their Development. These ~~shall will~~ be incorporated in the Loan Commitment and Program Documents. Such Public Policy Criteria have been adopted for the purpose of accomplishing the programmatic goals of the Code, Florida Housing and the Act.

~~(58)(51)~~ “Qualified Institutional Buyer” is sometimes called a “sophisticated investor” and specifically includes the following:

(a) Any of the following entities, acting for its own account or the accounts of other Qualified Institutional Buyers, that in the aggregate, own and invests on a discretionary basis at least \$100 million in securities of issuers that are not affiliated with the entity:

1. Any insurance company as defined in section 2(13) of the Securities Exchange Act;

2. Any investment company registered under the Investment Company Act or any business development company as defined in section 2(a)(43) of that Act;

3. Any Small Business Investment Company licensed by the U.S. Small Business Administration under sections 301(c) or (d) of the Small Business Investment Act of 1958;

4. Any plan established and maintained by a state or state agency or any of its political subdivisions, on behalf of their employees;

5. Any employee benefit plan within the meaning of title I of the Employee Retirement Income Security Act of 1974;

6. Trust funds of various types, except for trust funds that include participants’ individual retirement accounts or H.R. 10 plans;

7. Any business development company as defined in section 202(a)(22) of the Investment Advisors Act of 1940;

8. Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation (except a bank or savings and loan defined in Section 3(a)(2) or 3(a)(5)(A) of the Securities and Exchange Act, or a foreign bank or savings and loan or similar institution), partnership, Massachusetts or similar business trust, or any investment adviser registered under the Investment Advisors Act.

(b) Any dealer registered under Section 15 of the Securities Exchange Act, acting on its own behalf or on the behalf of other Qualified Institutional Buyers who in the aggregate own and invest at least \$10 million of securities of issuers not affiliated with the dealer (not including securities held pending public offering).

(c) Any dealer registered under section 15 of the Securities Exchange Act acting in a riskless principal transaction on behalf of a Qualified Institutional Buyer.

(d) Any investment company registered under the Investment Company Act that is part of a family of investment companies that together own at least \$100 million in securities of issuers, other than companies with which the investment company or family of investment companies is affiliated.

(e) Any entity, all of whose equity owners are Qualified Institutional Buyers.

(f) Any bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities Exchange Act, or foreign bank or savings and loan or similar institution, ~~in aggregate with the other Qualified Institutional Buyers,~~ owns and invests in at least \$100 million in securities of affiliates that are not affiliated with it and that has an audited net worth of at least \$25 million as demonstrated during the 16 to 18 months prior to the sale.

~~(59)~~ “Qualified Census Tract” means any census tract which is designated by the Secretary of Housing and Urban Development as having 50% or more of the households at an income which is less than 60% of the area median gross income in accordance with Section 42(d)(5), IRC.

~~(60)(52)~~ “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 Florida Housing Development Corporation, or other financial

institution authorized to transact business in the State of Florida and which customarily provides service or otherwise aids in the financing of mortgages on real property in Florida.

~~(61)(53)~~ “Qualified Project Period” means the period of time, as provided in the Code, that a Development Project financed with Tax-Exempt Bonds must comply with the Lower Income Tenant Set-aside.

~~(62)(54)~~ “Set-Aside” means the occupancy requirements or restrictions for Developments financed by Florida Housing. Such ~~S~~et-aside requirements shall ~~will~~ be set forth in the Land Use Restriction Agreement and other such Program Documents as are deemed necessary by Florida Housing. The minimal ~~S~~et-aside requirements are as follows:

(a) For Taxable Bonds – 20 percent or more of the residential units in the Development shall ~~will~~ be occupied or held available for occupancy by one or more persons or a family whose Annual Household Income does not exceed 80 percent of the State or county median income, whichever median income is higher.

(b) For Tax-Exempt Bonds – 20 percent or more of the residential units in the Development shall ~~will~~ be occupied or held available for occupancy by one or more persons or a family whose Annual Household Income does not exceed 50 percent of the State or county median income whichever is higher or 40 percent or more of the residential units in the Development shall ~~will~~ be occupied by or held available for one or more persons or a family whose Annual Household Income does not exceed 60 percent of the State or county median income whichever is higher or that which is required by the Code at the time of issuance of the Bonds or required by Florida Housing to meet its programmatic purposes.

~~(63)(55)~~ “Special Counsel” means the attorney, attorneys, law firm or law firms retained by Florida Housing to serve as counsel to Florida Housing or as Disclosure Counsel pursuant to a contract between the Special Counsel and Florida Housing.

~~(64)(56)~~ “State Board of Administration” or “SBA” means the State Board of Administration created by and referred to in s. 9, Article XII of the State Constitution.

~~(65)(57)~~ “State Bond Allocation” means the allocation of the State private activity bond volume limitation pursuant to Chapter 159, Part VI, F.S., administered by the Division of Bond Finance and allocated to Florida Housing for the issuance of its tax-exempt Bonds.

~~(66)(58)~~ “Student” means an individual who is considered a full-time student by the educational institution being attended or will be a full-time student at an educational institution with regular facilities and students other than correspondence school, during five months of the certification year.

~~(67)(59)~~ “Taxable Bonds” means those Bonds on which the interest earned is included in gross income of the owner for federal income tax purposes pursuant to the Code.

~~(68)(60)~~ “Tax-exempt Bonds” means those Bonds on which all or part of the interest earned is excluded from gross income of the owner for federal income tax purposes pursuant to the Code.

~~(69)(61)~~ “TEFRA Hearing” means a public hearing held pursuant to the requirements of the Code and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), at which members of the public or interested persons are provided an opportunity to present evidence or written statements or make comments regarding a requested application for Tax-exempt financing of a Development by Florida Housing.

~~(62)~~ “~~Threshold Check~~” ~~means the required documentation verification and review by the Credit Underwriter before a Development may be approved for admission to final Credit Underwriting.~~

~~(70)(63)~~ “Total Development Cost” means the sum total of all costs incurred in the construction ~~development~~ of a Development all of which shall be subject to the approval by the Credit Underwriter and shall be approved by Florida Housing as reasonable and necessary. Such costs may include, but not be limited to:

(a) The cost of acquiring real property and any building thereon, including payment for options, deposits, or contracts to purchase properties.

(b) The cost of site preparation, demolition, and development.

(c) Any expenses relating to the issuance of Tax-exempt Bonds or Taxable Bonds by Florida Housing related to the particular Development.

(d) Fees in connection with the planning, execution, and financing of the Development, such as those of architects, engineers, attorneys, accountants, Financial Advisors and Florida Housing. The fees for attorneys and Financial Advisors are limited pursuant to Rule 67-21.002(25), F.A.C.

(e) The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs during construction, rehabilitation, or reconstruction of the Development.

(f) The cost of the construction, rehabilitation, and equipping of the Development.

(g) The cost of land improvements, such as landscaping and offsite improvements related to the Development, whether such costs are paid in cash, property, or services.

(h) Expenses in connection with initial occupancy of the Development.

(i) Allowances established by Florida Housing for working capital; or contingency reserves, and reserves for any anticipated operating deficits during the first two years after completion of the Development.

(j) The cost of other such items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for Bonds.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.503, 420.507, 420.508 FS. History—New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 2-6-97, 1-7-98, Formerly 9I-21.002, Amended 1-26-99,

67-21.003 Application and Selection Process for Loans.

(1) Florida Housing hereby adopts by reference the Application and its appendices (Form MFMRB2000, MFMRB99, effective October 1999 ~~November 1998~~) which provides the instructions and forms necessary for submission of an Application for participation in the Program. Said Application package form may be obtained from Florida Housing by contacting the Multifamily Bond Program Administrator, Florida Housing at 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301. ~~Said Application includes a detailed timeline timeframe;~~ including deadlines for receipt of information necessary to complete the final Credit Underwriting, shall be provided to all Applicants after the cycle has closed. The detailed timeline shall include the deadlines which must be met for ~~For~~ those Applicants using Developments utilizing either or both of Florida Housing's Guarantee Fund and through the HUD Risk-Sharing programs, ~~the timeframes set forth in the Application relative to those programs must also be met.~~

(2) An Application may be submitted at any time; however, priority in reviewing and ranking Applications for award of State Bond Allocation for a calendar year shall be given to Applications received by Florida Housing by the deadline specified in the Notice of Funding Availability published ~~noticed~~ in the Florida Administrative Weekly. Applications received after the noticed deadline shall not be processed, reviewed, or ranked in any way until such time as the list of Applications received by the noticed deadline has been exhausted. The notice shall be published at least 14 days prior to any such deadline and shall also be mailed to each person and entity who has requested a copy of such notice. As set forth in said notice, Florida Housing may elect to reserve a portion of its private activity bond allocation for multifamily revenue bonds for use solely for Demonstration Developments or in connection with HUD multifamily developments. Developments wholly owned by not-for-profit corporations qualifying under Section 501(c)(3) of the Code which are not requesting State Bond Allocation are governed by Rule 67-21.019, F.A.C. shall not be required to submit an Application under the Program.

(3) All Applications must be complete, accurate, legible and timely when submitted, and must be accompanied by the applicable Application Fee which includes the estimated costs for the and TEFRA fees, CTC, Limited Restricted Appraisal, and Market Study. An original and three two ~~two~~ photocopies ~~copies~~ shall be submitted, except if a Development is

proposing to use Florida Housing's Guarantee Fund Program, an original and four photocopies shall be submitted; or if a Development is proposing to participate in HUD Risk Sharing, an original and five photocopies shall be submitted.

(4) Upon receipt of an Application, all required copies and all applicable fees, staff shall assign a tracking number and a Credit Underwriter for each Application. The Applications shall then be forwarded to the assigned Credit Underwriter for the CTC. Upon receipt, an Application shall undergo Application Review. Any change in information submitted in an Application may be grounds for rejection of an Application.

(5) Applications which receive a satisfactory CTC shall be ranked using the criteria established by the Board and listed in Rule 67-21.004, F.A.C.

(6) This ranking shall be transmitted to all Applicants along with notice of appeal rights. Following the completion of the informal appeal process, the resultant ranking shall be presented to the Board for approval along with the Hearing Officer's Recommended Orders, if any. The Board shall be asked to issue Acknowledgement Resolutions at this time.

(7)(5) Based on the order of the ranked Applications and the availability of State Bond Allocation, the Board shall designate those Applications to be offered the opportunity to enter final Credit Underwriting. Notwithstanding the rankings, a portion of the State Bond Allocation may be designated or reserved by the Board for allocation necessary to resolve administrative or legal proceedings with respect to Program Applications. Additionally, notwithstanding the rankings, State Bond Allocation received by the Board after November 1 of any year may be designated by the Board to be allocated in the subsequent year's cycle, on staff's determination that an Application is complete, the Executive Director shall designate those Developments to undergo the Threshold Check and staff shall assign a Credit Underwriter to each Development. Developments which receive a satisfactory Threshold Check shall be ranked by the Board utilizing the Selection Criteria and Guidelines enumerated in Rule 67-21.004 and targeting criteria selected by the Board. Applications which are not deemed complete or which do not receive a satisfactory Threshold Check shall remain unranked; however, if there is not a sufficient number of completed Applications which have achieved satisfactory Threshold Checks to utilize available private activity bond allocation, Florida Housing may elect to allow incomplete Applications to provide additional information necessary to rank such Applications on the same basis as Applications were previously ranked. Based on their ranking and the availability of State Bond Allocation, the Board shall designate those Developments to be invited to enter Credit Underwriting. The Board may invite more Developments into Credit Underwriting than can be funded with the available State Bond Allocation. Applicants shall be notified in writing of the opportunity to enter final Credit Underwriting. A detailed timeline for submitting required fees

and information to the Credit Underwriter shall be included. Failure to meet the deadlines established by such timeline shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list. Applicants electing to proceed to final Credit Underwriting do so at their own risk. Any Applicant which declines invitation to final Credit Underwriting shall be removed from the ranked list. Applicants electing to proceed to Credit Underwriting with Applications ranked below the available State Bond Allocation do so at their own risk.

(8) Applications which do not receive a satisfactory CTC shall remain unranked; however, if there is not a sufficient number of ranked Applications to use the available State Bond Allocation for the Program, Florida Housing shall notify all unranked Applicants and provide a period of 14 days for such Applicants to submit all necessary information and documents to the assigned Credit Underwriter to cure all unsatisfactory items.

(9) At the conclusion of the 14 day cure period referenced in (8) above, the Credit Underwriter shall evaluate the additional information and determine if the Application is now satisfactory for purposes of the CTC. This determination must be submitted to FHFC not later than 7 days after the end of the 14 day cure period.

(10) Applications that successfully complete the CTC after the 14 day cure period referenced in (8) above shall be evaluated and ranked by staff using the criteria established by the Board and listed in Rule 67-21.004, F.A.C. This ranking shall be presented to the Board for approval and authorization of invitations to Credit Underwriting. In the event that time constraints preclude presentation of this ranking to the Board for approval and authorization of Credit Underwriting, staff shall offer Applicants the opportunity to enter Credit Underwriting at their own risk only to the extent that there is sufficient State Bond Allocation to fully fund the proposed Developments.

(11)(6) Based on the ranking and the availability of State Bond Allocation, Florida Housing shall initiate TEFRA hearings on the proposed Developments. The invitation into Credit Underwriting and the Acknowledgment Resolution are nonbinding commitments used by Florida Housing to formally acknowledge a proposed Development and to establish a date for certifying reimbursable costs. Neither the TEFRA hearing, the invitation into final Credit Underwriting, nor and the Acknowledgment Resolution do not in any way obligate Florida Housing to finance the proposed Development in any way.

(12)(7) Upon receipt of the Credit Underwriting Report, issuance of the Acknowledgment Resolution, Florida Housing shall submit the Application to its Financial Advisor, if any, for a preliminary recommendation of determination for the method of Bond Sale for each Development pursuant to Rule 67-21.0045, F.A.C.

~~(8) Following Florida Housing receipt of a favorable Threshold Check from the Credit Underwriter and the preliminary recommendation of the method of Bond Sale from Florida Housing's Financial Advisor, if any, or from the staff, the Board shall designate by resolution the method of Bond Sale considered appropriate for financing. The Board shall also assign a bond underwriter, structuring agent, or Financial Advisor, as needed.~~

(13)(9) Proposed Developments that are ranked, but not selected by the Board to enter final Credit Underwriting, shall remain on the ranking list in the event State Bond Allocation becomes available to fund additional other Developments. Developments on the ranking list that are not designated by the Board to receive State Bond Allocation in the calendar year in which Application was made shall be removed from the ranking list. If the current year's State Bond Allocation is insufficient to finance a Development, a new Application must be filed to be eligible for a future year's State Bond Allocation. Developments designated for a portion of the current year's State Bond Allocation shall be required to close at such time as set forth in such designation.

(14)(10) Florida Housing shall notify the Applicant, in writing, of the Board's determination related to approval of the entering final Credit Underwriting Report and require request that the Applicant submit one-half of the Good Faith Deposit within 7 calendar days and the information required to complete final Credit Underwriting. The notice shall also inform the Applicant of the Board's determination with respect to the method of Bond Sale. The Applicant must remit one-half of the Good Faith Deposit to Florida Housing within seven business days of receipt of the notice. The Good Faith Deposit shall be subject to forfeiture in accordance with the terms of the Program Documents in the event the Loan is not closed. The Applicant shall comply with time frames for submitting information required for final Credit Underwriting established by Florida Housing based on the recommendation of the Credit Underwriter.

(15)(11) Upon favorable recommendation of the final Credit Underwriting report and preliminary recommendation of the method of bond sale from Florida Housing's Financial Advisor, or from the staff, the Board shall designate by resolution the method of bond sale considered appropriate for financing. receipt of staff recommendation, the Board shall consider authorizing the execution of the Loan Commitment and shall consider reserving State Bond Allocation for a Development. The Board shall also assign a bond underwriter, structuring agent, or Financial Advisor and any other professionals necessary to complete the transaction. Staff shall assign FHFC counsel as needed.

(16)(12) Following receipt of one-half of the Good Faith Deposit, Florida Housing's assigned counsel shall begin documenting the terms of the transaction, including the Loan Commitment. After execution of the Loan Commitment by the

Developer, receipt of a favorable Credit Underwriting report, and payment of the balance of the Good Faith Deposit, staff shall agenda final approval of the proposed Development for the Board.

~~(17)(13)~~ Upon execution of a Loan Commitment Applicant shall pay ~~and the submission of~~ the balance of the Good Faith Deposit ~~and by the Developer~~, Florida Housing shall authorize the preparation of the required documents which shall include:

- (a) Loan Agreement;
- (b) Note;
- (c) Mortgage;
- (d) Guarantee Instrument Agreements, if any;
- (e) Land Use Restriction Agreement;
- (f) Trust Indenture;
- (g) Preliminary and Final Official Statements;
- (h) Financial Monitoring Agreements;
- (i) Compliance Monitoring Agreements; and
- (j) Such other documents as are necessary to establish and secure the Mortgage Loan and the issuance of the Bonds.

(18) If any Applicant, an Affiliate of an Applicant or a partner of a limited partnership is determined by the Corporation to have engaged in fraudulent actions or to have deliberately misrepresented information within the current Application or in any previous Applications for financing or Housing Credits administered by the Corporation, the Applicant and any of Applicant's Affiliates shall be ineligible to participate in any program administered by the Corporation for a period of up to two fiscal years, which shall begin from the date the Board approves disqualification of the Applicant's Application.

(19) Prior to instituting any change, including change orders and other changes resulting in any modification or deviation from the final Credit Underwriting Report as approved by the Board, Applicant shall notify Florida Housing Finance Corporation. All changes to the Development plans, tenant programs and other specifications which were used to describe the Development in accordance with this Rule Chapter and MFMRB2000 and represented to the Credit Underwriter and Development servicer are affected by this prior notification requirement. Failure to obtain FHFC's approval prior to implementing any such changes shall result in the Applicant and any of the Applicant's Affiliates being ineligible to participate in any program administered by the Corporation for a period of two fiscal years, which shall begin from the date the Board approves disqualification of the Applicant and its Application.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4),(13),(14),(18),(19),(20),(21),(24), 420.508 FS. History—New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.003, Amended 1-26-99, _____.

67-21.0035 Applicant Administrative Appeal Procedures.

(1) Following the Credit Underwriter's completion of the CTC, a notice regarding whether or not the Application received a satisfactory CTC shall be provided to each Applicant.

(2) Applicants who wish to contest the decision relative to the CTC for their own Application must petition for a review of the decision in writing within 10 calendar days of the date of the notice. The request must specify in detail the basis for the appeal and the issues to be appealed. Unless the appeal involves disputed issues of material fact, the appeal shall be conducted on an informal basis. Florida Housing staff shall review the appeal and shall provide to the Applicant a written position paper which indicates whether a change will be made regarding each issue appealed. If the Applicant disagrees with Florida Housing's position paper, the Applicant shall be given an opportunity to participate in an informal administrative hearing. If the appeal raises issues of material fact, a formal hearing shall be conducted pursuant to Section 120.57(1), Florida Statutes. Failure to timely file a petition shall constitute a waiver of the right of the Applicant to such an appeal.

(3) For purposes of 67-21.0035(2) above, the written notification, petition, or request for review is deemed timely filed when it is received by the FHFC prior to 5:00 p.m. Tallahassee, Florida time of the last day of the designated time period at the following address: Florida Housing Finance Corporation 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, Attention: Corporation Clerk. For the purpose of this subsection, "received" means delivery by hand, U.S. Postal Service, or other courier service, or by facsimile. Petitions or requests for review that are not timely filed shall constitute a waiver of the right of the Applicant to such a review.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4),(13),(14),(18),(19),(20),(21),(24), 420.508 FS. History—New _____.

67-21.004 Federal Set-Aside and Public Policy Requirements Selection Criteria and Guidelines for Selection of Developments.

(1) Each Application shall designate one of the following minimum federal Set-aside requirements that the Development shall ~~will~~ meet when the Development construction or rehabilitation is completed:

(a) Twenty percent of the residential units in the Development shall ~~will~~ be occupied by or reserved for occupancy by one or more persons or a family whose Annual Household Income does not exceed 50 percent of the ~~area State or county~~ median income ~~limits adjusted for family size, whichever is higher~~ (the 20/50 Set-aside); or

(b) Forty percent of the residential units in the Development shall ~~will~~ be occupied by or reserved for occupancy by one or more persons or a family whose Annual

Household Income does not exceed 60 percent of the area State or county median income limits adjusted for family size, whichever is higher (the 40/60 Set-aside).

(2) In addition to meeting the minimum required Set-aside described in paragraph (1) above, each Development selected for financing in the Program shall have Florida Housing Program funding that does not exceed \$65,000 per unit, ~~excluding raw land,~~ and shall satisfy the Public Policy Criteria as follows: a minimum of three of the Public Policy Criteria requirements listed in paragraphs (a) and (b) below. At least two of the three Public Policy Criteria must be selected from the list of criteria set forth in paragraph (a).

(a) All Applicants A Development Application shall commit to provide reflect the Developer's commitment to satisfy a minimum of two of the following criteria:

~~1. At least 20 percent of the units in the Development shall be three bedroom units or greater.~~

~~2. At least 20 percent or 40 percent of each unit size in excess of one bedroom and studio units in the Development to shall be occupied or reserved for occupancy by Lower Income Tenants in proportion to the minimum Set-aside requirement elected, as follows:~~

~~1.a. if the Development satisfies the 20/50 Set-aside, 20 percent of the units at or below 50 percent of area median gross income limit, adjusted for family size and determined in accordance with Section 142(d) of the Code, or~~

~~2.b. if the Development satisfies the 40/60 Set-aside, 40 percent of the units at or below 60 percent of area median gross income limit, adjusted for family size and determined in accordance with Section 142(d) of the Code, or~~

~~3.c. in the case of Developments financed through the issuance of Taxable Bonds (or for specific cases pursuant to the Code, Tax-exempt Bonds), 20 percent of the units at or below 80 percent of state or county median income limit, whichever is higher, and with family size adjustment (or for Developments financed prior to the Code, as amended,) or without family size adjustment). The foregoing shall not apply to Developments which are also financed with Tax-exempt debt in which at least 50 percent of the Bonds issued are Tax-Exempt in nature.~~

(b) In addition to satisfying 67-21.004(2)(a) above, a Development Application shall reflect the Applicant's commitment to satisfy a minimum of three of the Public Policy Criteria listed in 1-6 below in this sub-paragraph. A Development Application may comply with one or more of the following optional requirements:

1. At least 20% of the units in the Development shall be three bedroom units or greater.

~~3. All Set-aside units in the Development shall have lower rent rates than comparably sized new units in the area and which were built at the same time or since construction of the Development and which are of comparable construction~~

~~quality. Documentation of comparable rents must be made to Florida Housing and its compliance monitoring agent as requested.~~

~~2.4. Increase the selected minimum Set-aside units by 10 percent, therefore:~~

(i) if the Development satisfies a 20/50 Set-aside, at least 30 percent of the units in the Development, shall be occupied or reserved for occupancy by persons or families having incomes at or below 50 percent of area median gross income limit, adjusted for family size and determined in accordance with Section 142(d) of the Code,

(ii) if the Development satisfies a 40/60 Set-aside, at least 50 percent of the units in the Development, shall be occupied or reserved for occupancy by persons or families having incomes at or below 60 percent of area median gross income limit, adjusted for family size and determined in accordance with Section 142(d) of the Code, or

(iii) in the case of Developments financed through the issuance of Taxable Bonds, ~~at least 30 percent of the units in the Development shall be occupied or reserved for occupancy by persons or families having incomes at or below 80 percent of the state or county median income limit, whichever is higher, and with family size adjustment (or for Developments financed prior to the 1986 IRS Code, as amended) or without family size adjustment).~~ The foregoing shall not apply to Developments which are also financed with Tax-exempt debt in which at least 50 percent of the Bonds issued are Tax-exempt in nature.

~~5. At least 10 percent of the units in the Development shall be allocated for priority in renting to applicants for occupancy who are active participants in a welfare-to-work program approved by Florida Housing.~~

~~3.6. All units in the Development shall serve as Elderly Units pursuant to the Federal Fair Housing Act. This criterion cannot be selected in combination with the criteria to provide a minimum percentage of three-bedroom or four-bedroom units.~~

~~4.1. The Applicant Developer agrees to a Qualified Project Period that shall extend a minimum of 10 years beyond the period of time provided for in the Code.~~

~~5.2. The Applicant Developer of the Development shall develop and implement a minimum of two tenant programs as an integral part of the Development and approved by Florida Housing, such as day after school child care, adult literacy training, health care, or meals, or other tenant programs as described in the Application.~~

~~6.3. The Applicant Developer of the Development shall develop and implement a program as described in the Application approved by Florida Housing that would assist Lower Income Tenants in moving into a homeownership situation.~~

~~(3) In the event that a Development involves a commitment to comply with the requirement described in subparagraph (2)(a)5., above, the Developer shall:~~

~~(a) Provide a written notice relating to the Development to the local housing agency, WAGES Board, applicable local government, or community project agency, if any, in the county in which the Development will be located not later than 30 days after construction begins stating the total number of units to be constructed, including bedroom size, the location, the name and telephone number of the person to contact for further information.~~

~~(b) Provide a notice containing both the information referred to in paragraph (a), above, and the anticipated date on which leasing will begin to each agency referred to in paragraph (a), above, no later than one month prior to the anticipated date of initial occupancy or completion of rehabilitation of any unit.~~

~~(c) Develop a system under which:~~

~~1. at least 10 percent of all units in the Development shall be reserved for a period of one month from the date of initial occupancy or completion of rehabilitation of any unit in the Development for active participants in a welfare-to-work program approved by Florida Housing to apply for occupancy;~~

~~2. at all times, active participants in a welfare-to-work program approved by Florida Housing shall be given priority over other applicants for occupancy; and~~

~~3. after initial occupancy of a unit or completion of rehabilitation of such unit, a separate waiting list of applicants currently participating in a welfare-to-work program approved by Florida Housing shall be maintained.~~

~~(3)(4) All Public Policy Criteria and factors selected by the Applicant shall Developer set forth in Rule 67-21.004 will be verified through Florida Housing's Credit Underwriting if the Development Application is approved by Florida Housing. Any proposed changes to the Public Policy Criteria selected by the Applicant Developer and identified in its Development Application may be only to other Public Policy Criteria set forth in Rule 67-21.004 and must be submitted to Florida Housing for prior approval. Florida Housing may grant such approval if it would not alter the Application ranking Development's priority.~~

~~(4)(5) Initial consideration shall will be given based on any or all of the criteria set forth below as shall be established by the Board of Florida Housing and included in the Application and in such order of priority as set forth in the Application. Such criteria shall be incorporated in the Application as Appendix C. Each criteria shall, will, where possible, be evaluated on a sliding scale as set forth in the Application.~~

~~(a) A commitment to provide more than the minimum low-income set-aside; however, in no event shall the Set-aside for Multifamily Bond requirements exceed 80% of the units;~~

(b) Developments with no other Florida Housing subsidy (Developments utilizing Florida Housing's Guarantee Fund, HUD Risk-Sharing or Predevelopment Loan Fund ~~shall will~~ not be considered as having a Florida Housing subsidy);

(c) Demonstration Developments that can serve as a model for satisfying a defined housing need as determined by the Board;

(d) The experience of the Developer or Applicant;

(e) Diversification of the Developers receiving funding in a given cycle;

(f) Diversification of the Developers receiving funding in previous cycles;

(g) Developments with which the lowest ratio State of private activity B bond allocation per unit financed;

(h) Developments which benefit a specific population, county or other area of the state;

(i) Developments which have special or unique value to a population targeted by the Board;

(j) Developments which target relief in areas of the state affected by a natural disaster;

(k) Developments with the lowest per-unit Developer and General Contractor fee; ~~and profit and/or lowest per-unit cost;~~

(l) Developments with the lowest per unit cost;

~~(m)(4)~~ (m)(4) Developments with a commitment for credit enhancement;

~~(n)(m)~~ (n)(m) Developments with credit enhancement not constituting a private placement of Bonds;

~~(o)(n)~~ (o)(n) Public Policy Criteria Selected by the Applicant; Developer;

~~(p)(o)~~ (p)(o) Developments with a commitment from the Florida Housing Finance Corporation Guarantee Program;

(q) Special farmworker housing needs;

(r) Urban-infill housing needs.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4),(6),(12),(13),(14),(18),(19),(21), 420.508 FS. History—New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94,9-25-96, 2-6-97, 1-7-98, Formerly 9I-21.004, Amended 1-26-99.

67-21.0045 Determination of Method of Bond Sale.

(1) Florida Housing may sell Bonds for the purpose of financing a proposed Development through a negotiated sale, competitively bid sale or Private Placement. Prior to the sale of Bonds for a Development, the Board shall authorize a resolution specifying the method of sale.

(2) With the exception of Applicants who are seeking a Private Placement, following receipt of the Credit Underwriting Report, approval of the Development ranking list by the Board, staff shall provide Florida Housing's Financial Advisor, ~~if any,~~ copies of the such report Applications for review and preparation of a written recommendation for the method of Bond sale.

(3) In preparing a recommendation for the method of sale to the Board, the Financial Advisor shall consider the following:

- (a) The cost components of the sale, including interest costs and financing costs. The purpose of the analysis is to determine how these costs are affected by the alternative forms of sale.
- (b) The anticipated credit and security structure of the transaction.
- (c) The proposed financing structure of the transaction.
- (d) The financing experience of the Applicant Developer.
- (e) Florida Housing's programmatic objectives.
- (f) Market stability.
- (g) Other factors identified by staff, counsel, or the Applicant Developer.

~~(4) Upon receipt of the Applications, Florida Housing's Financial Advisor shall evaluate each proposed transaction and make a preliminary written recommendation on the appropriate form of sale. The written recommendation shall include an identification of the Development, the recommended method of sale, and a summary statement as to why the particular method of sale is being recommended and a brief rationale for the preliminary recommendation for each Development.~~

(5) For those transactions that Florida Housing's Financial Advisor recommends as candidates for a competitive sale, Florida Housing shall ~~will~~ engage a structuring agent. ~~[The Applicant may, at its sole expense, Developer shall engage a Financial Advisor for the transaction. Any cost to the Applicant for the Financial Advisor in excess of \$18,000 must be paid out of Developer Fee, in accordance with 67-21.002(25).]~~

(6) For those transactions that Florida Housing's Financial Advisor recommends for a negotiated sale, Florida Housing shall ~~will~~ appoint an underwriter.

~~(7) Following the Threshold Check for a Development, staff will transmit the Development's term sheet to Florida Housing's Financial Advisor for a final recommendation as to the method of Bond sale. The analysis shall apply the considerations listed in paragraph (3) above. Florida Housing's Financial Advisor shall prepare a final written recommendation as to the method of Bond sale for consideration by the Board. The recommendation shall identify the Development, recommend the method of sale, include a discussion of each criterion's relevance and effect on the transaction, and a summary statement as to why the particular method of sale is being recommended.~~

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4),(13),(19),(20), 420.508, 420.509 (12) FS. History—New 1-7-98, Formerly 9I-21.0045, Amended 1-26-99,_____.

67-21.005 Selection of Qualified Lending Institutions As Credit Underwriters, Originators or Servicers.

(1) Qualified Lending Institutions shall be selected to underwrite, participate in the origination of and service eligible Mortgage Loans.

(2) The criteria which shall be considered for selection of Qualified Lending Institutions to participate in the Program shall include:

(a) The statutory requirement that the lending institution be a bank or trust company, mortgage banker, savings banker, savings bank, credit union, national banking association, building and loan association, insurance company, the Florida Housing Development Corporation, or other financial institution or governmental agency authorized to transact business in the State of Florida and which customarily provides service or otherwise aids in the financing of mortgages on real property located in the State of Florida.

(b) The credit underwriting and loan servicing experience and financial condition of the Qualified Lending Institution.

(c) Marketability of the Bonds using the Qualified Lending Institution as credit underwriter and servicer.

(d) Requirements of any rating agency rating the Bonds applicable to a credit underwriter and servicer.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502(20), 420.507(4),(6), (13),(18),(19),(20),(21), 420.508 FS. History—New 12-3-86, Amended 9-25-96, 1-7-98, Formerly 9I-21.005, Amended 1-26-99, Repromulgated.

67-21.006 Development Requirements.

A Development shall at a minimum meet the following requirements or ~~an a Applicant Developer~~ shall be able to certify that the following requirements shall be met with respect to a Development:

(1) Must provide safe, sanitary and decent multifamily residential housing for lower, middle and moderate income persons or families.

(2) Must be owned, managed and operated as a Development to provide multifamily residential rental property comprised of a building or structure or several proximate buildings or structures, each containing four or more dwelling units and functionally related facilities, in accordance with section 142(d) of the Code.

(3) All of the Development shall consist of similar units, containing complete facilities for living, sleeping, eating, cooking and sanitation for a single person or family.

(4) None of the units in the Development shall be used on a transient basis, nor shall they be knowingly leased for a period of less than 180 days unless a determination is made by Florida Housing that there is a specific need in that particular area for leasing arrangements of less than 180 days, but in no event shall a lease be for a period less than 30 days, nor shall a Development be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, hospital, sanitarium, nursing home or rest home or trailer court or park.

(5) All of the dwelling units shall be rented or shall be available for rent on a continuous basis to members of the general public, and the Applicant Developer shall not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be occupied in compliance with the Code or are being held for older persons in accordance with the Federal Fair Housing Act and set aside for Elderly Persons in Developments with Elderly Units approved by Florida Housing.

(6) The ~~Developer or~~ Applicant shall have no present plan to convert the Development to any use other than the use as a residential rental property.

(7) None of the units shall at any time be occupied by the owner of the Development or an individual related to the owner as such terms are defined by the Code; provided, however, that in Developments containing more than 50 residential units, such owner or related person may occupy up to one unit per each 100 units in a Development and such owner or related person must reside in a unit that is in a building or structure which contains at least five residential units.

(8) Commencing with the date on which at least 10 percent of the units in the Development are occupied:

(a) At least 20 percent or 40 percent, whichever is applicable based on Applicant's selection of the minimum federal Set-Aside, of the occupied and completed residential units in the Development shall be occupied by Lower Income Tenants, prior to the satisfaction of which no additional units shall be rented or leased, except to an individual or family that is also a Lower Income Tenant;

(b) All of the Public Policy Criteria selected in the Application must be met; and

(c) After initial rental occupancy of such residential units by Lower Income Tenants, at least 20 percent or 40 percent, whichever is applicable based on Applications selection of the minimum federal Set-aside, of the completed residential units in the Development project at all times shall be rented to and occupied by Lower Income Tenants as required by Section 142(d) of the Code, if the Development is financed with the proceeds of Tax-exempt Bonds, or as required by the Act, if the Development is financed with the proceeds of Taxable Bonds, or held available for rental if previously rented to and occupied by a Lower Income Tenant.

(9) The Applicant Developer shall obtain and maintain on file income certifications from each Lower Income Tenant immediately prior to initial occupancy and at least annually thereafter.

(10) The ~~Developer or~~ Applicant shall not take, permit, or cause to be taken any action which would adversely affect the exemption from federal income taxation of the interest on Tax-exempt Bonds, nor shall the Applicant Developer fail to

take any action which is necessary to preserve the exemption from federal income taxation of the interest on Tax-exempt Bonds.

(11) The ~~Developer or~~ Applicant shall take such action or actions as shall be necessary, to comply fully with the Code, Florida Statutes, and Florida Housing Rules.

(12) The ~~Developer or~~ Applicant shall execute or cause to be executed a Loan Agreement, Mortgage and such Credit Enhancement or Guarantee Instruments as shall be necessary to secure the Bonds.

(13) The Applicant Developer may limit the leasing of Elderly uUnits in a Development to older persons or those persons who qualify pursuant to the Federal Fair Housing Act in conjunction with the required income restrictions. Elderly Persons or to Elderly Persons who qualify as Lower Income Tenants and who comply with the Code income limitations.

(a) ~~The Developer may elect to achieve compliance with the requirement that 20 or 40 percent of the units in a Development be set aside for Lower Income Tenants or families as required by the Code by electing to lease to Elderly Persons who are also Lower Income Tenants under the Code.~~

(b) ~~The Developer may lease Elderly Units to Lower Income Tenants if a sufficient number of Elderly Persons cannot be found and the following criteria have been satisfied:~~

(14) In the event that the Applicant has determined that the market no longer supports the Development as housing for older persons pursuant to the Federal Fair Housing Act and desires to rent to younger persons or families, the following criteria must be met:

a.1. ~~A Evidence of a viable marketing plan is submitted to and is acceptable to Florida Housing showing to show a good faith effort to market the unit to older persons.~~

b.2. ~~The Applicant demonstrates Developer shows that a good faith effort was made to lease the unit in accordance with the Federal Fair Housing Act to older persons an Elderly Person and that such effort was made for at least six months 30 days after the certificate of occupancy for the relevant unit was issued.~~

3. ~~The Developer agrees to continually maintain a waiting list with priority for Elderly Persons who apply after such time that such unit or units were made available to Lower Income Tenants.~~

c. The Applicant has requested and received Board approval.

(15)(14) The Applicant and Developer of a proposed rehabilitation Development shall make every effort to rehabilitate existing housing (i) without displacing existing tenants or (ii) by temporarily moving existing tenants to unaffected units within the Development until the renovation of affected units are completed.

(16)(15) The owner of a Development must notify Florida Housing of an intended a change in the management company. Florida Housing must approve the Applicant's Developer's

selection of a management agent prior to such company assuming responsibility for the Development. The Applicant's authorized representative Developer and management agent of the Development must attend a Florida Housing-sponsored training workshop on certification and compliance procedures prior to the leasing of any units in the Development.

~~(17)~~(16) The Applicant Developer shall use cost certifications with respect to each Development as required by the United States Department of Housing and Urban Development ("HUD") in connection with Developments financed by HUD, including the HUD Risk Sharing Program.

~~(18)~~(17) The Applicant Developer shall provide annually to the Trustee audited financial statements on the Development and any other information required by Florida Housing to comply with continuing disclosure requirements imposed by law.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(9),(11),(14),(18),(19),(20),(21), 420.508 FS. History—New 12-3-86, Amended 2-22-89, 12-4-90, 9-25-96, 1-7-98, Formerly 91-21.006, Amended 1-26-99,_____.

67-21.007 Fees.

Florida Housing shall collect the following fees and charges in conjunction with the Program:

(1) Application Package Fee: Each Applicant must obtain an Application Package and "Developer's Handbook" from Florida Housing. A fee of \$60 shall be payable to Florida Housing by any person requesting a copy of the Application Package, and said fee must be received by Florida Housing prior to the issuance of an Application Package.

(2) Application Fee: At the time of submission of the Application, Applicants shall submit a non-refundable Application fee to Florida Housing in ~~the an~~ amount of \$11,500 not to exceed one percent of the Loan Amount and established in the Application form. This fee includes the minimum estimated costs for the Limited Restricted Appraisal, Market Study, Completeness and Threshold Check, and TEFRA Fee. If actual costs exceed estimated costs for these items, Applicant shall be responsible for payment of the balance due as invoiced.

(3) TEFRA Fee: This fee is included in Application fee. \$500 of the Application Fee As part of the Application process, Applicants shall submit a \$500.00 deposit to Florida Housing that shall be applied to the actual cost of publishing required newspaper advertisements and Florida Administrative Weekly notices of TEFRA hearings. If the actual cost of the required publishing exceeds \$500.00, Applicant shall be invoiced for the difference. If a Local Public Fact Finding Hearing is requested, the Applicant Developer shall be responsible for payment of any fees incurred by Florida Housing's counsel. If the first TEFRA approval period has expired and second TEFRA notice and hearing is required, Applicant is responsible for all costs associated with additional TEFRA process.

~~(4) Threshold Check Fee: Applicants shall submit the required non-refundable Threshold Check Fee for each Development to the Credit Underwriter designated by Florida Housing within seven calendar days of the date of the notification from Florida Housing that the Application has entered the Threshold Check process and prior to credit review by the Credit Underwriter. The Threshold Check Fee shall be determined pursuant to a contract between Florida Housing and the Credit Underwriter and shall be set forth in the Application.~~

~~(5) Appraisal Fee: Applicants shall submit the required non-refundable Appraisal Fee for each Development to the Credit Underwriter designated by Florida Housing simultaneously with the delivery of the Threshold Check Fee. The Appraisal Fee shall be determined pursuant to the contract between Florida Housing and the Credit Underwriter and shall be set forth in the Application. This fee shall not be required for Applicants meeting the requirements of Rule 67-21.014(3)(e).~~

~~(6) Market Study Fee: Applicants shall submit the required non-refundable Market Study Fee for each Development to the Credit Underwriter designated by Florida Housing simultaneously with the delivery of the Threshold Check Fee. The Market Study Fee shall be determined pursuant to the contract between Florida Housing and the Credit Underwriter and shall be set forth in the Application. This fee shall not be required for Applicants meeting the requirements of Rule 67-21.014(3)(e).~~

~~(4)~~(7) Final Credit Underwriting and Appraisal Fee: Applicants shall submit the required non-refundable Final Credit Underwriting and Appraisal Fee for each Development to the Credit Underwriter designated by Florida Housing within seven calendar days of the date of the invitation by Florida Housing to enter the final credit underwriting process and prior to final credit review by the Credit Underwriter. The Final Credit Underwriting Fee shall be determined pursuant to a contract between Florida Housing and the Credit Underwriter and shall be set forth in the Application.

~~(5)~~(8) Good Faith Deposit: The Applicant shall pay a total deposit equal to one percent of the Bond Amount Loan Amount in the Loan Commitment or the Loan Amount in the Application, whichever is larger, to Florida Housing, which may be applied toward the Cost of Issuance Fee. The Good Faith Deposit is payable in two equal installments: the first installment (one-half of one percent); is due when the Board approves the final Credit Underwriting Report within seven business days of receiving the invitation to enter the final phase of credit underwriting. The balance is payable when at the Applicant executes time of the Developer executing the Loan Commitment which shall be not later than 5 calendar days from receipt of the Loan Commitment. In the event the Loan does not close, the unused portion of the Good Faith Deposit shall be refunded to the borrower. Notwithstanding the

foregoing, the borrower is responsible for all expenses incurred in preparation for loan closing. Any and all costs to FHFC will be deducted from the Good Faith Deposit prior to refunding unused funds to the Applicant. In the event that additional costs are incurred by FHFC subsequent to refunding the unused funds to the Applicant, Applicant shall be responsible for payment of the balance due as invoiced.

~~(6)(9)~~ Cost of Issuance Fee: Florida Housing shall require Applicants Borrowers or participating Qualified Lending Institutions selected for participation in the Program, to deliver to Florida Housing, or, at the request of Florida Housing, directly to the Trustee, before the date of delivery of the Bonds, a Cost of Issuance Fee in an amount determined by Florida Housing to be sufficient to pay the costs and expenses relating to issuance of the Bonds, which amount shall be deposited into an account to be held by the Trustee. Florida Housing shall provide the Applicant with a good faith estimate of the Cost of Issuance Fee following award of a portion of Florida Housing's State Bond Allocation to the Development by the Board. The Applicant Developer shall pay all costs and expenses incurred by Florida Housing in connection with the issuance of the Bonds, the expenditure of the Loan proceeds, and provision of a Credit Enhancement, if any, even if such costs and expenses may exceed the Cost of Issuance Fee. Any amounts remaining in this account at the time the balance is transferred and the account closed pursuant to the Trust Indenture shall will be returned to the Applicant considered additional Florida Housing Fee and will be retained by Florida Housing.

~~(7)(10)~~ HUD Risk Sharing Fees: Applicants also using the HUD Risk Sharing Program for the Development shall be responsible for associated fees, as follows:

(a) Format II Environmental Review Fee – The fee to be paid by the Applicant shall be determined by contract between Florida Housing and the environmental professional and shall be listed in the Application Package.

(b) Subsidy Layering Review Fee – The fee to be paid by the Applicant shall be determined by the contract between Florida Housing and the Credit Underwriter and shall be listed in the Application Package.

(c) HUD Endorsement Closing Docket Deposit – At closing, the Applicant shall pay a \$10,000 deposit to Florida Housing to be held in escrow pending receipt of documentation required for completion of the HUD Endorsement Closing Docket. Said documentation shall be due no later than 60 days prior to the scheduled endorsement date. If all required documentation is complete and timely submitted, Florida Housing shall return the deposit and interest earned to the Applicant upon Florida Housing's receipt of the HUD Final Endorsement. If all required documentation is not timely submitted or is incomplete, Florida Housing shall will retain a daily pro-rata share of the deposit in an amount equal to one-thirtieth of the initial deposit for each day the required

documentation remains outstanding. The balance and interest earned, if any, shall will be returned to the Applicant upon Florida Housing's receipt of the HUD Final Endorsement.

(d) Fees of the Florida Housing Finance Corporation Affordable Housing Guarantee Program pursuant to Rule 67-39, F.A.C.

~~(8)(11)~~ Compliance Monitoring Fees: The annual monitoring fee to be paid by the Applicant shall be determined by contract between Florida Housing and the monitoring agent and shall be listed in the Application Package.

~~(9)(12)~~ Permanent Loan Servicing Fees: The annual servicing fee to be paid by the Applicant shall be determined by contract between Florida Housing and the Servicer and shall be listed in the Application Package.

~~(10)(13)~~ Financial Monitoring Fees: The annual financial monitoring fee to be paid by the Applicant shall be determined by contract between Florida Housing and the monitoring agent and shall be listed in the Application Package.

~~(11)(14)~~ Other Florida Housing Program Fees:

(a) Housing Credit Fees – If Housing Credits are used for the Development, the Compliance Monitoring Fee for that program shall be collected from the Applicant in conjunction with the Compliance Monitoring fee for the Program same fee schedule as described in Rule Chapter 67-48, F.A.C., shall apply and be paid by the Applicant to Florida Housing and/or the Credit Underwriter.

(b) Florida Affordable Housing Guarantee Program Fees – If the Guarantee Program is used in the Development, the same fee schedule described in Rule 67-39, F.A.C. shall apply and be paid by the Applicant to Florida Housing.

~~(12)(15)~~ Development Cost Pro Forma: All of the fees set forth above with respect to the Program and other FHFC programs are part of the Total Development Cost. These costs must be included in the Development project cost pro forma.

~~(13)~~ Failure to timely pay any fee shall cause the Development to be placed at the bottom of removed from the ranking list and no further processing of the Application shall will occur until such fee has been paid and the Board has directed that the Application be reinstated.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4),(19) FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.007, Amended 1-26-99,_____.

67-21.008 Terms and Conditions of Loans.

(1) Each Mortgage Loan for a Development made by Florida Housing shall:

(a) Be evidenced by a properly executed Note or other evidence of indebtedness and be secured by a properly recorded Mortgage;

(b) Provide for payment of the Mortgage Loan in full not later than the expiration of the useful life of the property financed with the proceeds of the Mortgage Loan, and in any event, not later than 45 years from the date of the Mortgage Loan;

(c) Not exceed 95 percent of the Total Development Cost;

(d) If the Mortgage Loan is to provide financing for the construction of a Development, have each advance thereof secured, insured, or guaranteed in such manner as Florida Housing determines shall protect its interest and those of the Bond holders;

(e) Have the initial review, approval, and origination process accomplished by a Qualified Lending Institution meeting the requirements of Florida Statutes, section 420.508, which lending institution shall be paid a fee for its services which Florida Housing determines is usual in the lending industry and that is in accordance with the contract between Florida Housing and the Qualified Lending Institution;

(f) Be serviced by such Qualified Lending Institution or other private entity engaged in the business of servicing mortgage loans in Florida as Florida Housing shall approve, which servicer shall be paid such fees and charges for its services as Florida Housing shall determine is reasonable and usual in the lending industry; and

(g) Require the submission to Florida Housing ~~by the Developer~~ of an annual audited financial statement for the Development, or for the Applicant Borrower if revenue from multiple projects is being pledged.

(2) Upon approval, execution, and satisfaction of the terms of the Program Documents by the Applicant Developer and Florida Housing, the Bond sale and the Loan shall be scheduled for closing.

(3) The ~~Developer or Applicant~~ may obtain construction financing from an alternative source with the Bond proceeds being invested in accordance with an investment agreement subject to the requirements of the Code for Tax-exempt Bonds.

(4) The ~~Developer or Applicant~~ shall also establish and maintain escrow deposits sufficient to pay any insurance premiums and applicable taxes.

(5) Florida Housing shall charge such ~~P~~program administration fees as are required to pay the cost of administering the ~~p~~Program during the life of the Bonds and Loan.

(6) The interest rate on the Loan shall be determined by Florida Housing, at the time of the sale of the Bonds based on the financing structure and the interest rate on the Bonds.

(7) Prepayments shall be permitted only in accordance with the terms and conditions of the Program Documents.

(8) Florida Housing shall appoint a trustee and servicing agent when necessary to administer the Program and service the Loan.

(9) All Florida Housing Loans are contingent upon:

(a) The sale, issuance and delivery of the Bonds and the availability of Bond proceeds.

(b) The ~~Developer or Applicant~~ obtaining title insurance on the property.

(c) The ~~Developer or Applicant~~ obtaining all governmental approvals for constructing and operating the Development as a multifamily housing Development.

(d) The Applicant Developer providing to Florida Housing and Special Counsel the Note, Mortgage, financing statements, survey, hazard insurance policies, liability insurance policies, escrow agreement, investment agreements, opinions of counsel including preference opinions, if required, and such other documents as are necessary to ensure that Florida Housing has a properly secured Mortgage as required under the Act and to protect the holders of the Bonds.

(e) If required by Bond Counsel in order to deliver their opinion in connection with the issuance of the Bonds or at the request of Florida Housing, the Bonds being validated pursuant to chapter 75, F.S., and a certificate of no appeal issuing.

(f) Receipt of TEFRA approval for Tax-exempt Bonds.

(10) All Loans shall be reviewed and originated by a servicer designated by Florida Housing, in conformance with the Act. Early submission of the Good Faith Deposit to Florida Housing may accelerate work of the attorneys. The costs incurred as a result of early payment of the Good Faith Deposit are not refundable in the event the Development is not funded.

(11) The Applicant Developer shall agree to execute or cause to be executed all of the Program Loan Documents required by Florida Housing to secure the unconditional payment of the Loan and to retain the tax-exempt status of the Bonds, if Bonds are issued as Tax-exempt Bonds.

(12) The Applicant Borrower shall, prior to the requested date for funding, supply in draft form to Florida Housing the following documents with respect to the Development being financed, together with any other documents required by the Loan Agreement:

(a) A survey, as described in the Application, dated within 90 days of the date submitted showing the location of all improvements, encroachments, easements and rights-of-way, and a site plan which has been approved by all governmental authorities.

(b) A fully completed, executed and sealed surveyors' certification to Florida Housing.

(c) Written evidence of appropriate zoning and governmental approvals.

(d) Plans and specifications bearing the seal of a licensed engineer.

(e) Policies of insurance and evidence of payment of premiums.

(f) Required opinions of counsel necessary for the issuance of the Bonds.

(g) A commitment for mortgagee title insurance in favor of Florida Housing or its Trustee or designated servicer, with only standard exceptions and such other exceptions as are usually permitted in mortgage loans of this nature. Such policy shall be in an amount not less than the Loan amount plus an amount sufficient to cover any debt service reserve required by Florida Housing.

(h) A copy of the deed or form of deed conveying the land for the Development to the Applicant ~~Developer~~.

(i) Evidence as to the status of liens, including mechanic's liens, recorded against the property and the permission of Florida Housing to allow any liens to remain recorded against the land or the Development.

(j) Such other documents as shall be reasonably required by Florida Housing, by the Loan Commitment, or by Florida Housing's respective counsel to protect the interests of Florida Housing in the financing.

(13) The Borrower shall not sell, transfer, nor otherwise assign any of its interest in the Development without the prior written consent of Florida Housing.

(14) Florida Housing may require that all Loans be guaranteed or collateralized but shall require all Loans to be secured to the extent necessary to protect Florida Housing and Bond holders.

(15) Any Loan financed with proceeds of Tax-exempt Bonds shall provide that the portion of any debt service reserve fund associated therewith to be financed with Tax-Exempt Bonds shall not exceed six months of debt service on the Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.502, 420.507(4),(6),(9),(11),(21), 420.508 FS. History--New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.008, Amended 1-26-99, _____.

67-21.009 Interest Rate on Mortgage Loans.

Florida Housing shall ~~will~~ establish the interest rate on Mortgage Loans at the time of sale of the Bonds. The interest rate shall in no event exceed the arbitrage limit which is legally allowed without jeopardizing the tax-exempt status of the Bonds, if Bonds are issued as Tax-exempt Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented Chapter 75, 420.507, 420.508 FS. History--New 12-3-86, Amended 1-7-98, Formerly 9I-21.009, Amended _____.

67-21.010 Issuance of Revenue Bonds.

Florida Housing shall ~~will~~ fund Mortgage Loans with the proceeds from the sale of Revenue Bonds. The issuance and sale of the Bonds shall be governed by resolutions adopted by Florida Housing and by applicable law and rule. If Bonds cannot be sold or cannot be sold in an amount or at an interest rate or under conditions which are in the best interest of Florida Housing, Florida Housing shall terminate its Loan Commitment and such other agreements as were executed in conjunction with the proposed Loan.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(6), 420.508, 420.509 FS. History--New 12-3-86, Amended 1-7-98, Formerly 9I-21.010, Amended 1-26-99, _____.

67-21.011 No Discrimination.

Florida Housing, its staff or agents, Applicants, ~~Developers~~, or participants under the Program shall not discriminate under this Program against any person or family, on the basis of race, creed, national origin, age, religion, handicap, familial status or sex, against persons or families on the basis of their having minor children, except that nothing herein shall be deemed to preclude a Developer from discrimination based on age in renting units in accordance with the Federal Fair Housing Act Elderly Housing, or to preclude a Developer from discrimination based on income in renting units Set-aside for Lower Income Tenants in compliance with the requirements of the Code or with the requirements of section 420.509(19), F.S., for Tax-exempt Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.502, 420.507(14) FS. History--New 12-3-86, Amended 2-22-89, 12-4-90, 1-7-98, Formerly 9I-21.011, Amended 1-26-99, _____.

67-21.012 Advertisements.

Florida Housing shall require the Applicant ~~Developer~~ to withdraw from circulation advertisements with respect to the Development determined by Florida Housing to violate or be inconsistent with its policy of providing safe and sanitary affordable housing for low, moderate and middle income persons, families or persons or families with minor children.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(9),(14) FS. History--New 12-3-86, Amended 1-7-98, Formerly 9I-21.012, Amended 1-26-99, _____.

67-21.013 Private Placements of Multifamily Mortgage Revenue Bonds.

Florida Housing may issue Revenue Bonds to fund Mortgage Loans; or to refund outstanding Bonds by means of a negotiated Private Placement of such Bonds to a Qualified Institutional Buyer. Florida Housing shall designate the placement agent with respect to such Bonds, who shall be on Florida Housing's approved bond underwriters list. A Qualified Institutional Buyer who is an underwriter may contract to immediately resell such Bonds to other Qualified Institutional Buyers, which transaction shall continue to constitute a Private Placement. The amount of any placement agent fee and any amounts paid by any third party to an initial Qualified Institutional Buyer which is an underwriter shall be subject to the approval of Florida Housing or its designee. Unless such Bonds are rated in one of the three highest rating categories by a nationally recognized rating service, such Bonds shall not be held in a full book-entry system (but may be DTC-Eligible) and shall comply with at least one of the following criteria:

(1) The Bonds shall be issued in minimum denominations of \$100,000 and each purchaser of such Bond, including subsequent purchasers unless the requirements of (2) or (3)

below are met, shall certify to Florida Housing prior to any purchase or transfer of any Bond that such purchaser is a Qualified Institutional Buyer; or

(2) The Bonds shall be issued in minimum denominations of \$250,000 and an investment letter satisfactory to Florida Housing and its counsel shall be obtained from each initial purchaser of the Bonds (including any purchaser purchasing such Bonds in an immediate resale from an ~~u~~Underwriter), but shall not be required of subsequent purchasers of the Bonds, to the effect that, among other things, such purchaser is a Qualified Institutional Buyer, is purchasing such Bonds for its own account and not for immediate resale to other than another Qualified Institutional Buyer, and has made an independent investment decision as a sophisticated or institutional investor; or

(3) The Bonds shall be issued in minimum denominations of \$250,000 and an investment letter satisfactory to Florida Housing and its counsel shall be obtained from each initial purchaser of the Bonds and from each subsequent transferee of the Bonds prior to any transfer thereof, to the effect that such purchaser is a Qualified Institutional Buyer.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(4),(5),(6),(9),(11),(14),(16),(18),(19),(20),(21) FS. History--New 11-23-94, Amended 1-7-98, Formerly 9I-21.013, Amended 1-26-99.

67-21.014 Credit Underwriting Procedures.

(1) ~~After the cycle closing date. Following the Application Review process,~~ Florida Housing shall assign and forward all ~~those Applications determined by staff to be complete to the~~ Credit Underwriter for the Completeness and Threshold Check.

~~(a) A notification of whether or not an Application has been forwarded to Threshold Check shall be provided by Florida Housing. Upon notification that an Application has entered the Threshold Check process, the required Threshold Check Fee must be received within seven calendar days of the date of the notice. Florida Housing will, within the specified seven calendar days, submit a copy of the Applicant's Application Package to the Credit Underwriter. Failure to submit the Threshold Check Fee by the specified deadline shall result in a loss of ranking for the Application.~~

~~(a)(b)~~ A positive recommendation as to compliance with the Completeness and Threshold Check by Florida Housing's Credit Underwriter and approval by the Florida Housing's Board of ~~Directors~~ shall be required for a Development to be invited to final Credit Underwriting except as provided in 67-21.003(10).

~~(b)(e)~~ An invitation into final Credit Underwriting shall require that the Applicant submit the ~~f~~Final ~~p~~Phase Credit Underwriting Fee and information required to complete the final Credit Underwriting, to the Credit Underwriter in accordance with the schedule established by Florida Housing upon the recommendation of the Credit Underwriter. Failure to

submit the Final Phase Credit Underwriting Fee or meet the deadlines established as set forth in the schedule shall result in the immediate termination of Final-Phase Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list. ~~Fee and information by the specified deadline shall result in a loss of ranking for the Application.~~

(2) The Credit Underwriter shall in final Credit Underwriting analyze and verify all information in the Application Package in order to make a recommendation to the Board on the feasibility of the Development.

(a) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of normal underwriting procedures, the cost of such expertise shall be borne by the Applicant.

(b) The Credit Underwriter shall review the proposed financing structure to determine whether the Loan is feasible.

(c) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves when calculating the final net operating income available to service the debt. A minimum amount of \$200 per unit must be deposited annually in the replacement reserve account for all Developments. This amount may be adjusted by the Board based on a physical needs assessment. An Applicant may choose to fund a portion of the replacement reserves at closing from moneys other than the proceeds of the Bonds. This partial funding ~~The amount~~ cannot exceed 50 percent of the required replacement reserves for two years and must be placed in escrow at closing. Applicants with Credit Enhancement may employ a different replacement reserve structure with Florida Housing's approval.

(d) Florida Housing shall consider the following when determining the need for construction completion guarantees based on the recommendations of the Credit Underwriter:

1. Liquidity of any guarantee provider.
2. Applicant's, Developer's and General Contractor's history in successfully completing Developments of similar nature.
3. The past performance of the Applicant, Developer, General Contractor, or management agent, in developing, constructing or managing Developments financed by Florida Housing or its predecessor, including, by way of example and not limitation, nonpayment of fees and noncompliance with program requirements.
4. Exposure of Florida Housing funds compared to Total Development Costs. At a minimum, the corporate general partner of the borrowing entity shall provide a personal guarantee for completion of construction. In addition, a letter of credit ~~and/or~~ payment and performance bond shall ~~will~~ be required if Florida Housing determines upon recommendation of the Credit Underwriter after evaluation of conditions in paragraphs 1. through 3., above, that additional surety is needed.

(e) The Credit Underwriter shall review and make a recommendation to Florida Housing whether the number of loans and construction commitments of the Applicant and its principals will impede its ability to proceed with the successful development of each proposed Florida Housing Development.

(f) The Credit Underwriter shall consider the appraisal of the Development and other market study documentation to make a recommendation as to whether the market exists to support both the demographic and income restriction Set-asides committed to within the Application.

(g) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process, the Credit Underwriter shall notify Florida Housing and request the information from the Applicant. Such requested information shall be submitted within five business days of receipt of the request therefor. Failure for any reason to submit required information by the specified deadline shall result in a loss of ranking for the Application.

(h) If audited financial statements are unavailable from the Applicant or from those members of the development team that are guaranteeing completion, the Applicant shall submit Credit Underwriter shall request federal tax returns for the past three two years to the Credit Underwriter.

(i)(3)(a) Required appraisals, market studies, pre-construction analyses, and environmental studies (other than Phase I Environmental Site Assessments) shall be completed by professionals approved by Florida Housing's Credit Underwriters. Approval of appraisers and contractors to complete market and environmental studies shall be based upon review of qualifications, professional designations held, references and prior experience with similar types of Developments.

(j)(b) A limited restricted appraisal as defined by the Uniform Standards of Professional Appraisal Practice and separate market study shall be ordered as part of the Completeness and Threshold Check or at the request of the Developer, a full or self-contained appraisal may be ordered at such time. A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice shall be ordered not later than when an Application enters final Credit Underwriting. The Applicant may choose an appraiser from the Credit Underwriter's approved list of appraisers; however, the Credit Underwriter shall order, upon notification by the Applicant and at the Applicant's expense, the appraisals of the Development. The Applicant is responsible for notifying the Credit Underwriter of the requested appraiser within 48 hours of when Application enters final Credit Underwriting in time to ensure the timely delivery of the appraisals. The Credit Underwriter shall review the appraisals to properly evaluate the loan request in relation to the property value.

(k)(e) Appraisals and separate market studies submitted with the Application which have been ordered by third party credit enhancers or syndicators and which meet the above

requirements and are acceptable to the Credit Underwriter may be used instead of the Appraisal or market study referenced above.

(3)(4) The Applicant shall review and provide written comments on the draft Credit Underwriting report to Florida Housing and Credit Underwriter within the time frame established by Florida Housing. Florida Housing shall provide comments on the draft report and, as applicable, on the Applicant's comments to the Credit Underwriter. The Credit Underwriter shall then review and incorporate Florida Housing's and Applicant's comments and release the revised report to Florida Housing and the Applicant. Any additional comments from the Applicant shall be received by Florida Housing and the Credit Underwriter within the established time frame. Then, the Credit Underwriter shall will provide a final report, which shall will address comments made by the Applicant to Florida Housing.

(4)(5) After approval by the Board of the Credit Underwriter's favorable recommendation from of final Credit Underwriting and payment of one-half of the Good Faith Deposit, the Board of Directors, Florida Housing sStaff and Florida Housing Counsel shall begin negotiations of the Loan Commitment.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508, 420.509 FS. History--New 1-7-98, Formerly 9F-21.014, Amended 1-26-99.

67-21.015 Use of Bonds with Other Affordable Housing Finance Programs.

(1) Applicants may use Tax-exempt or Taxable Bond financing in conjunction with other affordable housing finance programs administered by Florida Housing, including, by way of example, and not of limitation, the Housing Credit, the State Apartment Incentive Loan, the Florida Affordable Housing Guarantee, HOME Investment Partnerships Rental Loan, Predevelopment Loan Program and HUD Risk Sharing Programs.

(2) Applicants desiring to apply for financing from multiple programs shall submit separate applications using forms prescribed by each program and shall submit fees as required by the other programs, except that Applicants do not need to submit a separate Application for non competitive Housing Credits; this Application for Multifamily Bonds shall be used for non-competitive Housing Credits as well as Tax-exempt Bonds. Applicants shall, however, be required to pay the Housing Credits Application Fee. This fee should be submitted to the Housing Credits Program at the same time as Final Cost paperwork is submitted to the Housing Credit Program.

(3) Applicants that receive funding from other programs and the Multifamily Mortgage Revenue Bond Program shall comply with the requirements of the applicable program rule and this rule.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508 FS. History—New 1-7-98, Formerly 9I-21.015, Amended 1-26-99, _____.

67-21.016 Compliance Procedures.

(1) Any duly authorized representative of Florida Housing shall be permitted at any reasonable time to inspect and monitor Development and tenant records and facilities. All tenant records shall be maintained by the owner of the Development within 50 miles of the Development site.

(2) Florida Housing or its representative shall conduct on-site Development inspections at least annually.

(3) Florida Housing must approve the selection or replacement of a management company prior to such company assuming responsibility for the Development, using the following criteria:

(a) Review of company information including key management personnel, management experience and procedures;

(b) Review of company forms such as application for apartment residence, income verification forms, lease, etc.;

(c) Key management company representative attendance at a Florida Housing compliance workshop; and

(d) A meeting between Florida Housing compliance staff and the key management company representative after the compliance workshop.

(4) Florida Housing ~~shall will~~ document approval of the management company to the owner of the Development after successful completion of items (3)(a) – (d).

(5) The Owner of the Development shall maintain complete and accurate income records pertaining to each tenant occupying a Set-aside unit. Records for each occupied Set-aside unit shall contain the following documentation:

(a) The tenant’s application containing the name or names of each household member, employment and income information for each household member, and other information required by the owner of the Development;

(b) An executed lease agreement listing the term of the tenancy and all of the tenants residing in the unit;

(c) Verification of the income of each tenant as is acceptable to prove income under Section 8 of the U. S. Housing Act of 1937, as in effect on the date of this Rule Chapter;

(d) Information as to the assets owned by each tenant; and

(e) Income Certification Form TIC-1 for each tenant. A sample Form TIC-1 can be obtained from Florida Housing.

(6) The Applicant shall submit Program Reports pursuant to the following: The initial Program Report shall be submitted prior to the time of Loan closing, if the Development is occupied, or by the 25th of the month following rental of the initial unit in the Development. Subsequent Program Reports shall be submitted each month and are due no later than the 25th of each month thereafter. The Program Reports shall be accompanied by the certificate of continuing program

compliance and copies of all Tenant Income Certifications executed since the last Program Report (to be sent to Florida Housing and the monitoring agent).

(7) The Developer shall, at least monthly, submit to Florida Housing and the Trustee a certificate of continuing program compliance stating the percentage of dwelling units that are:

(a) Occupied by lower-income tenants.

(b) Being held vacant for occupancy by lower-income tenants.

(c) Occupied by other persons.

(8) Florida Housing shall monitor compliance of all terms and conditions of the Loan and in the Land Use Restriction Agreement, which Land Use Restriction Agreement shall be recorded in the public records of the county wherein the Development is located. The Land Use Restriction Agreement ~~shall will~~ be recorded first. Violation of any term or condition of the documents evidencing or securing the Loan shall constitute a default during the term of the Loan. Florida Housing shall take legal action to effect compliance if a violation of any term or condition relative to the Set-aside of units for Lower Income Tenants is discovered during the course of compliance monitoring or by any other means.

(9) Sponsors shall annually certify that the household gross income, adjusted for family size of each household occupying a unit set aside for Lower Income Tenants meets income requirements specified in Section 142(d)(3)(B) of the Code. Should the annual recertification of such households result in noncompliance with income occupancy requirements, the next available unit must be rented to a household qualifying under the provisions of Section 420.5087(2), Florida Statutes, in order to ensure continuing compliance of the Development.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4),(13),(14), 420.508, 420.509 FS. History—New 1-7-98, Formerly, 9I-21.015, Amended 1-26-99, _____.

67-21.017 Transfer of Ownership.

(1) Any transfer of ownership of any Development shall be subject to approval by Florida Housing as described below and limitations of the Code. The determination of whether a transfer of ownership of a Development shall be deemed to take place for purposes of this rule shall be made in accordance with the provisions of the Land Use Restriction Agreement and other Program Documents for such Development. Developers shall advise Florida Housing in writing of any change of ownership of the Developer aggregating 50 percent or more of ownership interests in the Developer within any six-month period.

(2) A request for transfer of ownership shall be submitted to Florida Housing in writing and include evidence that the current owner has agreed to the proposed sale. A detailed opinion letter from the Applicant's legal counsel describing the scope of the proposed transaction must also be provided. Florida Housing shall notify the current owner and potential

purchaser of any additional information necessary for the Board to make an informed decision. A written request for a transfer of ownership (along with additional information requested by Florida Housing for the Board package) which is received by Florida Housing at least 21 days prior to a noticed Board meeting shall be considered at the next Board meeting.

(3) Upon favorable consideration by the Board to a request for transfer, Florida Housing shall assign a Credit Underwriter, Bond Counsel, Special Counsel, and other professionals as needed to effect the transfer.

(4) Prior to the transfer of ownership (a) the prospective purchaser and the conditions of the assumption of the Program Documents must be approved by the Credit Underwriter as meeting the terms of its credit underwriting report, Bond Counsel and Special Counsel as complying with all applicable legal requirements, and Florida Housing as meeting the stated purposes of Florida Housing, (b) all outstanding fees owing to Florida Housing shall be paid, (c) the Development shall be in compliance with all existing regulatory requirements imposed by Florida Housing or its predecessor, (d) if the Set-aside requirements in the term of the existing Land Use Restriction Agreement are is expired or have less than 12 months remaining, such agreement shall be extended for a minimum of two years from the date of closing. The Credit Underwriter shall conduct a credit underwriting of the new owner upon any transfer of ownership. Additionally, the new owner shall be notified that any refunding of bonds associated with such Development project shall require a full Credit Underwriting of the Development.

(5) The prospective purchaser or current owner shall be responsible for payment of all fees for professional services rendered in association with the transfer of ownership.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.508(3)(a), 420.507, 420.508 FS. History—New 1-7-98, Formerly 9I-21.017, Amended 1-26-99, _____.

67-21.018 Refundings and Troubled Development Review.

(1) Refunding of previously issued Bonds shall in all instances be at the option of Florida Housing and not an obligation of Florida Housing.

(2) Florida Housing shall ~~will~~ endeavor where feasible to refund Bonds which are either in default or face a pending default.

(3) Approval by Florida Housing for a refunding of an issue of Bonds for reasons related to pending default shall be subject to the following:

- (a) determination of the quality of the impending default;
- (b) submission of a sworn certificate of impending default by the Developer or Credit Enhancer;
- (c) submission of sworn certificate from the Developer or Credit Enhancer that conditions causing default are likely to continue;

(d) submission of certified information from a certified public accountant concerning cash contributions to the Development, financial condition of the Development, including analysis of tax benefits derived from Development losses, and the financial condition of the Developer or Credit Enhancer;

(e) independent evidence of market conditions in the Development location;

(f) evidence of effort by the Developer or Credit Enhancer to procure other sources of capital infusion;

(g) statement by the Developer or Credit Enhancer of the continued public purpose to be achieved by refunding;

(h) agreement by the Developer or Credit Enhancer to update the Land Use Restriction Agreement, including retention of state and federal income limits;

(i) new Credit Underwriting by Florida Housing, with new Bond amount determined by Florida Housing based upon real estate underwriting criteria and equal to the lesser of the amount determined by Florida Housing or the Credit Enhancer, to provide assurance that a similar default condition will not present itself in the future;

(j) the full risk of refunding is taken by the Credit Enhancer through full indemnification of Florida Housing; with consideration given to personal indemnification from the Developer if sufficient financial strength can be demonstrated;

(k) all costs of refunding are paid by the Developer or the Credit Enhancer outside of Bond proceeds, including all applicable fees;

(l) retention of annual fees by Florida Housing;

(m) provision of other evidence of the immediacy of default;

(n) retention of the Credit Enhancement; and

(o) management of the Development is reviewed and approved by Florida Housing.

(4) In connection with all refundings, the following shall apply:

(a) All outstanding fees of Florida Housing shall be paid in connection with the refunding;

(b) The Set-Asides required by the original Land Use Restriction Agreement shall be extended for a period determined by Florida Housing;

(c) A Credit Underwriting and an existing property valuation report shall be required (which may incorporate any Credit Underwriting undertaken within the past twelve months in connection with a transfer of ownership of the same Development);

(d) Additional operating deficit or other guarantees and establishment of replacement reserves or increase in existing reserves may be required as specified in the Credit Underwriting report;

(e) The loan shall be amortized over the remaining life of the Bonds; and

(f) Any material changes to the underlying documents shall be deemed to constitute a refunding for purposes hereof.

(g) The owner of the Development must applicant should provide a written request for the refunding and a detailed opinion from Applicant's counsel describing the scope of the transaction on forms provided by Florida Housing. It shall not be necessary to complete an Application in connection with a refunding request.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508 FS. History--New 1-7-98, Formerly 9I-21.018, Amended 1-26-99.

67-21.019 Issuance of Bonds for 501(c)(3)'s.

(1) Florida Housing shall entertain requests for it to serve as the issuer of tax exempt Bonds for the acquisition or construction of multifamily housing to be owned by a not-for-profit corporation organized under Section 501(c)(3) of the Code.

(2) In connection with all bonds issued pursuant to 67-21.019, F.A.C., Applicants shall be required to comply with the provisions of Rule 67-21.003, 67-21.004 [other than paragraph (4) therein] and Rule 67-21.0045 through 67-21.018, as if the 501(c)(3) Bonds are being issued as Tax-exempt Bonds under Section 141 of the Code, except with respect to Rule 67-21.007(4), F.A.C., and Rule 67-21.014, F.A.C., no CTC or CTC fee shall be required, and except with respect to Rule 67-21.004(2), only one Public Policy Criteria shall be satisfied in addition to the minimum federal Set-aside.

(3) In addition, Applicant shall submit the following:

(a) an abbreviated Application using specified forms from MFMRB2000;

(b) an initial bond counsel fee of \$1,000 along with IRS Form 1023 and all attachments and correspondence to and from the IRS relative to 501(c)(3) status of the Applicant; and

(c) an opinion from Applicant's counsel (at Applicant's sole expense evidencing the Applicant's qualifications as a 501(c)(3) and Applicant's authority to incur bond debt for multifamily housing.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507(14),(24), 420.508 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Joyce Martinez, 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: Susan J. Leigh, Chief Executive Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 19, 1999, Corporation Board Meeting

DATE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 12, March 26, 1999

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD).

FLORIDA HOUSING FINANCE CORPORATION

RULE TITLES:	RULE NOS.:
Definitions	67-39.002
Feasibility Studies	67-39.003
Eligibility Criteria	67-39.004
Fees and Rates	67-39.005
Contractual Provisions	67-39.006
Reimbursable Costs	67-39.008
Program Documents	67-39.010
Guarantee Program	67-39.011
Guarantee Coverage	67-39.012
Guarantee Program Payments	67-39.014
Audit Requirement	67-39.015

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-39, Florida Administrative Code (F.A.C.), is to provide for the fees, rates, and contractual provisions for the issuance of an affordable housing guarantee, under the Florida Affordable Housing Guarantee Program.

SUMMARY: The Rule Development workshop will be held to receive comments and suggestions from interested persons relative to administration of the Florida Affordable Housing Guarantee Program, as specified in Rule Chapter 67-39, F.A.C.

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: 420.5092 FS.

LAW IMPLEMENTED: 420.5092 FS.

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

TIME AND DATE: 1:00 p.m., August 3, 1999

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor, Seltzer Room, Tallahassee, FL 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gwen Lightfoot, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329, (850)488-4197

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD).

THE FULL TEXT OF THE PROPOSED RULES IS:

67-39.002 Definitions.

(1) "Act" means Section 420.5092 (Florida Affordable Housing Guarantee Program), Florida Statutes.

(2) "Affordable housing guarantee" means an obligation of the ~~Program Guarantee fund~~ to guarantee the payment of an obligation made to finance or refinance the purchase, construction, or rehabilitation of eligible housing.

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

(4) "Eligible housing" means any real and personal property designed and intended for the primary purpose of providing decent, safe, and sanitary residential units for homeownership or rental for persons meeting the eligibility criteria as provided in this rule.

(5) "Eligible persons" means for those projects not subject to any other restriction applicable to other ~~Corporation Agency~~ financed programs, one or more persons or a family, whose total annual adjusted household income is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(6) "Feasibility study" means those studies performed pursuant to this rule.

(7) "Guarantee ~~Program Fund~~" means the Affordable Housing Guarantee ~~Program Fund~~ created and established with proceeds of revenue bonds issued by the ~~Program Corporation Agency~~ to implement the Florida Affordable Housing Guarantee Program.

(8) "Guarantee ~~Program Fund~~ reserve requirement" means the amount of assets, or their equivalent, of the Guarantee ~~Program Fund~~ determined by the ~~Corporation Agency~~ as necessary to maintain the claims paying ability of the Guarantee ~~Program Fund~~. For these purposes, an asset equivalent may include, but is not limited to, a letter of credit, insurance policy, reinsurance treaty or policy, surety, guarantee or other security arrangement.

(9) "Obligee" means a qualified lending institution under a qualified obligation, and its successors and assigns approved by the ~~Corporation Agency~~.

(10) "Obligor/Principals" means the original borrower under a qualified obligation, and its successors and assigns approved by the ~~Corporation Agency~~.

(11) "Qualified lending institution" means any bank, trust company, national bank, savings bank, state or federal savings and loan association, state or federal credit union, insurance company, private or public pension fund, philanthropic institution, Florida Local Housing Finance Authorities or any other entity approved by the ~~Corporation Agency~~. The term "qualified lending institution" shall also include the Florida

Housing Finance ~~Corporation Agency~~. All qualified lending institutions must submit information, sufficient in detail to demonstrate the capacity to perform the functions and services necessary to adequately comply with the requirements contained in the guarantee documents. Information to be submitted must include a current acceptable audited financial statement; description detailing the institution's experience in originating and servicing affordable housing loans; and listing and qualifications of key personnel within the institution's affordable housing operation.

(12) "Qualified Obligation" means an obligation ~~loan~~ which is made or purchased by a qualified lending institution, deemed suitable for guarantee by the ~~Corporation Agency~~ and secured by one of the following: ~~(i) a residential property, (ii) a residential property which is located within an eligible urban or rural area, (iii) a residential property which is located within an economic development or economic opportunity zone, (i)(iv) a residential property which will provide affordable housing, (ii)(v) a residential property whose mortgage financing is to be provided by an entity created by local, state or federal legislation, or otherwise qualified lending institution or (iii)(vi)~~ such other collateral as meets the requirements of the feasibility study.

(13) "Residential property" means any existing building, structure, unit thereof or unimproved real property, which is used or occupied, or is intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, including use or intended use for assisted living, emergency, transitional or shelter housing, and housing for persons with special needs.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 11-27-96, _____.

67-39.003 Feasibility Studies.

The ~~Corporation Agency~~ shall cause to be performed an affordable housing guarantee feasibility study prior to the issuance of any guarantee not contemplated by, or incorporated within, a previous feasibility study. Each such feasibility study shall be accepted by the governing board of the ~~Corporation Agency~~ prior to the issuance of the guarantee pursuant thereto. Such study shall determine the type of eligible housing for which a guarantee is required for the investment of private capital, the anticipated risk of default for the classification of housing, and the level of fees, charges, premiums and reimbursement conditions necessary to establish a financially sound affordable housing guarantee program that exposes the funds deposited into the ~~Guarantee Program fund~~ to a reasonable or acceptable level of risk.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History—New 4-5-93, Amended 2-16-94, 12-26-95, 11-27-96, _____.

67-39.004 Eligibility Criteria.

In order to be eligible for an affordable housing guarantee issued by the Corporation Agency, the eligible housing must be a multi-family (5 or more dwelling units) housing development or single-family, owner-occupied housing which meets the eligibility criteria provided in the applicable feasibility study. In order for an obligation to be eligible for guarantee, the Corporation Agency must first find that:

(1) The property which is the security for such mortgage meets the requirements of the definition of a qualified obligation;

(2) The obligor/principals are credit-worthy;

(3) The obligation is in such principal amount and form, and contains such terms and provisions with respect to property insurance, repairs, alterations, payment of taxes, reserves and assessments, delinquency charges, default remedies, additional security and other matters as the Corporation Agency, with the advice of counsel, shall determine and are considered customary in the industry; and

(4) The requirements of the Act are adequately met by the terms of the mortgage guarantee contract or other agreements;

(5) The obligation is made for a property that the qualified lending institution's funding is equal to or less than \$65,000 per unit, as may be adjusted from time to time by the Corporation; or such other amount as may be specifically approved by the Corporation's Board of Directors, upon appeal due to extenuating conditions; and

(6) Previous qualified obligations issued for the obligor/principals are being paid in a satisfactory manner as to terms, premium and fee payments and that all requirements of those obligations are being met by the obligor/principals.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 4-5-93, Amended 2-16-94, 12-26-95, 11-27-96.

67-39.005 Fees and Rates.

For the issuance of an affordable housing guarantee, the Corporation Agency shall charge fees, premiums and rates as established in the applicable Feasibility Study to all applicants for a financially sound Affordable Housing Guarantee Program. A fee of not less than .1 percent (.0010) of the total proposed qualified mortgage amount shall be paid by the qualified lending institution at the time a multi-family loan or proposed loan is submitted to the Corporation Agency for consideration of an affordable housing guarantee. A fee of not less than .2 percent (.0020) of the total qualified multi-family mortgage amount shall be paid by the qualified lending institution at the time a Commitment to Guarantee is issued by the Corporation Agency.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 4-5-93, Amended 2-16-94, 12-26-95, 11-27-96.

67-39.006 Contractual Provisions.

The Corporation Agency shall establish contractual provisions, which may include a right of foreclosure, to foster reimbursement of moneys paid pursuant to an affordable housing guarantee in the event of a covered default for which the qualified lending institution submits a claim for loss as defined in the guarantee program documents. A copy of the guarantee program documents is available from the Corporation Agency upon request.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 4-5-93, Amended 2-16-94, 12-26-95, 11-27-96.

67-39.008 Reimbursable Costs.

~~The qualified lending institution or the obligor/principals shall pay all expenses incurred in the course of processing a request for an obligation, whether an obligation is ever issued. All expenses, exclusive of Agency Corporation administrative costs, incurred in the course of processing a request for a guarantee, whether a guarantee is ever issued, shall be paid by the qualified lending institution.~~

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 2-16-94, 12-26-95, 11-27-96.

67-39.010 Program Documents.

The issuance of an affordable housing guarantee requires the generation of certain program documents; including, but not limited to:

- (1) Master Guarantee Agreement with Qualified Lending Institution;
- (2) Commitment and Certificate of Guarantee; and
- (3) Additional Conditions to Commitment and Certificate of Guarantee.

The documents shall be binding and shall fully describe the responsibilities of and remedies available to the signing parties. The guarantee contract or other agreement issued by the Guarantee Program Fund shall establish the procedures to be followed by an obligee or other beneficiary of the guarantee in the event of a default under the terms of any guaranteed obligation. Prior to submitting a claim for payment, the obligee shall pursue such actions with respect to the pledged collateral as may be directed by the Corporation Agency from among the following: (i) becoming lawfully the obligee in possession thereof; (ii) causing a receiver to be appointed of such property; (iii) obtaining voluntary conveyance of the obligor's/principal's right and title to such property; or (iv) obtaining by foreclosure clear and unencumbered title to such property. Such remedy shall be pursued in accordance with the directions provided by the Corporation Agency on the advice of counsel.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 11-27-96.

67-39.011 Guarantee Program.

In order to implement the Guarantee Program the Corporation shall have the following powers Agency will:

(1) Upon Corporation Agency board approval, issue a commitment to guarantee any qualified obligation(s) or aggregate of qualified obligations, guarantee any qualified obligations or aggregate of qualified mortgage loans, enter into contracts, agreements or treaties of insurance regarding any qualified obligations or aggregate of qualified obligations, and provide the guarantee on terms that minimize the financial risk to the Guarantee Program Fund while making the project financially feasible;

(2) Guarantee and issue commitments to guarantee any part of the payments required on qualified obligations upon such terms and conditions as contained in the program documents required under Rule 67-39.010;

(3) Enter into commitments to guarantee, contracts to guarantee and reinsurance contracts regarding qualified obligations, and to fulfill its obligations and enforce its rights under any guarantee so furnished;

(4) Fix a premium charge for its guarantee of obligations in an amount to be determined in accordance with the applicable feasibility study and establish and levy such other charges and fees in connection with applications for guarantee, guarantee commitments, contracts of guarantee and as are necessary to recover authorized reimbursable expenses under the Act or feasibility study; such premium charges, other charges and fees shall be payable as incurred;

(5) Consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security or any other term, of any obligation, the security for any obligation, contract or agreement of any kind which the Guarantee Program Fund has guaranteed or to which the Guarantee Program Fund is party;

(6) Foreclose any obligation in default or commence any action to protect or enforce any rights conferred upon the Corporation Agency and the Guarantee Program Fund, and to bid for and purchase such property at any foreclosure or at any other sale, or otherwise to acquire or take possession of any such property;

(7) Hold, manage, administer, lease or sell any property conveyed to or acquired by the Corporation Agency or the Guarantee Program Fund;

(8) Pay, pursue to final collection, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or right of redemption;

(9) Sell, at public or private sale, any mortgage, mortgage participation or other obligation held by the Corporation Agency or the Guarantee Program Fund;

(10) Procure insurance against any loss in connection with its property and other assets; and

(11) Establish such other contractual provisions as are necessary or incidental to the foregoing.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 12-26-95, 11-27-96,_____.

67-39.012 Guarantee Coverage.

(1) The guaranteed percentage of the outstanding principal indebtedness of an obligation or any aggregate of obligations authorized to be guaranteed under the Act may be only for such percentage that minimizes the financial risk to the Guarantee Program Fund while making the project financially feasible and to qualify for financing.

(2) An obligor/principals shall be, or by reason of an obligation guaranteed by the Guarantee Program Fund shall become, the owner or lessee of the property which secures the qualified obligation, and shall be able to bear the usual expenses of maintaining such structure and repay the obligation.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 11-27-96,_____.

67-39.014 Guarantee Program Fund Payments.

(1) The Guarantee Program Fund shall be maintained for the benefit of the qualified lending institutions whose qualified obligations are guaranteed under the Act. Amounts in the Guarantee Program Fund shall be used in accordance with the Act to satisfy any valid claim payable therefrom.

(2) Payments pursuant to contracts of guarantee and reinsurance may be made in a lump sum, or in partial payments made within such period of time as may be agreed to by the Corporation Agency and the qualified lending institution. Such payments by the Corporation Agency shall be payable solely and only from the Guarantee Program Fund. The Corporation Agency shall not guarantee or issue a commitment to guarantee a qualified obligation if the balance of the Guarantee Program Fund is less than the Guarantee Program Fund reserve requirement.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended 11-27-96,_____.

67-39.015 Audit Requirement.

At least once in each fiscal year the Guarantee Program Fund shall be examined for the purposes of auditing the Guarantee Program's Fund's financial condition and determining the soundness of its management and operating policies. The Guarantee Program Fund shall pay the cost of each such examination. Copies of each report, including the findings, conclusions and recommendations, shall be furnished to the Corporation Agency.

Specific Authority 420.5092(4) FS. Law Implemented 420.5092 FS. History--New 2-16-94, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
David Woodward, 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: Susan J. Leigh, Chief Executive Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 1999, Corporation Board Meeting
 DATE PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 12, March 26, 1999

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8771 (TDD).

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE NO.:	RULE TITLE:
3D-40.027	Mortgage Broker Education Requirement

NOTICE OF CHANGE

Notice is hereby given that the Department has made a change to the above rule based on comments by the Joint Administrative Procedures Committee. This rule was published in the Vol. 25, No. 20, May 21, 1999 issue of the Florida Administrative Weekly. When adopted, subsection (4) of Rule 3D-40.027 will read:

(4) Within five (5) days of completion of each twenty-four (24) hour mortgage broker course, the school shall submit to the Department a typed list of all students who successfully completed the course. In lieu of the typed list, the school may submit the list on a 3.5" diskette or by e-mail or by accessing the Department's website at www.dbf.state.fl.us. The list shall include the full name of the student, the social security number of each student, the school's name, the school's license number and the completion date.

DEPARTMENT OF INSURANCE

RULES NOS.:	RULE TITLES:
4-196.007	Annual Reports
4-196.015	Forms Incorporated by Reference
4-196.020	Premium Financing of Products Not Regulated by the Insurance Code and Related Unfair Trade Practices Prohibited

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, published in Vol. 25, No. 13, April 2, 1999, issue of the Florida Administrative Weekly.

1. Subsection (2) of Rule 4-196.007, is changed by deleting "may result in administrative penalties or revocation of the premium finance license" and inserting "shall subject a license to fines as set forth in rule 4-207.007 and discipline as provided in ss. 627.832 and 627.833, F.S."

2. The Annual Report, incorporated by reference in subsection (2) of rule 4-196.015 is revised to provide the specific statute which must be complied with and to clarify certain instructions related to filling out the form. A copy of the revised form is available upon request.

3. Subsection (6) of rule 4-196.020 is revised by changing reference to Section 627.8405(4) to Section 627.8405(3).

All of these changes are the result of comments from the Joint Administrative Procedures Committee.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE NO.:	RULE TITLE:
5J-13.004	Security Claims

NOTICE OF CHANGE

The Florida Department of Agriculture and Consumer Services, Division of Consumer Services, pursuant to Section 120.54(3)(d)1., Florida Statutes (Supp. 1998), provides notice that revisions in its proposed rule 5J-13.004, previously published in the Florida Administrative Weekly, Vol. 25, No. 10, on March 12, 1999, are limited to technical changes not affecting the substance of the rule. When changed, Rule 5J-13.004 will read as follows:

5J-13.004 Security Claims.

For purposes of s. 539.001(4), F.S., relating to the processing of consumer claims against a pawnbroker's security, the Department shall utilize the following procedures:

(1) Any person injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of any provision of s. 539.001, F.S., may file a claim with the Department.

(2) Upon the filing of such claim, the Department shall investigate and, if warranted, shall send to the pawnbroker in question, by certified mail, notice of the Department's intent to adjudicate the claim. Such notice shall direct the pawnbroker to respond in writing to the Department, either admitting or denying the allegations in the claim or advising the Department that the claim has been satisfied. Such notice shall further advise the pawnbroker that the Department intends to make a demand for payment of the security proceeds if the claim is not