

(3) Upon completion of the review of the documentation submitted, the local match liaison shall forward the information to Financial Management for a reimbursement of 95% to the local agency. The department shall retain up to 5% once the award is received from the federal government. Any funds remaining in excess of actual administrative costs will be refunded to the local agency.

(4) The expenditures shall be claimed and the upcoming quarter estimates shall be included on the Title IV-E Foster Care and Adoption Assistance Financial Report (ACF-IV-E-1 Part 4, OMB control number #0970-0205), incorporated by reference as if restated herein, on a quarterly basis.

(5) Once the award is received from the federal government and posted to the Family Safety Federal Grants Trust Fund, the 5% retained by the Department will be transferred for administrative expenses of the local match program.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History–New \_\_\_\_\_.

#### 65C-19.010 Eligibility/Reimbursability Determination.

The Department of Children and families in each district makes the Title IV-E eligibility determinations for each child and provides that information to the local provider. Eligibility determinations shall be made monthly throughout the time a child is in the Department's care, to reflect changing circumstances in the child's life affecting eligibility.

Specific Authority 39.0121(7) FS. Law Implemented 409.26731 FS. History–New \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

#### Board of Professional Engineers

##### RULE TITLES:

|                         | RULE NOS.:    |
|-------------------------|---------------|
| Citations               | 61G15-19.005  |
| Notice of Noncompliance | 61G15-19.0051 |
| Mediation               | 61G15-19.006  |
| Notice of Noncompliance | 61G19-19.007  |
| Citations               | 61G19-19.0071 |

PURPOSE AND EFFECT: The Board finds it necessary to repeal Rules 61G15-19.005 and 19.007 and new rules will be promulgated to take their place. Rule 61G19-19.006 is being amended to update the rule text for mediation for a first time offense.

SUMMARY: Repeal of Rules 61G15-19.005 and 61G19-19.007 and new rules created to take their place which will be numbered 61G19-19.0051 and 61G15-19.0071. Rule 61G19-19.006 will be amended to update the areas of the rule text with regard to mediation and first time offenses.

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: 455.224, 455.225, 455.2235 FS.

LAW IMPLEMENTED: 455.224, 455.2235, 471.023, 471.033 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 61G15-19.005 Citations.

Specific Authority 455.224, 455.225 FS. Law Implemented 455.224 FS. History–New 2-2-92, Amended 8-31-92, Formerly 21H-19.005, Amended 10-19-97, Repealed \_\_\_\_\_.

#### 61G15-19.0051 Notice of Noncompliance.

(1) As an alternative to investigation and prosecution, when a complaint is received, FEMC shall provide a licensee with a notice of noncompliance for an initial offense for the following violations:

(a) Failure to date documents when affixing signature and seal.

(b) Practice with an inactive or delinquent license less than one month.

(c) Firm practicing without a current certificate of authorization less than one month.

(2) A second offense shall result in issuance of a citation pursuant to Rule 61G15-19.0071.

Specific Authority 455.225 FS. Law Implemented 455.224 FS. History–New \_\_\_\_\_.

#### 61G15-19.006 Mediation.

Pursuant to §455.2235, the Board designates the following areas as appropriate for mediation for a first offense:

(1) Practice with an improper seal. (See Rule 61G15-23.001, F.A.C. or offer to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified.

(2) No change.

(3) Practice with an inactive license less than six months.

Specific Authority 455.2235 FS. Law Implemented 455.2235 FS. History–New 2-20-95, Amended 10-20-96, \_\_\_\_\_.

## 61G15-19.007 Notice of Noncompliance.

Specific Authority 455.225 FS. Law Implemented 455.224 FS. History--New 2-5-96, Amended 10-20-96, Repealed \_\_\_\_\_.

## 61G15-19.0071 Citations.

(1) As used in this rule, "citation" means an instrument which meets the requirements set forth in Section 455.224, F.S., and which is served upon a licensee or certificateholder for the purpose of assessing a penalty in an amount established by this rule.

(2) In lieu of the disciplinary procedures contained in Section 455.225, F.S., FEMC is hereby authorized to dispose of any violation designated herein by issuing a citation to the subject within six months after the filing of the complaint that is the basis for the citation. If a violation for which a citation may be issued is discovered during the course of an investigation for an unrelated violation, the citation must be issued within 6 months from the discovery of the violation and filing of the uniform complaint form by the investigator.

(3) The following violations with accompanying fines may be disposed of by citation:

(a) An engineer who has practiced or offered to practice engineering through a corporation, partnership, or fictitious name which has not been duly certified. The fine shall be \$100 for each month or fraction thereof of said activity, up to a maximum of \$1,000. (See Sections 455.227(1)(j), 471.023, and 471.033(1)(a), F.S.)

(b) Practice with an inactive or delinquent license more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.033(1)(i), F.S.)

(c) Firm practicing without a current certificate of authorization more than one month or if a Notice of Noncompliance has previously been issued for the same offense. The fine shall be \$100 for each month or fraction thereof. (See Section 471.023, F.S.)

(d) Failure to notify the Board of a change in the principal officer of the corporation or partner in a partnership who is the qualifying professional engineer for said corporation or partnership within one month of such change. The fine shall be \$500. (See Section 471.023(4), F.S.)

(4) If the subject does not dispute the matter in the citation in writing within 30 days after the citation is served by personal service or within 30 days after receipt by certified mail, the citation shall become a final order of the Board of Professional Engineers. The subject has 30 days from the date the citation becomes a final order to pay the fine and costs. Failure to pay the fine and costs within the prescribed time period constitutes a violation of Section 471.033(1)(k), F.S., which will result in further disciplinary action. All fines and costs are to be made payable to "Florida Engineers Management Corporation – Citation."

(5) Prior to issuance of the citation, the investigator must confirm that the violation has been corrected or is in the process of being corrected.

(6) Once the citation becomes a final order, the citation and complaint become a public record pursuant to Chapter 119, F.S., unless otherwise exempt from the provisions of Chapter 119, F.S. The citation and complaint may be considered as aggravating circumstances in future disciplinary actions pursuant to Rule 61G15-19.004, F.A.C.

(7) Subsequent violation(s) of the same rule or statute shall require the procedure of Section 455.225, F.S., to be followed. In addition, should the offense for which a citation could be issued occur in conjunction with violations not described herein, then the procedures of Section 455.255, F.S., shall apply.

Specific Authority 455.224, 455.225 FS. Law Implemented 455.224, 455.227, 471.023, 471.033 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: November 5, 1999

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Professional Engineers

| RULE TITLES:  | RULE NOS.:   |
|---|--------------|
| Definitions   | 61G15-32.002 |
| Common Requirements to all Fire Protection<br>Engineering Documents       | 61G15-32.003 |
| Design of Water Based Fire Protection<br>Systems                          | 61G15-32.004 |
| Design of Fire Water Spray (Mist) Fire<br>Suppression and Control Systems | 61G15-32.009 |

PURPOSE AND EFFECT: The Board has determined that amendments are necessary to Rule 61G15-32.002 to update the rule text regarding definitions. Rule 61G15-32.003 requires amendments which will expand the common requirements for certain fire protections engineering documents. Rule 61G15-32.004 is being amended to update the rule text for the design of water based fire protection systems. The Board has determined that a new rule is necessary to address the design of fine water spray (mist) first suppression and control systems and will be assigned rule number 61G15-32.009.

SUMMARY: Rule 61G15-32.002 is being amended to update the rule text which will further clarify the definitions for Engineer of Record for the Fire Protection System(s), and for Fire Protection Engineering Documents. The Board proposes to update Rule 61G15-32.003 by expanding the common

requirements for certain fire protection engineering documents. Rule 61G15-32.004 is being amended to further clarify the design of water based fire protection systems. The Board has determined that a new rule, numbered 61G15-32.009 be promulgated, which will provide language for the design of fine water spray (mist) fire suppression and control systems.

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: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-32.002 Definitions.

(1) Engineer of Record for the Fire Protection System(s): The Florida Registered Professional Engineer who develops the Fire Protection System(s) design criteria; performs analysis as required; and is responsible for the preparation of the Fire Protection Engineering Construction Documents.

(2) through (4) No change.

(5) Fire Protection Engineering Documents: The fire protection engineering drawings, specifications, design calculations and other materials or representations that set forth the overall design requirements for the construction, alteration, demolition, renovation, repair, modification, permitting and such, for any public or private fire protection system(s), which are prepared, signed, dated and sealed by the Engineer of Record for the Fire Protection System(s).

(6) through (7) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.002, Amended.

61G15-32.003 Common Requirements to all Fire Protection Engineering Documents.

(1) The Fire Protection Engineering Documents shall provide the construction requirements to indicate the nature and scope of the work, and to describe, detail, dimension, label and define as required to adequately communicate the design concept for the Fire Protection Components, System(s),

materials, assemblies, equipment and its structural and utility support system(s), insofar as they involve the safeguarding of life, health or property.

(2) The Fire Protection Engineering Design Documents shall specify the applicable requirements for the acceptance testing of the fire protection system and components, which shall be based upon applicable codes and standards, where available.

(3) No change.

(4) The applicable code and standard used in the preparation of the Fire Protection shall be shown on the Fire Protection Engineering Design Documents. When applicable codes and standards are not available or applicable, and said documents are based on engineering judgment, which constitutes a deviation from applicable codes and standards, any reasons and assumptions made to develop the fire protection concept shall be identified on the documents.

(5) through (8) No change.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.003, Amended.

61G15-32.004 Design of Water Based Fire Protection Systems.

(1) Water Based Fire Protection Systems include, but are not limited to, automatic sprinkler systems of wet, dry, fine water spray (mist), manual, and deluge valve controlled types, pumping systems, standpipes, fire water mains and dedicated fire protection water sources.

(2) To ensure minimum design quality in Fire Protection Engineering Documents, said documents shall include as a minimum the following information when applicable:

(a) No change.

(b) The Point of Service for the fire protection water supply as defined by 633.021(17), ~~(16)~~, F.S.

(c) In storage occupancies the Engineer of Record shall determine the commodity classification as determined by applicable standards or on alternate sources as provided in the definition of codes and standards. The NFPA commodity classification shall be provided on the Fire Protection Engineering Documents for all storage occupancies. In cases where applicable hazard classification is not identified in NFPA codes or standards, or a higher hazard classification is required for insurance purposes, the engineer or record shall provide the basis for the design decisions.

(d) All required hydraulic calculations conducted for the system(s) shall be completed in accordance with the minimum standards for detail and information as required by NFPA 13. The source and location of water supply test results shall be indicated on the documents.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History—New 5-19-93, Formerly 21H-32.004, Amended.

61G15-32.009 Design of Fine Water Spray (Mist) Fire Suppression and Control Systems.

(1) Fine water spray (mist) systems include water based fire suppression and control systems based on NFPA 750.

(2) The fire protection system(s) shall be based on applicable NFPA standards when available or on alternative engineering sources including full scale fire testing and good engineering practice when no applicable standard exists.

(3) Design of fine water spray systems requires specific knowledge of hazards, physical containment and fire dynamics. A "pre-engineered" listed system shall be installed only after the engineer or record has evaluated the project specific protected hazard.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033 FS. History--New.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 5, 1999

**DEPARTMENT OF HEALTH****Division of Medical Quality Assurance**

| RULE TITLES:  | RULE NOS.: |
|---|------------|
| Initial Registration of Credentials Verification Organization   | 64B-8.001  |
| Biennial Renewal of Credentials Verification Organization Registration  | 64B-8.002  |
| Documentation of Accreditation or Certification of a Credentials Verification Organization by a National Accrediting Organization | 64B-8.003  |
| Documentation of Liability Insurance Coverage by a Credentials Verification Organization  | 64B-8.004  |
| Requirement for Notification of change in Accreditation or Certification Status or Insurance Status                               | 64B-8.005  |
| Forms   | 64B-8.009  |
| Prohibitions-Registered Credentials Verification Organizations  | 64B-8.013  |
| Prohibitions-Subscriber Authorized to Access to Access Core Credentials Data  | 64B-8.014  |
| Penalties-Credentials Verification Organizations  | 64B-8.015  |
| Definition of "Fully Accredited or Certified as a Credentials Verification Organization"  | 64B-8.016  |
| Initial Reporting of Core Credentials   | 64B-8.017  |
| Notification of Correction, Updates, or Modifications to Core Credentials Data  | 64B-8.018  |

PURPOSE AND EFFECT: To establish rules governing Credentials Verification Organizations to be used for credentialing data verification.

SUMMARY: These rules set forth the guidelines governing Credentials Verification Organizations to be used by the Department of Health for credentials verification including, but not limited to, registration, liability insurance, access to data, prohibitions and penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 455.557 FS.

LAW IMPLEMENTED: 455.557 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Lucy Gee, Chief, Bureau of Operations, 2020 Capital Circle, S. E., Bin #C10, Tallahassee, Florida 32399-3260 and the Credentialing Verification Advisory Council

THE FULL TEXT OF THE PROPOSED RULES IS:

64B-8.001 Initial Registration of Credentials Verification Organization.

Pursuant to 455.557(5), Florida Statutes, any credentials verification organization that does business in this state must register with the department. The department shall register a Credentials Verification Organization that has:

(1) Submitted a completed Application for Credentials Verification Organization Registration Form, DH-MQA 1021, effective 12/99;

(2) Remitted the credentials verification organization registration fees; and

(3) Submitted documentation of liability insurance coverage and accreditation or certification by a recognized national organization accrediting credentials verification organizations.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(7) FS. History--New.

64B-8.002 Biennial Renewal of Credentials Verification Organization Registration.

The department shall renew the biennial registration of a Credentials Verification Organization who has:

(1) Submitted an updated complete Application for of Credentials Verification Organization Registration Form, DH MQA 1021, effective 12/99; and

(2) Shown proof to the department of accreditation or certification by a national accrediting organization;

(3) In addition, in order to renew a credentials verification organization registration after July 1, 2000, the organization must remit the credentials verification organization biennial renewal registration fee not to exceed an amount sufficient to cover the department's actual expenses in providing and enforcing such registration.

Specific Authority 455.557(8),(5) FS. Law Implemented 455.557(5) FS. History-New

64B-8.003 Documentation of Accreditation or Certification of a Credentials Verification Organization by a National Accrediting Organization.

Documentation of accreditation or certification of a credentials verification organization by a national accrediting organization means a copy of the accreditation or certification certificate or letter issued by the issuing organization that shows accreditation or certification status and date of expiration of accreditation or certification.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(2)(b),(2)(l) FS. History-New

64B-8.004 Documentation of Liability Insurance Coverage by a Credentials Verification Organization.

Documentation of liability insurance coverage by a credentials verification organization means a copy of the liability insurance policy showing amount of coverage, type of coverage, and dates of coverage.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(7) FS. History-New

64B-8.005 Requirement for Notification of Change in Accreditation or Certification Status or Insurance Status.

A registered credentials verification organization must notify the department in writing within three business days of revocation of accreditation or certification status or a change in liability insurance status.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(7),(2)(b) FS. History-New

64B-8.009 Forms.

The following forms used by the department in implementing the standardized credentials collection program are listed as follows and are hereby adopted and incorporated by reference, and can be obtained from the Division of Medical Quality Assurance, Bureau of Operations, at 2020 Capital Circle, S.E., Bin # C-10, Tallahassee, Florida 32399-3260:

(1) Initial Reporting of Core Credentials Data Form, DH-MQA 1020, effective 12/99;

(2) Reporting of Corrections, Updates, Modifications to Core Credentials Data Form, DH-MQA 1023, effective 12/99;

(3) Practitioner Participation Agreement (Comprehensive Release Form), DH-MQA, effective 1/2000;

(4) Application for Credentials Verification Organization Registration Form, DH-MQA 1020, effective 12/99;

(5) Application for Subscription to Access Authorized Core Credentials Data Form, DH-MQA1022, effective 12/99.

Specific Authority 455.557(8) FS. Law Implemented 455.557(3)(b)3..4..(c)(5) FS. History-New

64B-8.013 Prohibitions-Registered Credentials Verification Organizations.

(1) In order to implement subsection (5) of 455.557, Florida Statutes, the department may investigate in accordance with Chapter 455, Florida Statutes, or audit the records of a credentials verification organization to determine if the organization has engaged in any prohibited acts. No registered credentials verification organization shall engage in the following prohibited acts:

(a) Fail to maintain full accreditation or certification;

(b) Fail to provide data authorized by the health care practitioner;

(c) Fail to report to the department changes, updates, and modifications to a health care practitioner's core credentials data within forty-five (45) days of the change;

(d) Fail to comply with the prohibition against collection of duplicate core credentials data from a practitioner;

(e) Fail to adhere to standards for marketing and advertising established by the applicable accrediting organization;

(f) Fail to maintain liability insurance according to the standards established by the applicable accrediting organization;

(g) Fail to use standardized forms or Department approved electronic means for the initial reporting of core credentials data, for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto.

(2) In the event the department revokes or suspends the registration of a credentials verification organization, the organization must immediately notify all Florida health care practitioners who have designated the organization to provide initial or update their core credentials data within 15 days of the action.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(3),(7),(4) FS. History-New

64B-8.014 Prohibitions-Subscriber Authorized to Access Core Credentials Data.

No subscriber authorized to access core credentials data shall engage in the following prohibited acts:

(1) Release core credentials data without the authorization of the practitioner; and

(2) Fail to comply with the prohibition against collecting or attempting to collect duplicate core credentials data from a practitioner;

Specific Authority 455.557(8) FS. Law Implemented 455.557(3)(4) FS. History—New \_\_\_\_\_.

64B-8.015 Penalties-Credentials Verification Organizations.

When the department finds a credentials verification organization has committed any of the prohibited acts set forth in s. 455.557, F.S., it shall issue an order imposing penalties as recommended in the following guidelines:

(1) Failure to maintain full accreditation or certification: The minimum penalty shall be suspension of a registration until full accreditation or certification has been obtained. The maximum penalty shall be denial of an application to renew a registration or revocation of a registration.

(2) Failure to provide data authorized by the health care practitioner: For a first offense, the usual penalty shall be a thirty-day suspension. For subsequent offenses, the usual penalty shall be denial of an application to renew a registration or revocation of a registration.

(3) Failure to report to the department changes, updates, and modifications to a health care practitioner's core credentials data within 45 days of the change: For a first offense, the usual penalty shall be a thirty-day suspension. For subsequent offenses, the usual penalty shall be denial of an application to renew a registration or revocation of a registration.

(4) Failure to comply with the prohibition against collection of duplicate core credentials data from a practitioner: For a first offense, the usual penalty shall be a thirty-day suspension. For subsequent offenses, the usual penalty shall be denial of an application to renew a registration or revocation of a registration.

(5) Failure to adhere to standards for marketing and advertising established by the applicable accrediting organization: For a first offense, the usual penalty shall be a thirty-day suspension. For subsequent offenses, the usual penalty shall be denial of an application to renew a registration or revocation of a registration.

(6) Failure to maintain liability insurance according to the standards established by the applicable accrediting organization: The minimum penalty shall be suspension of a registration until appropriate liability insurance has been obtained. The maximum penalty shall be denial of an application to renew a registration or revocation of a registration.

(7) Failure to use standardized forms or department approved electronic means for the initial reporting of core credentials data for the health care practitioner to authorize the release of core credentials data, and for the subsequent reporting of corrections, updates, and modifications thereto: For a first offense, the usual penalty shall be a thirty-day suspension. For subsequent offenses, the usual penalty shall be denial of an application to renew a registration or revocation of a registration.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5),(4),(2),(3) FS. History—New \_\_\_\_\_.

64B-8.016 Definition of "Fully Accredited or Certified as a Credentials Verification Organization."

Fully accredited or certified as a credentials verification organization" as used in s. 455.557(5), F.S., is defined as:

(1) for the National Committee for Quality Assurance, certified in all credentialing elements, excluding site visits; and/or

(2) for the American Accreditation Healthcare Commission/URAC, full accreditation.

Specific Authority 455.557(8) FS. Law Implemented 455.557(5) FS. History—New \_\_\_\_\_.

64B-8.017 Initial Reporting of Core Credentials.

(1) Every health care practitioner shall report all core credentials data to the department that is not already on file with the department via department approved electronic means or on the Initial Reporting of Core Credentials Data Form, DH-MQA 1020, effective 12/99.

(2) A health care practitioner may designate a registered credentials verification organization to submit all core credentials data to the department that is not already on file with the department. A registered credentials verification organization designated by a health care practitioner to report core credentials data to the department shall do so via department approved electronic means or upon the Initial Reporting of Core Credentials Data Form, DH-MQA1023, effective 12/99.

Specific Authority 455.557(8) FS. Law Implemented 455.557(3) FS. History—New \_\_\_\_\_.

64B-8.018 Notification of Corrections, Updates, or Modifications to Core Credentials Data.

(1) A health care practitioner shall notify the department within 45 days of any corrections, updates, or modifications to the core credentials data by submitting the corrections, updates or modifications via department approved electronic means or on the Reporting of Corrections, Updates, Modifications to Core Credentials Data Form, DH-MQA 1023, effective 12/99.

(2) A health care practitioner may designate a registered credentials verification organization to submit corrections, updates, and modifications to core credentials data to the department. A registered credentials verification organization designated by a health care practitioner to notify the department of any corrections, updates, or modifications to core credentials data shall do so via department approved electronic means or upon a Reporting of Corrections, Updates, Modifications to Core Credentials Data Form, DH-MQA 1023, effective 12/99, within 45 days of the change.

Specific Authority 455.557(8) FS. Law Implemented 455.557(3) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Lucy Gee, Chief, Bureau of Operations  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Gloria Henderson, Director,  
Division of Medical Quality Assurance  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: January 24, 2000  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: July 2, 1999

## DEPARTMENT OF HEALTH

### Board of Medicine

RULE TITLE: Disciplinary Guidelines  
RULE NO.: 64B8-44.003

PURPOSE AND EFFECT: To include penalties for sexual misconduct and for failing to report in writing within 30 days of a criminal plea or conviction as authorized by 1999 amendments to Part II of Chapter 455, Florida Statutes, and to specify the penalties for repeat offenses.

SUMMARY: The Board has approved the language recommended by the Dietetics and Nutrition Practice Council regarding the specific penalties for sexual misconduct, failing to report a criminal plea, and repeat offenses.

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: 455.627, 458.309, 468.507 FS.

LAW IMPLEMENTED: 455.627, 468.517, 468.518(2) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Dietetics and Nutrition Practice Council/MQA, 2020 Capital Circle, S. E., Bin #C05, Tallahassee, Florida 32399-3255

### THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-44.003 Disciplinary Guidelines.

(1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Section 120.57(1) and (2), F.S., the Board shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations set forth below. The verbal identification of offenses

are descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included.

VIOLATION  
(a) Violating Practice Act  
or Board or Department Rules  
(468.518(1)(a))

RECOMMENDED RANGE OF PENALTY  
(a)(1) From a minimum of six months probation to revocation or denial of licensure, and an administrative fine from \$150.00 to \$1,000.00, depending on the seriousness of the underlying offense and the magnitude of the violation.

(a)(2) After the first offense, a minimum of one year's probation to revocation or denial of licensure, and an administrative fine from \$200.00 to \$1,000.00, depending on the seriousness of the underlying offense and the magnitude of the violation.

(b) Inability to practice  
with skill and safety  
(468.518(1)(b))

(b) From submission to a mental or physical examination directed towards the problem, one year probation with conditions, possible referral to the PRN to revocation or denial, and an administrative fine from \$100.00 to \$1,000.00.

(c) Attempting to procure  
a license by fraud or  
misrepresentation  
(468.518(1)(c))

(c)(1) From denial or revocation of licensure with ability to reapply upon payment of a fine up to \$1,000.00 to denial of license without ability to reapply.

(c)(2) For a second offense, denial or permanent revocation of licensure with \$1,000.00 fine.

(d) Action taken against  
license by another  
jurisdiction  
(468.518(1)(d))

(d)(1) From imposition of discipline comparable to that which would have been imposed if the substantive violation had occurred in Florida to suspension or denial of license until it is unencumbered in the other jurisdiction, and an administrative fine from \$100.00 to \$1,000.00. Impaired practitioners working in this state may be ordered into the PRN.

(d)(2) After the first offense, from imposition of discipline comparable to that which would have been imposed if a second or higher substantive violation had occurred in Florida to suspension or denial of license until it is unencumbered in the other jurisdiction, and an administrative fine from \$200.00 to \$1,000.00. Impaired practitioners working in this state may be ordered into the PRN.

(e) Conviction of a crime  
relating to the practice  
(468.518(1)(e))

(e)(1) From a one year probation with conditions to revocation or denial of the license and an administrative fine ranging from \$100.00 to \$1,000.00. Any Board ordered probation shall be for no less time than Court ordered sanctions.

(e)(2) After the first offense, from a three-year probation with conditions to revocation or denial of the license, and an administrative fine ranging from \$250.00 to \$1,000.00. Any Board ordered probation shall be for no less time than Court ordered sanctions.

(f) Filing a false report or  
failing to file a report as required  
(468.518(1)(f))

(f)(1) From a minimum of one year probation with conditions to revocation or denial of the license, and an administrative fine from \$100.00 to \$1,000.00.

(f)(2) After the first offense, a minimum of three years probation with conditions to revocation or denial of the license, and an administrative fine from \$250.00 to \$1,000.00.

(g) False, deceptive, or  
misleading advertising  
(468.518(1)(g))

(g)(1) From one year probation with conditions to one year suspension followed by at least one year probation with conditions or denial of licensure, and an administrative fine from \$250.00 to \$1,000.00.

|   |   |  |
|---|---|--|
| (h) Committing fraud in the practice<br>(468.518(1)(h))                                       | (g)(2) For a second offense, two years probation with conditions to two years suspension followed by at least one year probation with conditions or denial of licensure, and an administrative fine from \$350.00 to \$1,000.00.<br>(g)(3) After the second offense, two to five years suspension followed by two years of probation with conditions to revocation or denial of licensure, and an administrative fine from \$500.00 to \$1,000.00.<br>(h)(1) From one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$250.00 to \$1,000.00.<br>(h)(2) After the first offense, from one year suspension followed by probation with conditions to revocation or denial of licensure, and an administrative fine from \$400.00 to \$1,000.00.<br>(i)(1) From a \$250.00 administrative fine to revocation.<br>(i)(2) After the first offense, from a \$750.00 administrative fine to revocation.<br>(j)(1) From one year suspension followed by at least one year probation with conditions or denial to revocation to revocation or denial of licensure, and an administrative fine from \$250.00 to 1,000.00.<br>(j)(2) For a second offense, two years suspension followed by at least one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$400.00 to \$1,000.00.<br>(j)(3) For a third offense, revocation or denial of llicensure and an administrative fine from \$800.00 to \$1,000.00.<br>(k)(1) From one year probation with conditions to revocation or denial of a license, and an administrative fine from \$100.00 to \$1,000.00.<br>(k)(2) After the first offense, a minimum of one year suspension followed by a minimum of one year probation with conditions to revocation or denial of a license, and an administrative fine from \$350.00 to \$1,000.00.<br>(l)(1) From six months suspension followed by one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$250.00 to \$1,000.00.<br>(l)(2) After the first offense, from one year suspension followed by two years of probation with conditions to revocation or denial of licensure, and an administrative fine from \$350.00 to \$1,000.00.<br>(m)(1) From suspension to revocation or denial of licensure, and an administrative fine from \$500.00 to \$1000.00.<br>(m)(2) For a second offense, revocation or denial of licensure, and an administrative fine from \$750.000 to \$1,000.00.<br>(n)(1) From probation with conditions or one year's suspension followed by a minimum of one year probation with conditions to revocation or denial of a license, and an administrative fine from \$100.00 to \$1,000.00.<br>(n)(2) After the first offense, from one year suspension followed by a minimum of one year probation with conditions to revocation or denial of a license, and an administrative fine from \$400.00 to \$1,000.00.<br>(o)(1) From probation with conditions to revocation or denial of licensure, and an administrative fine from \$400.00 to \$1,000.00. Evaluations shall be required to determine the need for PRN. | (o)(2) For a second offense, from one year suspension followed by a minimum of one year probation with conditions to revocation or denial of licensure, and an administrative fine from \$800.00 to \$1,000.00. Evaluations shall be required to determine the need for referral to PRN.<br>(o)(3) After the second offense, revocation of license and a fine of \$1,000.<br>(p)(1) From a \$100.00 administrative fine to revocation or denial of a license.<br>(p)(2) After the first offense, from a \$250.00 administrative fine to revocation or denial of a license. |
| (i) Practicing on <u>delinquent</u> , revoked, suspended or inactive license (468.518(1)(i))  | (p) Failing to report in writing within 30 days after the licensee <u>has been convicted or found guilty of, or has entered a plea of nolo contendere to, regardless of adjudication, a crime in any jurisdiction</u><br>(455.624(1)(w))  |  |
| (j) Treating ailments by means other than dietetics and nutrition practice<br>(468.518(1)(j)) | (5) through (7) No change.  |  |
| (k) Failure to maintain acceptable standards of practice<br>(468.518(1)(k))                   | Specific Authority 455.627, 458.309, 468.507 FS. Law Implemented 455.627, 468.517, 468.518(2) FS. History—New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99_____.   |  |
| (l) Kickbacks or split fee arrangements<br>(468.518(1)(l))                                    | NAME OF PERSON ORIGINATING PROPOSED RULE:<br>Dietetics and Nutritian Practice Council<br>NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine<br>DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 4, 1999<br>DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 30, 1999   |  |
| (m) Advertising any experimental assessment or treatment<br>(468.518(1)(m))                   | DEPARTMENT OF HEALTH<br>Division of Disease Control<br>RULE TITLE:<br>Allocation Methodology for the Distribution of Funds Appropriated for Tuberculosis Control  | RULE NO.:<br>64D-3.025   |
| (n) Failure to keep written medical records<br>(Rule 64B8-44.004)                             | PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to make adjustments to the current allocation methodology for the distribution of categorical tuberculosis funds. The proposed rule amendments provide new language that will more effectively allocate tuberculosis categorical resources and funding of county health departments based on current and future disease incidence trends.  |  |
| (o) Sexual misconduct in the practice of the profession<br>(455.567)                          | SUMMARY: The proposed rule amendments include changes to the factors used to determine the distribution of funds appropriated for tuberculosis control. The proposed rule amendments also include the assurance that any additional grant funding provide for specific projects in certain areas of the state will not affect the standard formula for the distribution of funds to the counties.<br>SUMMARY OF STATEMENT OF REGULATORY COST: No statement of estimated regulatory cost has been prepared.<br>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 within 21 days of this notice.   |  |

Specific Authority 455.627, 458.309, 468.507 FS. Law Implemented 455.627, 468.517, 468.518(2) FS. History—New 12-4-90, Formerly 21M-50.003, Amended 6-22-94, Formerly 61F6-50.003, 59R-44.003, Amended 3-16-98, 8-19-99.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Dietetics and Nutrition Practice Council

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: December 4, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 30, 1999

## DEPARTMENT OF HEALTH

### Division of Disease Control

RULE TITLE:

RULE NO.:

Allocation Methodology for the Distribution of

Funds Appropriated for Tuberculosis Control 64D-3.025  
PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to make adjustments to the current allocation methodology for the distribution of categorical tuberculosis funds. The proposed rule amendments provide new language that will more effectively allocate tuberculosis categorical resources and funding of county health departments based on current and future disease incidence trends.

SUMMARY: The proposed rule amendments include changes to the factors used to determine the distribution of funds appropriated for tuberculosis control. The proposed rule amendments also include the assurance that any additional grant funding provide for specific projects in certain areas of the state will not affect the standard formula for the distribution of funds to the counties.

SUMMARY OF STATEMENT OF REGULATORY COST:  
No statement of estimated regulatory cost has been 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 within 21 days of this notice.



SPECIFIC AUTHORITY: 381.0011(4)(13), 381.003(2), 392.61(4), 392.66 FS.

LAW IMPLEMENTED: 381.0011(4)(13), 381.003(1)(a), 392.61(4) 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:

TIME AND DATE: 9:00 a.m., February 29, 2000

PLACE: 2585 Merchant's Row Blvd., Room 340N, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jane Peck, Operations and Management Consultant II, Bureau of Tuberculosis and Refugee Health, 2020 Capital Circle, S. E., Bin #A20, Tallahassee, FL 32399-1717, Telephone (850)245-4350, Ext. 2317

THE FULL TEXT OF THE PROPOSED RULE IS:

64D-3.025 Allocation Methodology for the Distribution of Funds Appropriated for Tuberculosis Control.

(1) In addition to the criteria listed in s. 392.61(4), F.S., the factors used to determine the distribution of funds for each county will be include the following:

~~(a) The number of reported tuberculosis cases in a county during the most recent past 5 2 years period for which complete annualized morbidity data is available;~~

~~(a) The population with a family income below 150% of the federal poverty level;~~

~~(b) The cost of living differential; and~~

~~(c) The geographical size of the area.~~

(2) Any additional grant funding provided by state or federal agencies for specific projects in specifically identified areas of the state will not result in the formula in paragraph (1) being adjusted. The formula will be adjusted to consider federal grant restrictions which stipulate that funding be restricted to certain geographical areas in the state.

Specific Authority 381.0011(4)(13), 381.003(2), 392.61(4), 392.66 FS. Law Implemented 381.0011(4)(13), 381.003(1)(a), 392.61(4) FS. History—New 9-18-98, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jane Peck

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Graydon Sheperd

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2000

DATE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 1999

## FLORIDA HOUSING FINANCE CORPORATION

| RULE TITLES:  | RULE NOS.: |
|---|------------|
| Definitions   | 67-38.002  |
| Notice of Funding Availability                      | 67-38.0025 |
| Application Submission Procedures                   | 67-38.003  |
| Incomplete Applications and Rejection Criteria      | 67-38.004  |
| Application Evaluation and Award Guidelines         | 67-38.005  |
| Terms and Conditions of the Advance                 | 67-38.006  |
| Terms and Conditions of the Loan                    | 67-38.007  |
| Eligible Uses for the Loan                          | 67-38.008  |
| Eligible Uses of Grants                             | 67-38.009  |
| Credit Underwriting Procedures                      | 67-38.010  |
| Fees  | 67-38.011  |
| Sale, Transfer or Conveyance of Development         | 67-38.012  |
| Site Development and Design Standards               | 67-38.013  |
| Disbursement Procedures                             | 67-38.014  |
| Compliance and Monitoring Procedures                | 67-38.0145 |
| Disposition of Property Accruing to the Corporation | 67-38.015  |
| Administrative Appeal Procedures                    | 67-38.016  |

PURPOSE AND EFFECT: The purpose of Rule Chapter 67-38, Florida Administrative Code (FAC.), is to establish the procedures by which the Florida Housing Finance Corporation shall administer the application process, determine loan or grant amounts to non-profits with limited or no experience who engage in development of affordable housing for very low or low-income households.

SUMMARY: Prior to receipt of Application for a new funding year, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior applicaitons 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.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.528 FS.

LAW IMPLEMENTED: 420.507, 420.521-.529 FS.

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

TIME AND DATE: 10:00 a.m., Monday, February 28, 2000

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:

67-38.002 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, Part V, Florida Statutes, as amended from time to time.

~~(2) "Acquisition Phase" means the second phase of the Predevelopment process during which the Sponsor shall conduct or perform tasks and activities associated with the acquisition of the Project Site and any existing improvements by the Sponsor.~~

~~(2)(3) "Administrative Expenses" means expenses incurred by the Applicant Sponsor as a direct result of and solely related to the Development Project. These shall include long distance phone calls, necessary travel (except to conferences, conventions or for training), copying, printing, and postage fees.~~

~~(3) "Affiliate" means any person or entity 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 (iii) is the spouse, parent, child, sibling, or relative by marriage of a person or entity described in (i) or (ii) above.~~

~~(4) "Advance" means PLP funds awarded to a Sponsor in an amount recommended by the Credit Underwriter and approved by the Corporation, not to exceed \$25,000. An Advance may be forgiven or rolled over into a Loan to the Sponsor pursuant to the terms and conditions set forth in this Rule Chapter.~~

~~(5) "Annual Anticipated Gross Income" means the gross amount of wages, income from assets, regular cash or non-cash contributions, and any other resources and benefits determined to be income by HUD. "Annual Anticipated Gross Income" is generally determined by analyzing the amount of income anticipated to be received by all adults in a household during the next 12 months following the effective date of any such determination.~~

~~(4) "Applicant" means any unit of government, a local housing authority established pursuant to Chapter 421, a community-based or not-for-profit organization, or a limited partnership if its general partner is a community-based or not-for-profit organization that submits an Application for funding from the Predevelopment Loan Program. "Applicant" includes a sponsor as defined by Section 420.523 of the Florida Statutes.~~

~~(5)(6) "Application" means the completed forms from the Application Package together with exhibits submitted to the Corporation in accordance with this Rule Chapter in order to apply for PLP funds. The current year application is adopted and incorporated herein.~~

~~(7) "Application Cycle" means the period designated by the Corporation during which Applications may be submitted to the Corporation in accordance with this Rule Chapter as described in a notice to be published by the Corporation in the Florida Administrative Weekly.~~

~~(8) "Application Deadline" means 5:00 p.m., Eastern Standard Time, on the final day of the Application Cycle.~~

~~(6)(9) "Application Package" means the forms, tabs and instructions thereto, comprising the Predevelopment Loan Program Application Package prepared by the Corporation for the current Application Cycle which shall be completed and submitted to the Corporation by an Applicant a Sponsor in accordance with this Rule Chapter in order to apply for PLP funds.~~

~~(7) "Board of Directors" or "Board" means the Board of Directors of the Florida Housing Finance Corporation.~~

~~(8)(10) "Code" means the Internal Revenue Code of 1986, as amended, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States.~~

~~(9)(11) "Compliance Period" means:-~~

~~(a) with respect to multifamily Developments Projects that obtain construction/permanent financing from a source other than Florida Housing programs and no Florida Housing funds remain in the Development, a period of 15 years beginning on the date the Predevelopment Loan is paid off pursuant to Rule Chapter 67-38.007(5); or~~

~~(b) with respect to Developments that obtain construction/permanent financing from Florida Housing programs, a period equal to the compliance period committed to by the Applicant under the Florida Housing program from which the permanent/construction financing is obtained maturity date of the Predevelopment Loan, as the same may be extended pursuant to this Rule Chapter.~~

~~(12) "Conditional Commitment" means evidence from a financial institution or other lending source acceptable to the Corporation under which such financial institution or other lending source agrees to issue a commitment to provide a Sponsor with the requisite construction/permanent financing in connection with the Project, subject to certain achievable conditions (other than receipt of a loan from the HOME or SAIL program or tax credits) and meets all of the following criteria:-~~

~~(a) Must have completed a preliminary lender review;~~

~~(b) Must contain the interest rate, the loan amount and the repayment schedule;~~

(e) ~~Must contain the conditions to be met before becoming a Firm Commitment.~~

~~A Conditional Commitment from a syndicator is an agreement which contains certain achievable conditions which must be met before becoming a Firm Commitment and includes all terms and conditions of the agreement. A commitment subject to committee approval will be considered a Conditional Commitment~~

(10)(13) "Corporation" or "Florida Housing" means the Florida Housing Finance Corporation, a public corporation and the successor to the Florida Housing Finance Agency.

(11)(14) "Credit Underwriter" means the legal representative under contract with the Corporation having the responsibility for providing stated credit underwriting services. Such services shall include, for example, a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and Development team to proceed and evidence of the need for affordable housing in order to determine that the Development meets the program requirements, but not be limited to, reviewing the financial feasibility and viability of Projects and proposing to the Corporation the amount of an Advance and/or Loan needed, if any.

(12) "Development" means the buildings, structures, fixtures and all other improvements to the Development Site proposed by a Applicant and for which financial assistance under the Predevelopment Loan Program(s) has been applied for or received.

(13) "Development Plan" means the written description/narrative of the proposed Development submitted to the Corporation by the Applicant with the recommendation of the Technical Assistance Provider detailing the Applicant's objectives and goals with respect to the Development, from formulation of the development concept through construction, leasing, operation or sale. The Development Plan shall clearly set forth the Applicant's anticipated sources to fund all anticipated predevelopment expenses, including those in excess of the amounts to be requested under the Predevelopment Loan Program, if any, and the sources and uses of construction and permanent financing.

(14) "Development Site" means the land for the Development, as defined by the legal description in the Development Plan and the documents evidencing or securing the Loan.

(15) "Farmworker" means any laborer who is employed on a seasonal, temporary, or permanent basis in the planting, cultivating, harvesting, or processing of agricultural or aquacultural products and who derives at least 50% of his income in the immediately preceding 12 calendar months from such employment. ~~To qualify as a "Farmworker" under this Rule Chapter, the incomes of all adult persons, excluding Students, cannot exceed 80% of the median annual gross income established by HUD for households within the State,~~

~~the MSA or, if not within the MSA, within the county in which the person or household resides, whichever is greater. Farmworker includes a household of one or more persons wherein at least one member of the household is a Farmworker, or a person who has retired from such work due to age, disability or illness. The term "Farmworker" also includes a person who has retired as a laborer described in this paragraph due to age, disability or illness and includes a household of one or more persons wherein at least one member of the household is a Farmworker, or a person who has retired as a laborer due to age, disability or illness. In order to be considered retired as a Farmworker due to age under this Rule Chapter, a person must be 50 years of age or older and must have been employed for a minimum of 5 years as a Farmworker immediately preceding retirement. In order to be considered retired as a Farmworker due to disability or illness, it must be:~~

(a) Medically established that the person is unable to be employed as a Farmworker due to such disability or illness; and

(b) Established that the person had previously met the definition of a Farmworker.

(16) "Final Work Plan" means the Initial Work Plan as revised by the Sponsor in accordance with the recommendations of the Credit Underwriter and the Technical Assistance Provider and approved by the Corporation prior to the Acquisition Phase.

(17) "Firm Commitment" means evidence from a financial institution or other lending source acceptable to the Corporation under which such financial institution or other lending source agrees to issue a commitment to provide a Sponsor with the requisite construction/permanent financing in connection with the Project, subject only to (i) the execution of the requisite documents to evidence and secure the loan, (ii) payment of any commitment or lender related fees and (iii) such other conditions related to the Corporation.

(16)(18) "HUD" means the United States Department of Housing and Urban Development.

(19) "Initial Work Plan" or "Initial Plan" means a written description/narrative of the proposed Project submitted to the Corporation by the Sponsor as part of its Application detailing the Sponsor's objectives and goals with respect to the Project, from formulation of the development concept through construction, leasing, operation or sale. The "Initial Work Plan" shall include, without limitation, the information required in Form 2, project Narrative/Initial Work Plan of the Application Package.

(17) "Invitation to Participate" means a letter issued by the Corporation to each Applicant that met threshold detailing the Applicant's obligations with respect to the line of credit Loan to be received from the Predevelopment Loan Program.

~~(18)(20)~~ "Loan" means PLP funds awarded to an Applicant Sponsor in the form of a line of credit in an amount not to exceed \$500,000 subject to availability of funds ~~in an amount recommended by the Credit Underwriter and approved by the Corporation, not to exceed the lesser of the development and acquisition costs for the Project, as determined by the Credit Underwriter or \$500,000 (including the amount of any Advance awarded to the Sponsor), which shall be evidenced by a promissory note from the Sponsor, bearing interest at a rate of 3% (except for the Advance) and secured by such documents and collateral as the Corporation may require. The proceeds of the Loan shall be disbursed to the Sponsor pursuant to the terms and conditions set forth in Rule 67-38.006, F.A.C.~~

(19) "Loan Committee" means a group composed of at least five persons including a Board member appointed by the Chairman of the Board or other committee as designated by the Board who will be responsible for review and approval of Applications under the PLP Program. Meetings of the Loan Committee shall be called by the Chairperson of the Committee who shall be appointed by the Executive Director.

~~(20)(24)~~ "Local Government" means a unit of local general-purpose government as defined in Section 218.31(2), Florida Statutes (1995) any county or municipality (incorporated city, town or village) within the State.

~~(22) "Low Income Persons or Households" means one or more natural persons or a family, whose total Annual Anticipated Gross Income for all adult persons, excluding Students, does not exceed 80% of the area median income adjusted for family size as determined by HUD.~~

~~(21)(23)~~ "Minimum Set-Aside Requirement" means, with respect to PLP,

(a) for rental Developments:

1. either (a) a minimum of 20% of the completed housing units must be rented to persons whose income does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for family size or sold to Very Low Income Persons or Households, or

2. (b) a minimum of 40% 50% of the completed housing units are rented to persons whose income does not exceed 60% of the median income for the area, as determined by HUD, with adjustments for family size or sold to Low Income Persons or Households, or (c) a minimum of 50% of the completed housing units are rented or sold to Farmworker households.

(b) With respect to home ownership Developments Projects, all remaining completed housing units must be sold to persons or households with incomes not exceeding 120% of the median annual gross income as established by HUD for households within the State, the MSA or, if not within the MSA, within the county in which the person or household resides, whichever is greater, or for purposes of the HOME Program, incomes not exceeding 80% of the medium gross

income as established by HUD for households within the State, the MSA or, if not within the MSA, within the county in which the person or person resides.

~~(22)(24)~~ "Mortgage" means a written agreement securing a Loan which creates a lien on the Development Project and the Development Project Site, subject only to such encumbrances approved by the Corporation.

~~(23)(25)~~ "Not-For-Profit Organization" or "Community-Based Organization" means any group, established under Chapter 617, Florida Statutes to provide housing and other services on a not-for-profit basis and that is acceptable to federal and state agencies and financial institutions as a sponsor of Affordable housing. The Not-For-Profit Organization or Community-Based Organization shall not be affiliated with or controlled by a for-profit corporation have control of the Project and shall materially participate in the predevelopment, development construction and operation of the Development Project through the Compliance Period. In addition to the foregoing, if the Applicant Sponsor is a limited partnership, the Not-For-Profit Organization or "Community-Based Organization" must own at least 51% of the ownership interest in the Development held by the general partner entity Project and receive at least 51% of the net revenues generated thereby. For purposes of low income housing tax credits the Not-for-Profit Organization nonprofit means a qualified not-for-profit entity as defined in the HUD regulations Section 42(h)(5)(c), subsection 501 (c)(3) or 501(c)(4) of the Code and organized under Chapter 617 Florida Statutes, to provide housing and other services on a not-for-profit basis, which owns at least 51% of the ownership interest in the Development Project held by the general partner entity and which entity is acceptable to federal and state agencies and financial institutions as a Applicant Sponsor for affordable housing.

~~(24)(26)~~ "PLP" or "Predevelopment Loan Program" means the Predevelopment Loan Program established by the Act and this Rule Chapter.

~~(27) "Post-Acquisition Phase" means the third phase of the Predevelopment process during which the Sponsor shall conduct or perform tasks and activities associated with the development of the project and the closing of the construction/permanent financing pursuant to the approved Firm Commitment submitted to the Corporation by the Sponsor.~~

~~(28) "Pre-Acquisition Phase" means the first phase of the Predevelopment process during which the Sponsor shall conduct or perform tasks and activities associated with the requisite due diligence prior to the acquisition of the Project Site.~~

~~(25)(29)~~ "Predevelopment" means the tasks and activities set forth in the Development Final Work Plan to be accomplished prior to construction of the housing units; all to be conducted during the Pre-Acquisition, Acquisition and Post-Acquisition Phases.

~~(30)~~ "Project" means the buildings, structures, fixtures and all other improvements to the Project Site proposed by a Sponsor and for which financial assistance under the Predevelopment Loan Program(s) has been applied for or received.

~~(31)~~ "Project Site" means the land for the Project, as defined by the legal description in the Application and the documents evidencing or securing the Loan.

~~(26)~~ "Preliminary Underwriting Assessment" is an analytical review by the Credit Underwriter of the Applicant's development costs, sources of funds and pro forma operating statement to ensure the Development's feasibility and shall prioritize tasks which must be accomplished prior to obtaining construction and permanent financing.

~~(27)(32)~~ "Rehabilitation" means to bring a Project back to its original state, or to bring back to its original state with added improvements with limitations as specified by the program or programs which provide construction/permanent financing to the development where the value of such repairs or improvements exceeds \$25,000 per unit. To be considered a "Rehabilitation," there must be at least the foundations remaining from the previous structures, suitable to support the proposed construction and the structural integrity must be certified by an approved structural engineer. "Rehabilitation" does not include the costs of acquiring or moving a structure.

~~(33)~~ "Review Committee" means a committee of at least five persons appointed by the Executive Director of the Corporation who will evaluate the scoring of the Applications. Meetings of the Review Committee shall be called by the Review Committee Chairperson who shall be the Executive Director.

~~(28)(34)~~ "Servicer" means the legal representative under contract with the Corporation having the responsibility for providing stated loan servicing and administration and compliance monitoring services. Such services shall include, for example without limitation, reviewing and approving all Loan disbursement requests for site acquisition, loan servicing and single-family and multi-family compliance monitoring services, if any.

~~(29)(35)~~ "Servicing and Compliance Monitoring Fees" means fees associated with the review and processing of requests for disbursement of funds, inspections and the monitoring of Developments Projects.

~~(36)~~ "Sponsor" means a unit of Local Government, a housing authority established pursuant to Chapter 421 of the Florida Statutes, a Community Based Organization, a Not For Profit Organization, or a limited partnership, if its

~~general partner is a Community Based Organization or Not For Profit Organization, that submits an Application and is awarded an Advance or Loan or a combination of both.~~

~~(30)(37)~~ "State" means the State of Florida.

~~(38)~~ "Student" means any person not living with that person's parent or guardian who is eligible to be claimed by that person's parent or guardian as a dependent under the Code, and who is enrolled on at least a half-time basis in a secondary school, vocational technical center, community college, college or university. The term does not include a person participating in an educational or training program approved by the Corporation.

~~(39)~~ "Target Population" means Farmworkers, Very Low Income Persons and Households, and Low Income Persons and Households.

~~(31)(40)~~ "Technical Assistance Provider" means a professional retained by the Corporation to provide specialized technical support and assistance to Applicants Sponsors in the form of telephonic, on-site visits and responses to oral and written inquiries from Applicants Sponsors throughout the entire Predevelopment process and to provide such other services as agreed to determined by the Technical Assistance Provider and the Corporation.

~~(41)~~ "Very Low Income Persons or Households" means one or more natural persons or a family, whose total Anticipated Annual Gross Income for all adult persons, excluding Students, does not exceed 50% of the median annual gross income as established by HUD for households within the State, the MSA or, if not within an MSA, within the county in which the person or household resides, whichever is greater. The term "Very Low Income Persons" also means, in Projects for which the Sponsor intends to use the federal low income housing tax credit, persons or households having incomes that meet the eligibility requirements of Section 42 of the Code.

Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-420.529 FS. History--New 3-23-93, Amended 1-16-96, Formerly 91-38.002, Amended 3-26-98,\_\_\_\_\_.

67-38.0025 Notice of Funding Availability.

(1) ~~Each December Annually,~~ the Corporation shall publish in the Florida Administrative Weekly a Notice of Funding Availability (NOFA) setting forth the availability aggregate amount of PLP funding funds to be made available for eligible PLP activities during the ensuing calendar year. ~~During each Application Cycle, Applications shall be submitted to the Corporation by the Application Deadline set forth in each Notice of Predevelopment Loan Program Application Cycle issued by the Corporation and published in the Florida Administrative Weekly (the "Notice"), the Notice shall also set forth the amount of PLP funds available to be awarded during each such Application Cycle to the extent that funding is available. Each Notice shall be published at least 60 days prior to the Application Deadline set forth therein. The~~

NOFA and each Notice shall be mailed to each person and organization on the mailing lists for the Corporation's PLP Program and Home Ownership programs.

(2) The NOFA shall specify a priority 50% set-aside of the total funding allocation for Farmworker Developments Projects for the first 6 month period following the date of publication of the NOFA in the Florida Administrative Weekly.

(3) PLP funding shall be available to Applicants whose Applications have met threshold, on a first-come, first-served basis pursuant to this Rule Chapter.

(4)(3) If an Application is submitted and has been determined to meet threshold but no available lines of credit remain, the Applicant After the selection of Sponsors is made pursuant to Rule 67-38.004, F.A.C., any shall be placed on a waiting list in an order determined by the date completed Application is submitted to the Corporation. If an Application is submitted and does not meet threshold, the priority of the Application on the waiting list is determined by the date the Application is determined to have met threshold, not the date the Application was submitted remaining funds shall be offered to those Sponsors on PLP's scoring and ranking spreadsheet meeting the threshold requirements contained in the Application Package.

(4) If there are no Sponsors awaiting funding, all remaining funds will be applied towards the next Application Cycle.

Specific Authority 420.528 FS. Law Implemented 420.527 FS. History--New 1-16-96, Formerly 91-38.0025, Amended 3-26-98,\_\_\_\_\_.

#### 67-38.003 Application Submission Procedures.

(1) At any time dDuring the year each Application Cycle, Applicants Sponsors may submit Applications to the Corporation for PLP funding for eligible Predevelopment tasks and activities to be conducted during one or more of the following phases (a) Pre-Acquisition Phase; (b) the Acquisition Phase; (c) the Post-Acquisition Phase.

(2) During each Application Cycle, PLP funding shall be available to Sponsors on an quarterly basis to the extent funds are available, through a competitive process, based on the following criteria:

(2)(3) The Corporation hereby adopts by reference the Application Package (Form PLP 2000 1998) which provides forms, tabs, threshold requirements, instructions and other information necessary for submission of an Application under the Predevelopment Loan Program.

(3)(4) Application Packages may be obtained from the Corporation for a fee in accordance with this Rule Chapter, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. Applications shall only be received by the Corporation during the applicable Application Cycle. Applications shall be deemed to be received by the Corporation if delivered by hand, U.S. Postal Service, or other

courier service on or before the Application Deadline for the applicable Application Cycle. Applications which are not received by the applicable Application Deadline shall not be reviewed. All Applications delivered by hand; must be presented to Corporation staff; to be inscribed with the time and date of receipt.

(5) Applications and other items related to or required by the Application Package transmitted by facsimile shall not be accepted by the Corporation. Once the Application has been received by the Corporation, no additions, deletions, or changes will be accepted. The staff of the Corporation cannot assist any Sponsor by copying, collating, or adding documents to an Application, nor shall any Sponsor be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(4)(6) Applications which do not contain required items and do not provide adequate justification for omitting these items; shall not be reviewed by the Loan Review Committee until they are complete and will be rejected.

(5)(7) An original and two identical copies of the Application shall be submitted; to the Corporation, as hereinafter specified. Each Application shall be completed in its entirety. The Application which is considered the original must contain original authentic, penned in blue ink signatures on those forms which specifically request original signatures. Signatures which are faxed, scanned, photocopied, or otherwise duplicated will not be considered acceptable signatures within the original Application and will cause rejection of the Application.

(7)(8) All Applications must be complete, accurate, and legible and must be accompanied by Application fee. Applications must be submitted on the forms provided in the Application Package and shall be securely bound, in a three ring binder and have numbered index tabs for each form and exhibits with the materials provided in the Application Package. Exhibits must be placed behind each form to which they refer. Failure to comply with any of the foregoing requirements will result in the determination that the Application is not complete rejection of the Application.

(8)(9) If the Applicant, its principals or Affiliates Sponsor or any member of the Project's development team are is determined by the Corporation to have engaged in fraudulent actions, or to have intentionally misrepresented information in any previous application(s) or other documents submitted to the Corporation, the Applicant, its principals or Affiliates Sponsor or such member of the Project's development team will be deemed ineligible to participate in apply for any assistance through any program administered by the Corporation for two 2 fiscal years beginning on the date the Corporation's Board of Directors approves approved the disqualification of the Sponsor's Application.

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History--New 3-23-93, Amended 1-16-96, Formerly 91-38.003, Amended 3-26-98,\_\_\_\_\_.

67-38.004 Incomplete Applications Selection and Rejection Criteria.

(1) ~~The content of Each Application shall be reviewed evaluated and preliminarily ranked by the PLP staff to determine that the Application is complete. Complete Applications will be forwarded to the Loan Review Committee for action pursuant to the requirements specified in this Rule Chapter and the Application. If an Application is determined by staff to be incomplete, Applicant will be contacted and given an opportunity to provide the missing materials. The Application, however, will not be placed in priority order or on a waiting list until such time that all items have been submitted and Application is determined to be complete.~~

(2) An Application shall be subject to rejection if any of the following occurs:

(a) The information submitted in the Application is not sufficient to demonstrate that ~~the Sponsor has the ability to complete the Project, leverage additional funding, or that the Development Project fails to proposes to meets~~ exceed the Minimum Set-Aside Requirements; or

(b) ~~The Sponsor does not meet the requirements set forth in Rule 67-38.002(36), F.A.C.; or~~

(b)(e) ~~The Applicant, its principals or Affiliates, Sponsor or any member of the Project's development team has been found by the Corporation to have engaged in fraudulent activities or misrepresented facts on the Application; or has not waited the time period specified in Rule 67-38.003(8)(9), F.A.C.; or~~

(d) ~~The Application has not been submitted in accordance with the current Application Package and instructions provided by the Corporation; or~~

(c)(e) ~~The Development Project is inconsistent with the purposes of the Predevelopment Loan Program or does not conform to the requirements specified in this Rule Chapter; or~~

(e)(f) ~~The Applicant Sponsor fails to meet achieve the threshold requirements specified in the Application Package; or~~

(g) ~~The Sponsor's Application is not received by the applicable Application Deadline; or~~

(f)(h) ~~The Applicant Sponsor fails to complete and submit additional items and information necessary for the Application to be considered complete the entire Application Package; or~~

(g)(i) ~~The Applicant fails to pay Application is not accompanied by the applicable fees as specified in Rule 67-38.011(1)(b), F.A.C.~~

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History--New 3-23-93, Amended 1-16-96, Formerly 91-38.004, Amended 3-26-98,\_\_\_\_\_.

67-38.005 Application Evaluation and Award Scoring and Ranking Guidelines.

(1) After receipt of an Application, staff shall review the Application and make a determination as to whether the Application is complete and meets threshold. If the Application is not complete or does not meet threshold, staff shall notify the Applicant in writing of any additional or revised information or material which may be required for Application to be considered complete and meet threshold. Applicant may continue to submit material until Application is complete and meets threshold. The Review Committee may use staff from the Corporation or professional consultants to assist in reviewing certain portions of the Application.

(2) After tThe content of each Application has been reviewed shall be evaluated and preliminarily ranked by the Review Committee determined to have met threshold, using the factors specified in the Application Package and this Rule Chapter, staff shall prepare a recommendation and submit it along with the Application to the Loan Committee which shall confirm or reject the completion and threshold finding of staff.

(3) If the Loan Committee rejects the Application, Applicant will be notified if writing of the reason for rejection of the Application and provided an opportunity to rectify, if possible, any outstanding issues which may have caused rejection of the Application.

(4) If the Loan Committee approves the Application and:

(a) funds are available, Florida Housing shall assign a Technical Assistance Provider to the Applicant to review of the Application and make a preliminary assessment as to the feasibility of the Development; or

(b) funds are not available, Applicant will be placed on a waiting list, based on the date and time an Application was determined to be complete and have met threshold until such time that funds are available or Application is withdrawn.

(5) The Technical Assistance Provider shall notify Florida Housing of its findings and if the Technical Assistance Provider determines that the Development is not feasible, Applicant will be notified of such outcome and no funds shall be disbursed on behalf of the Applicant other than fees for the Technical Assistance Provider's review. If the Technical Assistance Provider determines the Development may be feasible, an Invitation to Participate will be issued to the Applicant. The Invitation to Participate must be executed and returned to the Corporation within 15 days of receipt. If the executed Invitation to Participate is not received by the Corporation within 15 days, the Invitation to Participate will be withdrawn and Applicant shall be so notified.

(6) Upon receipt of executed Invitation to Participate by the Corporation, the Technical Assistance Provider shall work with the Applicant to formulate a Development Plan. The Development Plan shall include a preliminary budget and timeline and set forth all predevelopment activities necessary to obtain construction and permanent financing for the

Development. The Development Plan should also indicate, to the extent possible the amount of PLP funds expected to be needed. The Applicant shall be given up to six months from the execution of the Invitation to Participate to complete and submit the Development Plan. Florida Housing will cancel the Invitation to Participate if the Plan is not submitted within the six-month period and all Loan documents, if any, shall be cancelled.

(7) The Development Plan shall be submitted to Florida Housing for review and approval by the Loan Committee prior to any funds being disbursed. The Loan Committee may request additional revisions prior to approval of the Plan. If such revisions are requested prior to approval of the Development Plan, the Loan Committee will provide a deadline by which the revisions must be made and the Development Plan resubmitted to the Corporation. Subsequent revisions after approval of the Development Plan shall be allowed upon a favorable recommendation of the Technical Assistance Provider and the Loan Committee.

(8) Upon approval of the Development Plan, a line of credit loan agreement, promissory note and any other customary loan documentation will be executed by the Applicant.

(9) If a Development Plan does not receive approval by the Loan Committee, no funds will be disbursed other than for outstanding expenses and any funds which have been disbursed to the Technical Assistance Provider

(10) Upon execution of the loan agreement, funds will be available for disbursement for eligible predevelopment activities as specified in this Rule Chapter.

(3) The Review Committee shall recommend the scores and preliminary rankings to the Board of Directors of the Corporation for review and approval. Subsequent to the appeal process, the final scores and rankings shall be approved by the Corporation's Board of Directors.

(4) At no time during the scoring of the Applications and the appeal process may any Sponsor or any member of the Sponsor's development team contact members of the Board of Directors of the Corporation concerning their Project or any other Sponsor's Project.

(5) Each Sponsor whose Application is within funding range, shall be assigned a preliminary amount for a Loan up to the total allocation authority set forth in the applicable Notice. If the amount of funds requested during an Application Cycle exceeds the allocation authority set forth in the applicable Notice, the Corporation shall, subject to availability of sufficient allocation authority, offer the affected Sponsor a Loan in an amount equal to the original amount of the Sponsor's award in the ensuing Application Cycle. Any unallocated allocation authority during a particular Application Cycle shall be applied towards the next Application Cycle. Sponsors awarded PLP funds under a particular Application

Cycle, shall not be granted priority consideration under a subsequent Application Cycle based solely on the original award.

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.005, Amended 3-26-98,\_\_\_\_\_.

67-38.006 Terms and Conditions of the Advance.

(1) Upon completion of the selection process in accordance with Rule 67-38.005, F.A.C., the Corporation shall issue an Invitation to Participate to each Sponsor awarded final scores and ranked in the funding range. The Invitation to Participate shall require the Sponsor to submit the Project for a market and feasibility analysis.

(2) After the Sponsor agrees to participate in the Program, the Sponsor must submit to the Corporation and the Credit Underwriter for their review and approval, a market and feasibility analysis for the Project that has been to be prepared by a consultant approved by the Credit Underwriter. Upon receiving a favorable market and feasibility analysis approved by the Corporation and the Credit Underwriter, the Corporation shall assign a Technical Assistance Provider to the Sponsor. The fees of the Technical Assistance Provider shall be included as part of the Advance and shall be forgiven upon the maturity of the Loan. During the Initial Pre-Acquisition Phase, Sponsors are required to work with the assigned Technical Assistance Provider in order to formulate a Final Work Plan for the Project. The Final Work Plan shall include a budget approved by the Technical Assistance Provider and ensure that all Predevelopment activities necessary to obtain a Firm Commitment for the requisite financing to construct or rehabilitate the Project are incorporated in the Final Work Plan and are successfully and timely completed.

(3) Once the Final Work Plan has received a favorable recommendation from the Technical Assistance Provider and the Credit Underwriter, the same shall be submitted to the Corporation for its review and approval. Upon the Corporation's approval of the Sponsor's Final Work Plan, the Sponsor shall be eligible for the Advance to conduct eligible Pre-Acquisition Phase activities as specified in the approved Final Work Plan. The Sponsor will be given a period of up to 365 days from the date of the approval of the Final Work Plan to obtain a Firm Commitment and close on the requisite financing to construct or rehabilitate the Project and repay the Loan.

(4) The proceeds of the Advance shall be disbursed to the Sponsor pursuant to the terms and conditions set forth herein and all such disbursements shall be evidenced by a non-interest bearing promissory note from the Sponsor and secured by such documents and collateral as the Corporation may require.

(5) If the Project does not receive a favorable market and feasibility analysis, no additional funds shall be distributed and the portion of the Advance which has been or will be disbursed



to or on behalf of the Sponsor will be forgiven. Unless forgiven, the Advance shall be rolled over as part of the Loan amount approved for the Sponsor.

(6) Until the Corporation has reviewed and approved a Final Work Plan, none of the proceeds of the Advance shall be disbursed other than the fees of the Credit Underwriter (including the fees and costs associated with the market and feasibility analysis) and the Technical Assistance Provider. Subsequent to the approval of the Final Work Plan, the Corporation will make available to the Sponsor the proceeds of the Advance to conduct the designated Initial Pre-Acquisition Phase task and activities set forth in the Final Work Plan.

(7) All funds disbursed during the Pre-Acquisition Phase shall be immediately due and payable and accrue interest at the rate of (3%) if the Sponsor elects to terminate its participation in the Predevelopment Loan Program for any reason other than the receipt of an unfavorable market and feasibility analysis.

(8) If the Sponsor receives a favorable market and feasibility analysis that has been approved by the Corporation and the Credit Underwriter and is successfully implementing the Pre-Acquisition Phase tasks and activities set forth in their approved Final Work Plan, the Corporation shall, upon delivery to the Servicer of the requisite support documentation from the Sponsor, disburse any then remaining balance of the Advance consistent with the approved budget. The Sponsor will be required to execute a Promissory Note and Loan Agreement under which it will covenant and agree to use the proceeds of the Advance for those Pre-Acquisition Phase tasks and activities as set forth in the Final Work Plan.

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, 5-21-96, Formerly 9I-38.006, Amended 3-26-98, Repealed \_\_\_\_\_.

#### 67-38.007 Terms and Conditions of the Loan.

(1) Applicants are required to work with the Technical Assistance Provider which shall provide services as described in this Rule Chapter. Fees of the Technical Assistance Provider for the initial 120 hours of Technical Assistance will be paid by Florida Housing. Technical Assistance Provider fees in excess of 120 hours shall be paid by Florida Housing if they are deemed reasonable and necessary by Florida Housing when considering such factors as the experience or lack thereof of the Applicant and the size and difficulty of the Development. Any fees for technical assistance not paid by Florida Housing shall be the responsibility of the Applicant. However, PLP funds may be used to pay the Technical Assistance Provider. Upon (i) successful completion of all Pre-Acquisition Phase tasks and activities set forth in the Final Work Plan, (ii) receipt of a favorable credit underwriting report and (iii) delivery of an acceptable Conditional Commitment for the funds required to acquire the Project Site, construct or rehabilitate the Project and repay the Loan, the Corporation will issue a commitment for the amount of the Loan recommended by the Credit Underwriter and approved by the Corporation which shall set

forth the terms under which the proceeds of the approved Loan amount will be disbursed during the Acquisition Phase and the Post-Acquisition Phase, all pursuant to the approved budget. During the Acquisition Phase, the Sponsor may receive an unsecured disbursement under the Loan of up to \$50,000 to conduct Acquisition Phase tasks and activities prior to purchasing the Project Site (the "Acquisition Draw"); provided, however, if the Sponsor has title to the Project Site, a Mortgage and/or other collateral acceptable to the Corporation will be required. If during the Acquisition Phase funds in excess of the Acquisition Draw are requested by the Sponsor to close on the acquisition of the Project Site consistent with the approved budget, the Sponsor must first produce an acceptable Firm Commitment for the construction/permanent financing for the Project. Prior to the issuance by the Corporation of a PLP Firm Commitment for a loan, the Sponsor shall receive a favorable credit underwriting report from the Credit Underwriter and approval thereof by the Corporation's Board of Directors. Upon receipt of the PLP Firm Commitment the Applicant shall have 10 business days commencing on the date of issuance to review and return the executed commitment to the Corporation.

(2) The maximum Loan amount to be disbursed shall not exceed the lesser of the predevelopment and acquisition costs (in those cases in which acquisition is determined to be necessary) and development costs incurred prior to permanent/construction loan funding for the Development, or \$500,000, which Loan shall be evidenced by a promissory note from the Applicant, bearing interest at a rate of 3% and secured by such customary documents and collateral as are necessary to secure repayment of the Loan. During the Acquisition Phase, the Sponsor must close on the acquisition of the Project Site and execute an Amended and Restated Note incorporating the amount of the Advance and any additional disbursements under the Loan, a Mortgage, a Land Use Restriction Agreement and any other documents required by the Corporation or its counsel.

(3) The Loan shall be non-amortizing and repayment of principal and interest shall be deferred until maturity.

(4) In the event PLP funds are used to purchase a site, the PLP Loan must be in a first or second lien position and shall not share priority with any other liens unless approved by the Board.

(5)(3) The Loan shall mature on the earlier of (i) the date of closing of the permanent/construction loan for the Development Project or (ii) 3 years from the date of execution of Loan documents first disbursement requested under the Advance. However, upon request of the Sponsor, the Board of Directors of the Corporation may extend the term of the Loan for an additional period not to exceed 1 year. Any such extension shall be based upon, among other criteria, the state of the economy; the past performance record of the Applicant, its principals and Affiliates Sponsor; the recommendation of the

Credit Underwriter and the Technical Assistance Provider that the requested extension is likely to result in the successful completion of the Development Project; and submission of the following by review and approval by the Corporation of the following submittal from the Applicant Sponsor: (i) the reasons for the extension, (ii) a revised Development Final Work Plan, approved by the Credit Underwriter and the Technical Assistance Provider reflecting the tasks and/or activities to be completed during the extension period; (iii) evidence of the Applicant's Sponsor's ability to complete the Development Project, and (iv) an alternate financing plan in the event the original financing source withdraws. Extension requests which do not include the foregoing items above shall not be reviewed or considered for extension of maturity by the Board of Directors of the Corporation. ~~The term of the Loan, as extended, shall not exceed 4 years from the date of the first disbursement under the Advance.~~

~~(4) Prepayment of the Loan shall be permitted without penalty.~~

~~(6)(5)~~ With respect to home ownership Developments Projects, the Loan shall mature when the Development Project Site is released from the lien of the Mortgage held by the Corporation to secure the PLP Loan; ~~provided~~, however, prior to the maturity of the Loan the Corporation shall release individual lots within the Development Project Site from the lien of the Mortgage held by the Corporation upon the recommendation of the Credit Underwriter and a partial release payment in an amount acceptable to the Credit Underwriter and the Corporation.

~~(7) Prepayment of the Loan shall be permitted without penalty.~~

~~(6) For disbursement of the proceeds of the Loan, Sponsors are required to meet the following conditions:~~

~~(a) The receipt of a favorable credit underwriting report from the Credit Underwriter;~~

~~(b) The Sponsor shall provide the Corporation with a Mortgage on the Project Site as collateral for the Loan subject only to such encumbrances approved by the Corporation; provided, however, if the Sponsor is proffering a subordinate Mortgage or other collateral for the Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation;~~

~~(c) The delivery of an appraisal that has been completed by an appraiser approved by the Credit Underwriter;~~

~~(d) With respect to Projects in the Acquisition Phase, a Sponsor shall be given a period of up to 365 days from the approval of the Final Work Plan to obtain a Firm Commitment and close on the requisite financing to construct or rehabilitate the Project and repay the Loan;~~

~~(e) Inspection and verification by the Servicee or the Technical Assistance Provider that the designated tasks and activities in the Plan for which payment/reimbursement is being requested, has been satisfactorily and timely performed; and~~

~~(f) Provide all additional requirements or documentation, to evidence Sponsor's compliance with the foregoing conditions, as determined by the Corporation Servicee.~~

~~(8)(7)~~ The Loan may be accelerated in the event the following occurs:

~~(a) Proceeds of the Advance or the Loan are used for any purpose not specified in the Development Final Work Plan, the documents evidencing or securing the Advance or the Loan, the Act or this Rule Chapter; or~~

~~(b) Proceeds of the Advance or the Loan are utilized by persons other than Sponsors; or~~

~~(b)(e)~~ The Development Project fails to meet or maintain the Minimum Set-Aside Requirement during the Compliance Period; or

~~(d) Closing on construction or permanent financing occurs; or~~

~~(c)(e)~~ Sale, transfer, or conveyance of the Development Project without the prior written approval of the Corporation, as set forth in Rule 67-38.012, F.A.C.

~~(9)(8)~~ The Applicant Sponsor shall submit progress reports evidencing successful completion of the requisite task and activities set forth in the Development Final Work Plan to the Corporation and the Technical Assistance Provider on a quarterly basis. Reports are due by the 10th of April, July, October, and January as long as funds are outstanding as and when requested by the Corporation.

~~(10)(9)~~ Florida Housing reserves the right to require an audit of Applicant's accounts and records relating to the PLP Loan funds. If the Applicant Sponsor is required to perform an audit of its accounts and records, a copy of the same shall be delivered to the Corporation and the Servicee within 10 days of receipt of thereof by the Applicant Sponsor. ~~The Sponsor shall deliver to the Corporation and the Servicee within 120 days after the maturity of the Loan a completion audit prepared by a Certified Public Accountant, which shall include an analysis of the use of the proceeds of the Loan and the acquisition and development costs of the Project.~~

~~(11)(10)~~ The Applicant Sponsor shall maintain all documents related to the Development Project, including copies of all contracts and performance bonds, during the term of the Loan and for 3 years following the maturity of the Loan as the same may be extended pursuant to this Rule Chapter.

~~(12)(11)~~ The Applicant Sponsor shall comply with all provisions of the Florida Fair Housing Act (s. 760.20-760.37, F.S.) and the Federal Fair Housing Act and shall not discriminate on the basis of disability, race, color, creed, familial status, sex or national origin in the employment of persons to work on the Development Project, or in the sale,

lease or other disposition or use of the land or lots covered by the Mortgage securing the Corporation's Loan. All contracts executed by the Applicant Sponsor relating to work or labor to be performed on the mortgaged property shall contain a similar nondiscrimination provision.

~~(13)~~(12) With respect to home ownership Developments Projects, in order to assure that such Developments Projects will serve the ~~t~~Target ~~p~~Population and maintain the Minimum Set-Aside Requirements, in addition to the execution and recordation of the Land Use Restriction Agreement (LURA) upon initial sale, all deeds conveying title to home ownership units shall contain restrictive covenants, encompassing all of the units in the Development Project and The LURA shall reflect the provision that all the home ownership units must be purchased only by persons who do not exceed income limits established in Rule Chapter 67-38.002(21)(23), F.A.C.

~~(14)~~(13) With respect to rental Developments Projects, in order to assure that such Developments Projects will serve the ~~t~~Target ~~p~~Population and maintain the Minimum Set-Aside Requirements, in addition to the execution and recordation of the Land Use Restriction Agreement (LURA), all deeds conveying title to real estate which is improved with rental units shall contain restrictive covenants which encompass ~~encompasses~~ all of the units in the Development Project, to provide for the continued rental of the units to persons within the ~~t~~Target ~~p~~Population for the Compliance Period. The Servicer will conduct a ~~post-completion~~ review and physical inspection prior to closing of the construction/permanent financing to assure that the Development Project meets the Minimum Set-Aside Requirements and provides the intended benefit to the ~~t~~Target ~~p~~Population pursuant to the Act. The Corporation reserves the right to monitor each Development Project funded under the Predevelopment Loan Program at any time after completion of the Development Project to assure continued compliance with the applicable provisions of this Rule Chapter.

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.007, Amended 3-26-98,\_\_\_\_\_.

#### 67-38.008 Eligible Uses for the ~~Advance and~~ Loan.

(1) The proceeds of the ~~Advance and/or the~~ Loan shall only be used for eligible tasks and activities specified in the approved Development Final Work Plan during the Pre-Acquisition Phase, Acquisition Phase, the Post-Acquisition Phase or a combination of the foregoing phases.

(2) The Corporation shall monitor all Predevelopment activity expenditures through the designated Technical Assistance Provider and may deny disbursements which have not been approved by the Technical Assistance Provider prior to submission to Florida Housing and Credit Underwriter.

~~(3) For Sponsors who elect to use PLP funds during the Pre-Acquisition Phase, Eligible Predevelopment activities or expenses shall include, for example, but are not limited to, the following:~~

- ~~(a) Market and feasibility analysis;~~
- ~~(b) Rezoning;~~
- ~~(c) Title search;~~
- ~~(d) Legal fees (development team's counsel);~~
- ~~(e) Boundary survey;~~
- ~~(f) Administrative expenses;~~
- ~~(g) Consultant fees; and~~
- ~~(h) Fees of the PLP Credit Underwriter (including Preliminary Underwriting Assessment fees evaluation of the market and feasibility analysis);-~~

~~(4) All Pre-Acquisition Phase activities set forth in the Sponsor's approved Final Work Plan are required to be completed prior to a Sponsor advancing to the Acquisition Phase or Post-Acquisition Phase and the closing of the Loan.~~

~~(5) For Sponsors who elect to use PLP funds during, or proceed to, the Acquisition Phase, eligible Predevelopment activities and/or expenses shall include, but are not limited to, the following:~~

- ~~(i)(a) Good faith or earnest money deposit related to the Development Project Site;~~
- ~~(j)(b) Commitment fFees to secure Firm Commitment for construction /permanent financing;~~
- ~~(k)(c) Biological and environmental assessments;~~
- ~~(l)(d) Soil tests;~~
- ~~(m)(e) Appraisals;~~
- ~~(n)(f) Approved aAcquisition expenses in connection with the Project Site; and~~
- ~~(g) Credit Underwriting Fees.~~

~~(6) For Sponsors who elect to use PLP funds during, or advance to, the Post-Acquisition Phase, eligible Predevelopment activities or expenses shall include, but are not limited to, the following:~~

- ~~(o)(a) Marketing expenses;~~
- ~~(p)(b) Permitting/impact fees;~~
- ~~(q)(c) Architectural/engineering fees;~~
- ~~(d) Legal fees;~~
- ~~(r)(e) Fees in connection with the completion audit; and~~
- ~~(s)(f) Site development activities approved by the Corporation;- and~~

(t) Fees for Technical Assistance Provider in excess of 120 hours as allowed by Rule 67-38.007(1), F.A.C.

~~(7) All Acquisition Phase activities set forth in the Sponsor's approved Final Work Plan are required to be completed prior to a Sponsor advancing to the Post-Acquisition Phase.~~

(4)(8) If any of the requisite Predevelopment activities to be completed are pending or have not been satisfactorily completed, the Applicant Sponsor shall be required to work with the Technical Assistance Provider to complete such Predevelopment activities in a timely and satisfactory manner prior to the distribution of the proceeds of the Loan for the Acquisition Phase.

(5) Applicants may request use of PLP for site acquisition by providing to Florida Housing:

(a) detailed evidence of due diligence;

(b) an explanation as to the necessity to acquire title;

(c) a recommendation from the Technical Assistance Provider; and

(d) subsequent to a Preliminary Underwriting Assessment, a recommendation from the Credit Underwriter that funds be disbursed for site acquisition.

(9) In order for a Sponsor to proceed the Acquisition Phase, a Sponsor is required to have completed the Pre-Acquisition Phase activities identified in the approved Final Work Plan.

(10) Sponsors who elect to use PLP funds during, or proceed to, the Post-Acquisition Phase are required to have completed the Predevelopment activities required in the Pre-Acquisition Phase and Acquisition Phase prior to receiving any disbursements under the Loan for Post-Acquisition Phase. In addition, Sponsors shall demonstrate and the Technical Assistance Provider and the Servicer shall verify the following prior to the disbursement of proceeds of the Loan for Post-Acquisition Phase activities:

(a) Successful completion of all Predevelopment tasks required by the Sponsor's approved Final Work Plan to be undertaken during the Pre-Acquisition Phase and Acquisition Phase;

(b) Receipt of a favorable market and feasibility analysis which has been approved by the designated Credit Underwriter;

(c) Approval by the Corporation of the Sponsor's development team;

(d) Receipt of a Firm Commitment for construction and/or permanent financing in an amount sufficient to repay the Loan and complete the Project;

(e) Preliminary site plan approval by all government bodies or agencies having jurisdiction over the Project Site and all lenders involved with the Project;

(f) Phase I Environmental Assessment; and

(g) Any additional documentation deemed necessary by the Corporation, the Credit Underwriter or the Technical Assistance Provider to evidence the successful completion by the Sponsor of the requisite Post-Acquisition Phase task and activities set forth in the Final Work Plan.

(11) A Firm Commitment for construction financing must be in place before any site development may begin.

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, 5-21-96, Formerly 9I-38.008, Amended 3-26-98.

#### 67-38.010 Credit Underwriting Procedures.

(1) If a Applicant requests funds for site acquisition pursuant to Rule 67-38.009(5), Florida Housing will assign a Credit Underwriter to perform the Preliminary Underwriting Assessment. The credit underwriting procedures as specified below are for Projects in the Acquisition and Post-Acquisition Phases.

(2) Applicant may request payment of Credit Underwriting fees for the Preliminary Underwriting Assessment from PLP funding pursuant to Rule Chapter 67-38.008. Upon pPayment of the credit underwriting fees, the assigned Credit Underwriter shall perform the Preliminary Underwriting Assessment entitles an Sponsor to an initial review of all information submitted in the Application.

(3) The Credit Underwriter shall coordinate, review and approve the market and feasibility analysis of the Project provided by the Sponsor.

(3)(4) The Credit Underwriter shall review the Application and Development Plan and advise the Corporation as to the appropriateness of plans, and specifications and the budget for the Predevelopment tasks and activities related to the Development Project and make a determination as to the feasibility of the project.

(5) 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 fees and cost associated with retaining a firm or an individual to provide such expertise shall be paid by the Sponsor.

(6) Required market and feasibility analysis, surveys, appraisals and environmental assessments shall be completed by professionals approved by the Credit Underwriter. Professionals may submit their credentials to the applicable Credit Underwriter for approval. Approval of contractors shall be based upon review of qualifications, professional designations held, references and prior experience with similar types of properties and location and familiarity with the area where the Project Site is located.

(4)(7) An appraisal of the proposed Development Site to be acquired shall be required during the Preliminary credit Underwriting Assessment process. The Applicant Sponsor may choose an appraiser from the Credit Underwriter's approved list of appraisers; however, the Credit Underwriter shall order, at the Sponsor's expense, the appraisal of the Project.

(8) The Credit Underwriter shall review the appraisal submitted on the Project. If the Credit Underwriter determines that the appraisal is not methodologically sound or does not provide information necessary for the Credit Underwriter to

properly evaluate the requested Loan in relation to the property value, a new appraisal will be required at the Sponsor's expense.

~~(5)(9)~~ The Credit Underwriter shall consider the appraisal of the Development Project, ~~the approved market and feasibility analysis~~ and other market data to determine if the market exists to support both the demographic and income restriction set-asides committed to within the ~~Sponsor's~~ Application.

~~(6)(10)~~ The Credit Underwriter may require additional information as is necessary to evaluate the Development Plan and make a determination as to the feasibility of the Development. If the Credit Underwriter requires additional clarifying materials in the course of the Preliminary Underwriting Assessment process, the Credit Underwriter shall request the materials from the Applicant Sponsor and shall specify deadlines for submission of each such material. Failure to submit required information by the specified deadline, unless a written extension of time has been approved by the Corporation, shall result in the request for disbursement for site acquisition Application being denied funding rejected and the Corporation selecting additional Sponsors in rank order.

~~(11)~~ If audited financial statements are unavailable from the Sponsor, the Credit Underwriter shall request reviewed statements, and if reviewed statements are unavailable, the Credit Underwriter shall request unaudited financial statements.

~~(7)(12)~~ The Credit Underwriter shall complete and make a written draft Preliminary Underwriting Assessment report and recommendation to the Corporation within ~~45~~ 80 calendar days from the date underwriting fees are paid of the Invitation to Participate. The Technical Assistance Provider and the Applicant Sponsor shall review the draft ~~credit underwriting~~ report and provide written comments to the Corporation and Credit Underwriter within 72 hours of receipt. After the 72 hour review period, the Corporation shall provide comments on the draft ~~credit underwriting~~ report and, as applicable, on the Applicant's Sponsor's and Technical Assistance Provider's comments, to the Credit Underwriter. The Credit Underwriter shall then review and consider incorporate the Corporation's and the Sponsor's comments thereto and release the revised ~~credit underwriting~~ report to the Corporation, the Technical Assistance Provider, and the Applicant Sponsor. Any additional comments from the Applicant and Technical Assistance Provider Sponsor shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised ~~credit underwriting~~ report. Then, the Credit Underwriter will provide to the Corporation a final ~~credit underwriting~~ report which will address all comments made by the Applicant and the Technical Assistance Provider Sponsor.

~~(8)(13)~~ It is the responsibility of the Applicant with the assistance of the Technical Assistance Provider Sponsor to comply with each part of this Rule Chapter and to request in writing and provide evidence acceptable to the Corporation of extenuating circumstances for any waiver or extension. A failure to comply with any part of this Rule Chapter without the prior written permission of the Corporation will result in the disqualification of the Applicant Sponsor and rescission withdrawal of the Invitation to Participate ~~or the Corporation's commitment, as applicable, and the Corporation may then offer an Invitation to Participate or a commitment to the next eligible Sponsor, in rank order.~~

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History--New 3-23-93, Amended 1-16-96, Formerly 9I-38.010, Amended 3-26-98,

67-38.011 Fees.

(1) The following fees and charges pertaining to each Application shall be paid by the Applicant Sponsor:

(a) Application Package fee of \$30.00, ~~which shall entitle the Sponsor to a copy of this Rule Chapter and a binder with tabs for submission of the original and two copies of the Application Package;~~

(b) A nonrefundable application fee of ~~\$100.00~~ 75.00 per Application submitted Project;

(c) If PLP funds are to be used for site acquisition and Applicant proposes to take title to real property or in the event Applicant requests an extension of the loan maturity date, For Acquisition Phase and Post-Acquisition Phase Projects, a credit underwriting fee pursuant to the contract between the Corporation and the Credit Underwriter shall be paid. If a Project involves scattered sites within a single market area, a single credit underwriting fee shall be charged. ~~When applicable, an environmental study and appraisal are required on each site which may result in additional fees;~~

(d) A nonrefundable commitment fee of ~~\$2,500 (1%)~~ of the amount of the Loan shall be paid to the Corporation and which is due upon execution of the line of credit Loan agreement, acceptance of Corporation's commitment; provided however, non-profit Sponsors who provide a certification indicating that funds will not be available prior to closing shall be permitted to pay the commitment fee at closing and the balance due during the Development Phase closing. Remittance of all commitment fees shall be in the form of a cashier's or certified check, wired or electronically transmitted payable to the of the Florida Housing Financing Corporation;

(e) Compliance Monitoring Fees shall be paid for those Developments which obtain construction/permanent financing from sources other than Florida Housing programs. For those Developments which obtain their construction/permanent financing from Florida Housing Programs, the Compliance Monitoring Fees shall be determined by the requirements of the particular program providing the financing in accordance with the rule chapter governing that particular program.

~~(f)(e)~~ All Credit Underwriting, Technical Advisory, ~~Loan Servicing~~, Compliance Monitoring, extraordinary services and late fees shall be determined by contracts between the Corporation and the provider ~~Servicer~~;

(2) Fees associated with the Loan are part of Development Project cost and may be included in the Development Project cost pro forma and paid with Loan proceeds, if approved by the Technical Assistance Provider and Florida Housing Credit Underwriter.

(3) Failure to remit any of the required above-described fees when due shall cause Florida Housing to rescind the Invitation to Participate ~~the Corporation's commitment to be terminated~~ or shall constitute a default under the documents evidencing or securing the Advance and the Loan.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.011, Amended 3-26-98, \_\_\_\_\_.

#### 67-38.012 Sale, Transfer or Conveyance of Development Project.

(1) Any sale, conveyance, assignment, or other transfer of or the grant of a security interest in all or any part of the title to a Development Project shall be subject to the approval by the Board Corporation's prior to the sale, transfer or conveyance ~~written approval~~. The Loan shall be assumable upon sale, transfer or refinancing of the Development Project if the following conditions are met:

(a) The proposed transferee is an eligible Applicant a Sponsor as required under this Rule Chapter;

(b) The proposed transferee meets all conditions set forth in the original documents evidencing or securing the Loan and assumes all obligations and responsibilities thereunder, including the obligations and restrictions set forth in the Land Use Restriction Agreement; and

(c) The proposed transferee receives a favorable recommendation from the Credit Underwriter and approval from ~~by~~ the Board.

(2) If the Development or the Development Site Project is sold and the buyer does not meet the criteria for assumption of the loan as set forth above, the Loan (principal and any accrued interest) shall be repaid from the proceeds of the sale.

(3) Written approval shall be obtained from the Corporation prior to any increase in per lot or per unit sales price; ~~A~~ approval shall be based on evidence from the Applicant Sponsor, acceptable to the Corporation, indicating an increase in the acquisition and development cost of the Project or an increase in debt service payments or property taxes;

(4) The Applicant Sponsor shall keep accurate financial records on the each Loan and such funds shall be audited as part of all other funds received or expended by the Applicant Sponsor.

Specific Authority 420.528 FS. Law Implemented 420.529 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.012, Amended 3-26-98, \_\_\_\_\_.

#### 67-38.013 Site Development and Design Standards.

~~Site development and design standards shall be consistent with the requirements of the financial institution and any governmental or regulatory agency having jurisdiction over the Project Site. In addition, the total development and design of the Project shall be economically feasible so that the finished unit can be sold or rented at an Affordable price to the Target Population.~~

Specific Authority 420.528 FS. Law Implemented 420.526, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.013, Amended 3-26-98, Repealed.

#### 67-38.014 Disbursement Procedures.

The ~~Advance and the~~ Loan shall be disbursed in partial payments by the Corporation to the Applicant or third party contractors ~~Sponsor~~ subsequent to compliance with the following conditions for either home ownership or multifamily rental Developments Projects:

(1) The Applicant shall deliver ~~delivery~~ to the Corporation of all documents required by the Corporation to evidence and secure ~~the Advance and the Loan and evidence compliance with all terms and conditions of the loan, where appropriate;~~

(2) Ten business days prior to each disbursement under the Loan, including any disbursements anticipated at closing, the Applicant Sponsor shall deliver to the Corporation ~~and the Servicer~~ a written request approved by the Technical Assistance provider ~~executed by the Sponsor for a disbursement;~~

(3) Any disbursement ~~The request shall set forth the amount requested by the Applicant Sponsor to be disbursed and shall be accompanied by invoices, cancelled checks or other such documentation to evidence as specified by the Servicer.~~ (4) ~~Each request from the Sponsor for disbursements under the Loan shall also be accompanied by a statement indicating the amount and kind of work or labor that has been or is to be performed; the value of the same; the identification of the portion of the Development Project Site on which the work has been performed; the detailed breakdown of expenses incurred; and that such contractors, sub-contractors, materialmen, laborers, professionals, consultants and all persons employed by the Applicant Sponsor to work on the Development Project have been paid for work performed or will be paid. Lien waivers for work or labor which has been completed shall be submitted along with requests for disbursement. Lien waivers for work which will be paid from the requested disbursement shall be submitted prior to receiving additional disbursements and there shall be attached to said statement their waivers of lien for the work performed; and~~

(4) Disbursements for eligible activities conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds provided that the eligible predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application.

(5) Before requests for disbursements under the Loan are honored, the Technical Assistance Provider Service shall inspect or require verification from ~~by~~ the Applicant Sponsor that the work for which ~~the requested~~ payment is being requested ~~has been submitted~~ has been performed satisfactorily and on schedule or that the expenses to be reimbursed have actually been incurred or will be incurred ~~and that the Project is lien free.~~

(6) In the event that Applicant requests disbursement for site acquisition and proposes to take title to real property, Applicant must also provide:

(a) a recommendation from the Technical Assistance Provider and;

(b) subsequent to a Preliminary Underwriting Assessment, a recommendation from the Credit Underwriter that funds be disbursed for site acquisition must also be provided.

(c) A Mortgage on the Development Site as collateral for the Loan subject only to such encumbrances approved by the Corporation; however, if the Applicant is proffering a subordinate Mortgage or other collateral for the Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation;

(d) The Applicant shall provide an appraisal that has been completed by an appraiser approved by the Credit Underwriter;

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History--New 3-23-93, Amended 1-16-96, Formerly 9I-38.014, Amended 3-26-98,

#### 67-38.0145 Compliance and Monitoring Procedures.

(1) With respect to units within the Development Project that are occupied at the time of execution of the Invitation to Participate ~~the closing of the Loan and are to be rehabilitated using PLP funds,~~ all Development Project set-aside requirements must be met at that time of Loan.

(2) With respect to new construction or rehabilitation of rental units not occupied at time of execution of the Invitation to Participate ~~closing,~~ the Corporation must be notified prior to the ~~initial~~ leasing of any units in the Development Project.

(3) For Developments which obtain construction/permanent financing from Florida Housing programs, the compliance and monitoring requirements of the particular program or programs shall apply.

(4) For Developments which obtain construction/permanent financing from sources other than Florida Housing programs and no Florida Housing funds remain in the Development;

~~(a)(3)~~ Any duly authorized representative of the Corporation shall be permitted at any reasonable time to inspect and monitor the records and facilities of the Development Projects for compliance with the following conditions;

~~1.(a)~~ For home ownership Projects: The Corporation and/or its representative shall perform an initial review to determine home buyer eligibility and verify permanent residency.

~~2.(b)~~ For multifamily rental Developments Projects: The Corporation or its representative shall monitor tenant records and facilities for compliance during the Compliance Period with the following conditions:

~~a.1-~~ All tenant records shall be maintained by the Applicant Sponsor within 50 miles of the Project Site.

~~b.2-~~ The Corporation or its representative shall conduct on-site Development Project inspections at least annually.

~~c.3-~~ The Corporation must approve the Applicant's Sponsor's selection of a management company prior to the company assuming responsibility for the Development Project based upon the following criteria.:

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

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

~~(iii)e-~~ Key management company representative attendance at a Corporation compliance workshop; and

~~(iv)d-~~ A meeting between Corporation compliance staff and the key management company representative after the compliance workshop.

~~(b)(4)~~ The Applicant Sponsor or an authorized representative, if any, shall attend a compliance training workshop or meet with a representative from the Corporation or the monitoring agent for a compliance training conference prior to initial leasing of any units.

~~(c)(5)~~ The Applicant Sponsor 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 at least the following documentation:

~~1.(a)~~ The resident's tenant's application which shall contain the name or names of each household member, employment and income information for each household member, and other information required by the Applicant Sponsor;

~~2.(b)~~ A copy of the lease agreement listing the term of the tenancy and each tenant residing in the unit;

~~3.(e)~~ 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 amended;

~~4.(d)~~ Information as to the assets owned by each tenant; and

~~5.(e)~~ Income Certification Form TIC-1 for each tenant. A sample Form TIC-1 can be obtained from the Corporation. For Developments Projects participating in Section 8 and RD Programs, the HUD Forms 50058 or 50059 or RD (or FmHA) Form 1944-8 may be used in lieu of Form TIC-1 as long as proper documentation is maintained in the tenant files.

~~(d)(6)~~ With respect to rental Developments Projects, program reports shall be submitted as follows:

~~1.(a)~~ Initial program reports for rehabilitation/acquisition Developments Projects with units occupied at the time of the execution of the Invitation to Participate ~~closing of the Loan~~ shall be submitted at the time of execution of the Invitation to Participate ~~closing of the Loan~~.

~~2.(b)~~ Initial program reports shall be submitted for Developments Projects with no units occupied at the time of the closing of the Loan within 10 days following the end of the calendar quarter during which the leasing of any unit within the Project occurred.

~~3.(c)~~ Subsequent program reports shall be submitted each year during the Compliance Period of and are due on the dates assigned by the Corporation according to an alphabetical breakdown by property.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 1-16-96, Formerly 91-38.0145, Amended 3-26-98,\_\_\_\_\_.

67-38.015 Disposition of Property Accruing to the Corporation.

(1) When title to property has been acquired by the Corporation under the Predevelopment Loan Program, the Corporation may dispose of such property through a competitive bidding process established by the Corporation.

(2) The Corporation may advertise the availability of such property by soliciting proposals from any organization, agency, local government or individual for the sale of the property for housing for the ~~t~~Target ~~p~~Population, or if the character of the property has changed so that housing is no longer of suitable use, then for any public purpose compatible to the area.

(3) In the event no offers for purchase of the property are received, the Corporation may negotiate the sale or lease of such property with other Applicants Sponsors. All such property must be used to provide housing with set-asides to persons within the ~~t~~Target ~~p~~Population. If the character of the property has changed and no such proposals are received for development of aAffordable housing, the Corporation may sell or lease the property for other public purposes.

(4) Proposals shall be reviewed by Corporation staff. Approval of the Board of Directors shall be required prior to execution of the contract of sale or lease.

(5) The purchase price or lease terms of such property shall be determined by the appraised value of the property, proposed use of the property, and the commitment to serve the

~~t~~Target ~~p~~Population. These characteristics shall be reviewed by the Corporation and submitted to the Board of Directors for final approval.

Specific Authority 420.528 FS. Law Implemented 420.528, 420.529 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.015, Amended 3-26-98,\_\_\_\_\_.

67-38.016 Administrative Appeal Procedures.

~~Notice of intended funding or denial of funding will be provided to each Sponsor with a statement that Sponsors who wish to contest the decision must petition for review of the decision, in writing, within 10 calendar days of receipt of the notice. The request must specify the forms and scores sought to be appealed. Unless the appeal involves disputed material facts, the appeal will be conducted on an informal basis. The petition for review is deemed filed when it is received by Brad Baker Susan Leigh, Executive Director, prior to 5:00 p.m. Eastern Standard Time on the 10th day, at the following address: Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, Attention: Corporation Clerk. Failure to timely file a petition shall constitute a waiver of the right of the Sponsor to such an appeal.~~

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.016, Amended 3-26-98, Repealed.

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: Gwen Lightfoot, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, FL 32301-1329

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 13, 1998, Corporation Board Meeting  
DATE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 26, No. 2, January 14, 2000

Any person requiring special accommodation at this workshop because of a disability or physical impairment should contact Laurie Camp 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 Banking

RULE NO.:                      RULE TITLE:  
3C-100.03852                  Disapproval of Directors or  
   Executive Officers

#### NOTICE OF CHANGE

Notice is hereby given that the Department has made changes to the above rule based on comments by the Joint Administrative Procedures Committee. This rule was originally published in the Vol. 25, No. 47, November 24, 1999 issue of the Florida Administrative Weekly. When adopted, paragraph (6)(b) of Rule 3C-100.03852 will read:

(b) Other financial institutions may request an exemption by writing to the Director of the Division of Banking detailing why the institution believes it is operating in a safe and sound manner and why an exemption is appropriate. Any such request must include supporting documentation of improvements in the institution and its operations. The request for exemption shall be approved only when the Director of the Division of Banking concludes that, because of the documented improvements, the institution would be rated "1" or "2" were a safety and soundness examination conducted on the date of the institution's request. For example, the Director of the Division of Banking may approve a request for waiver from an institution that was poorly rated in its last safety and soundness examination because of inadequate capital if the institution documents that it increased capital sufficiently to address the inadequacy.

#### DEPARTMENT OF INSURANCE

RULE NO.:                      RULE TITLE:  
4-166.031                      Mediation of Property Insurance  
   Claims

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)l., Florida Statutes, published in Vol. 25, No. 33, August 20, 1999, of the Florida Administrative Weekly:

4-166.031(8)(c) delete the "and/or" add "or"

#### DEPARTMENT OF TRANSPORTATION

RULE CHAPTER NO.:      RULE CHAPTER TITLE:  
14-66                      Relocation Assistance Regulations  
RULE NO.:                  RULE TITLE:  
14-66.007                  Relocation Assistance Program

#### CHANGE NOTICE

SUMMARY OF CHANGE: The following changes are being made in response to a follow up review by the Joint Administrative Procedures Committee:

1. 14-66.007(4)(d)3., is revised to read:

"3. A statement of the occupancy requirement necessary for obtaining the full amount of the payment."

2. 14-66.007(6)(l) is revised to read:

"(l) All underground or above-ground storage tanks shall be emptied and removed from the site by the displaced owner/operator in accordance with Chapter 376, Florida Statutes, and rules of the Department of Environmental Protection, effective \_\_\_\_\_, governing underground or above-ground storage tanks."

3. 14-66.007(6)(l)3., is revised to read:

"3. In cases where the owner/operator is required by Chapter 376, Florida Statutes, and/or rules of the Department of Environmental Protection, effective \_\_\_\_\_, governing underground or above-ground storage tanks, to remove tanks, the Department will not reimburse the costs associated with such removal."

Notice of Rulemaking was published in Florida Administrative Weekly, Vol. 25, No. 29, dated July 23, 1999. A change notice was published in Florida Administrative Weekly, Vol. 25, No. 40, October 8, 1999. This change notice is in response to a follow up review by the Joint Administrative Procedures Committee.

#### DEPARTMENT OF NATURAL RESOURCES

##### Ridge and Lower Gulf Coast Water Management District

RULE NO.:                      RULE TITLE:  
16L                                  Ridge and Lower Gulf Coast Water  
   Management District

#### NOTICE OF RULE DELETION

Rule chapters 16L-1 and 16L-2, Florida Administrative Code, were adopted by the Manasota Basin Board and the Ridge and Lower Gulf Coast Water Management District in 1975 and 1976, respectively. Chapter 16L-1 governs meetings and procedures of the Manasota Basin Board. Chapter 16L-2 governs meetings and procedures of the Ridge and Lower Gulf Coast Water Management District.

Subsequent to the adoption of the rules in these chapters, the geographic areas of these two entities were incorporated into the Southwest Florida Water Management District (District) or other districts. See ch. 76-243, Laws of Fla. The Manasota Basin Board became a basin board of the District and the Ridge and Lower Gulf Coast Water Management District was abolished.

None of the provisions of either chapter applies to current activities or policies of the District and have not been referred to in many years. Both chapters have become obsolete by operation of law, but counsel for the District believes that it does not have the authority to repeal these rules. Therefore, the Department of State, under its authority to maintain the integrity of the official compilation of the state's administrative rules, hereby announces that it is removing these chapters from the Florida Administrative Code, effective immediately.