

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: June 14, 2002

### Section III Notices of Changes, Corrections and Withdrawals

**DEPARTMENT OF INSURANCE**

|            |                        |
|------------|------------------------|
| RULE NOS.: | RULE TITLES:           |
| 4-149.003  | Rate Filing Procedures |
| 4-149.021  | Form Filing Procedures |

NOTICE OF CHANGE

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

4-149.003: Subsection (3) has been changed to read:

(a) ...submitted electronically to <https://iportal.fldfs.com> <https://iportal.fldei.com>...

(b) Subsequent to July 1, 2003, all filings shall be submitted electronically to <https://iportal.fldfs.com>, or by computer diskette meeting the compatibility requirements mandated by Section 624.424(1)(c), F.S. Deadlines for filing will not be extended due to shipping delays, format incompatibility, data corruption, or any other impediment which results from an election to file by diskette.

4-149.021: Subsection (5) has been changed to read:

(a) ...submitted electronically to <https://iportal.fldfs.com> <https://iportal.fldei.com>...

(b) Subsequent to July 1, 2003, all filings shall be submitted electronically to <https://iportal.fldfs.com>, or by computer diskette meeting the compatibility requirements mandated by Section 624.424(1)(c), F.S. Deadlines for filing will not be extended due to shipping delays, format incompatibility, data corruption, or any other impediment which results from an election to file by diskette.

The remainder of the reads as previously published.

**DEPARTMENT OF INSURANCE**

|           |   |
|-----------|---|
| RULE NO.: | RULE TITLE:                               |
| 4-156.011 | Standards and Refund or Credit of Premium |

NOTICE OF CHANGE

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

Sub-subparagraph (2)(a)3.c., has been changed to read:

c. Subsequent to July 1, 2003, all filings shall be submitted electronically to <https://iportal.fldfs.com>, or by computer diskette meeting the compatibility requirements mandated by Section 624.424(1)(c), Florida Statutes. Deadlines for filing will not be extended due to shipping delays, format incompatibility, data corruption, or any other impediment which results from an election to file by diskette.

The remainder of the reads as previously published.

**DEPARTMENT OF INSURANCE**

|           |   |
|-----------|---|
| RULE NO.: | RULE TITLE:   |
| 4-191.051 | Filing, Approval of Subscriber Contract and Related Forms |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 1, January 3, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed Paragraph (b) of subsection (3) has been changed to read:

c. Subsequent to July 1, 2003, all filings shall be submitted electronically to <https://iportal.fldfs.com>, or by computer diskette meeting the compatibility requirements mandated by Section 624.424(1)(c), Florida Statutes. Deadlines for filing will not be extended due to shipping delays, format incompatibility, data corruption, or any other impediment which results from an election to file by diskette.

The remainder of the reads as previously published.

**DEPARTMENT OF INSURANCE**

|           |   |
|-----------|---|
| RULE NO.: | RULE TITLE:   |
| 4-203.042 | Filing, Approval of Subscriber Contract and Related Forms |

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 1, January 3, 2003, of the Florida Administrative Weekly. These changes are being made to address concerns expressed subsection (4) has been changed to read:

c. Subsequent to July 1, 2003, all filings shall be submitted electronically to <https://iportal.fldfs.com>, or by computer diskette meeting the compatibility requirements mandated by Section 624.424(1)(c), Florida Statutes. Deadlines for filing will not be extended due to shipping delays, format incompatibility, data corruption, or any other impediment which results from an election to file by diskette.

The remainder of the reads as previously published.

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE CHAPTER NO.: 12A-13  
 RULE CHAPTER TITLE: Fee on the Sale or Lease of Motor Vehicles

RULE NO.: 12A-13.002  
 RULE TITLE: Collection and Remittance of Fee

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed amendments to Rule 12A-13.002, F.A.C., as published in the January 3, 2003, edition of the Florida Administrative Weekly (Vol. 29, No. 1, pp. 23-25). A Notice of Change to the proposed amendments to Rule 12A-13.002, F.A.C., and to form DR-35, Motor Vehicle Warranty Remittance Fee Return, was published in the March 7, 2003, edition of the Florida Administrative Weekly (Vol. 29, No. 10, pp. 1034-1035). These changes are in accordance with s. 120.54(3)(d)1., F.S., and are in response to written comments received by the Department from the Joint Administrative Procedures Committee.

The proposed amendments to subsection (4) of Rule 12A-13.002, F.A.C. (Collection and Remittance of Fee), have been changed, so that, when adopted, that rule will read:

~~(4)(2) Form DR-35, Motor Vehicle Warranty Remittance Fee Report (R. 03/03), is hereby incorporated, by reference, in this rule. Each county tax collector shall file a Motor Vehicle Warranty Remittance Fee (DR-35), dated January 1989, which is hereby incorporated in this rule and made part of the rule by reference, showing the amount of such fees received, and shall remit such fees to the Department of Revenue at or within the time or times prescribed in Section 219.07, Florida Statutes. The form entitled Motor Vehicle Warranty Remittance Fee Report (form DR-35) is available, without cost, by one or more of the following methods: 1) writing the Florida Department of Revenue, Forms Distribution Center, 168A Blountstown Highway, Tallahassee, Florida 32304; or, 2) faxing the Forms Distribution Center at (850)922-2208; or, 3) using a fax machine telephone handset to call the Department's automated Fax on Demand system at (850)922-3676; or, 4) visiting any local Department of Revenue Service Center to personally obtain a copy; or, 5) calling the Forms Request Line during regular office hours at (800)352-3671 (in Florida only) or (850)488-6800; or, 6) downloading selected forms from the Department's Internet site at the address shown inside the parentheses (<http://www.myflorida.com/dor/>). Persons with hearing or speech impairments may call the Department's TDD at (800)367-8331.~~

The following provisions of Form DR-35, Motor Vehicle Warranty Remittance Fee Report, have been revised, so that, when adopted, those provisions will read:

Page 1:

Warranty fees collected and remitted from Motor Vehicle Dealers on Sales/Leases of specified Motor Vehicles.

Page 2:

Motor Vehicle Warranty Fee: Each motor vehicle dealer and each person engaged in the business of selling or leasing new motor vehicles shall collect a \$2.00 fee at the time of sale or upon entering into a lease agreement. Motor vehicle dealers, ~~who sell or lease a new motor vehicle in this state,~~ must collect the fee from the purchaser or lessee at the time of sale or lease of a new vehicle, including demonstrator vehicles, for which a manufacturer's warranty is issued. Dealers who sell or lease new motor vehicles, for which they are not authorized under a franchise agreement to issue a manufacturer's warranty on that new vehicle, are required to collect the fee from the purchaser. These vehicles will be titled as used vehicles. Sales or leases of other used vehicles are not subject to the fee. Sales or leases of motorcycles, mopeds, off-road vehicles, trucks over 10,000 pounds gross vehicle weight, or living facilities of recreational vehicles, or sales or leases to city, county, or state agencies are also not subject to the fee.

**DEPARTMENT OF REVENUE**

**Miscellaneous Tax**

RULE NOS.: 12B-7.008  
 RULE TITLES: Public Use Forms  
 12B-7.026  
 Public Use Forms

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to proposed Rules 12B-7.008 and 12B-7.026, F.A.C., as published in the January 31, 2003 edition of the Florida Administrative Weekly (Vol. 29, No. 5, pp. 428-430). These changes are in accordance with s. 120.54(3)(d)1., F.S. These changes are in response to comments received by the Department from the Joint Administrative Procedures Committee.

The proposed amendments to subsection (2), (3), (4), and (5) of Rule 12B-7.008, F.A.C. (Public Use Forms), have been changed so that, when adopted, those subsections will read:

| Form Number               | Title   | Effective Date |
|---------------------------|---|----------------|
| <del>(2)(1)</del> DR-144  | Gas and Sulfur Production Quarterly Tax Return (R. 03/03 <del>1-2/94</del> )          | <u>12/94</u>   |
| (3) DR-144ES              | <u>Declaration of Estimated Gas and Sulfur Production Tax (R. 03/03)</u>              | _____          |
| <del>(4)(2)</del> DR-145  | Oil Production Monthly Tax Return (R. 03/03 <del>1-5/93</del> )                       | <u>12/94</u>   |
| <del>(5)(3)</del> DR-145X | <u>Amended Florida Oil Production Monthly Tax Return (R. 03/03 <del>1-2/94</del>)</u> | <u>12/94</u>   |

The proposed amendments to subsection (2) and (3) of Rule 12B-7.026, F.A.C. (Public Use Forms), have been changed so that, when adopted, those subsections will read:

| Form Number   | Title  | Effective Date |
|---------------|--|----------------|
| (2)(+) DR-142 | <u>Solid Mineral Producers Severance Tax Return (R. 03/03 <del>1-12/98</del>)</u>          | ____ 10/01     |
| (3) DR-142ES  | <u>Declaration/Installment Payment of Estimated Solid Mineral Severance Tax (R. 03/03)</u> | ____           |

The following provisions of form DR-142 (Solid Mineral Severance Tax Return), form DR-144 (Gas and Sulfur Production Quarterly Tax Return), form DR-145 (Oil Production Monthly Tax Return), and form DR-145X (Oil Production Monthly Amended Tax Return), have been revised, so that, when adopted, the following statement on each form will be revised to read:

~~Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct and complete. If prepared by a person other than the taxpayer, this declaration is based on all information of which the preparer has knowledge. [ss. 92.525(2), 211.075(2) and 837.06, Florida Statutes].~~

The following provisions of form DR-142 (Solid Mineral Severance Tax Return), form DR-142ES (Declaration/Installment Payment of Estimated Solid Mineral Severance Tax), form DR-144 (Gas and Sulfur Production Quarterly Tax Return), form DR-144ES (Declaration of Estimated Gas and Sulfur Production Tax), and form DR-145X (Oil Production Monthly Amended Tax Return), have been revised, so that, when adopted, the following statement on each form will be revised to read:

Electronic funds transfer (EFT): Any taxpayer who paid more than ~~\$50,000~~ \$30,000 in severance taxes between July 1 and June 30 (the state’s fiscal year) is required to remit taxes by EFT in the following calendar year.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-4.240  
 RULE TITLE: Portable X-Ray Services  
 NOTICE OF CHANGE

Notice is hereby given that the following change was made to the Notice of Proposed Rulemaking published in Vol. 29, No. 10, March 7, 2003, issue of the Florida Administrative Weekly. The date the Notice of Rule Development was published in the Florida Administrative Weekly was May 17, 2002.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-21.001  
 RULE TITLE: Independence  
 NOTICE OF CHANGE

Notice is hereby given that changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 28, No. 45, of the November 8, 2002, issue of the Florida Administrative Weekly. The changes are in response to public hearings on January 24, 2003 and March 18, 2003.

The changes shall be as follows:

1. Subsection (1) shall read:

(1) A licensed firm shall not express an opinion on financial statements (as that term is defined in the Standards for Independence) of an enterprise or on the reliability of an assertion by one party for use by another (third) party unless the firm is independent with respect to such enterprise or the party making the assertion. A licensed firm is also precluded from expressing such an opinion if the firm is aware that an individual in the firm is not independent and that individual is a covered licensee or is otherwise required to be independent. A licensed individual shall not express such an opinion unless the individual is independent with respect to such enterprise or the party making the assertion. A licensed individual is also precluded from expressing such an opinion if he or she is aware that an individual in the firm is not independent and that individual is a covered licensee or is otherwise required to be independent. All covered licensees and all other individuals who are required to be independent are required to disclose to the firm that they are not independent prior to the issuance of such an opinion; failure to do so is a violation of this rule. All firms are required to adopt appropriate policies to implement the disclosures requirement and to monitor compliance therewith.

2. Subsection (2) shall read:

(2) In order to delineate the standards against which a licensee’s independence or lack thereof is to be judged, the Board has created a document entitled “Standards for Determining Independence in the Practice of Public Accountancy for CPAs Practicing Public Accountancy in the State of Florida” (effective 5-1-2003) (hereinafter “Standards for Independence”) which document is hereby incorporated by reference in this Rule. The standards contained in the “Standards for Independence” are similar to those contained in the Code of Professional Conduct promulgated by the American Institute of Certified Public Accountants.

3. Subsection (3) will remain the same.

4. Subsection (4) will be deleted in its entirety.

5. Subsection (5) will be deleted in its entirety.

6. Subsection (6) will become subsection (4).

7. Subsection (7) will be deleted in its entirety.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Johnson, Executive Director, Board of Accountancy, 1940 North Monroe Street, Tallahassee, Florida 32399

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Accountancy**

RULE NO.: 61H1-21.004  
 RULE TITLE: Conflicts of Interest

**NOTICE OF WITHDRAWAL**

Notice is hereby given the above rule which was filed in for publishing in Vol. 28, No. 45, of the November 8, 2002, Florida Administrative is being withdrawn.

THE PERSON TO BE CONTACTED REGARDING THE RULE WITHDRAWAL IS: John W. Johnson, Executive Director, Board of Accountancy, 2610 Northwest 43rd Street, Suite 1-A, Gainesville, Florida 32606

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.: 03-08R

RULE CHAPTER NO.: 62-624  
 RULE CHAPTER TITLE: Municipal Separate Storm Sewer Systems

RULE NO.: 62-624.810  
 RULE TITLE: Permit Application Procedures for Phase II MS4s

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published, pursuant to Sec. 120.551, F.S., in the Department's official notice Internet site at [www.dep.state.fl.us](http://www.dep.state.fl.us) and a summary published in Vol. 29, No. 9, February 28, 2003, issue of the Florida Administrative Weekly.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button entitled "Official Notices."

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Fred Noble, P.E., NPDES Stormwater Section, Florida Department of Environmental Protection, Mail Station 2500, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-8.001  
 RULE TITLE: Renewal of Clinical Laboratory Personnel License

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 50, December 13, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee, and board meeting held on February 28, 2003.

The rule shall now read as follows:

The department shall renew a license upon receipt of the renewal fee provided that the Board has not withdrawn its certification of competency for an active status licensee.

Specific Authority 456.035, 483.805(4), 483.817(2) FS. Law Implemented 456.035, 483.817, 483.821 FS. History—New 2-22-94, Formerly 61F3-8.001, Amended 12-26-94, 5-3-95, 12-3-96, Formerly 59O-8.001, Amended

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-8.002  
 RULE TITLE: Inactive Status and Reactivation of Inactive Clinical Laboratory Personnel License

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 50, December 13, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee, and board meeting held on February 28, 2003.

Subsection (2) shall now read as follows:

(2) An inactive status licensee may change to active status at any time provided the licensee meets the continuing education requirements in Rule 64B3-11.001, F.A.C. The licensee shall be requested to provide copies of all continuing education hours, and:

(a) through (b) No change.

(c) Pays, if applicable, the change of status fee of Rule 64B3-9.010, F.A.C.

Specific Authority 456.036, 483.805(4), 483.819 FS. Law Implemented 456.036, 483.817 FS. History—New 2-22-94, Formerly 61F3-8.002, Amended 12-26-94, 5-3-95, 12-3-96, Formerly 59O-8.002, Amended 9-12-99, 5-16-00,

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Laboratory Personnel**

RULE NO.: 64B3-8.005  
 RULE TITLE: Delinquent Status License  
 NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in the Vol. 28, No. 50, December 13, 2002, issue of the Florida Administrative Weekly. The changes are in response to comments received from the Joint Administrative Procedures Committee, and board meeting held on February 28, 2003.

Subsection (3)(b) shall now read as follows:

(b) ~~Upon request,~~ Demonstrate compliance with the continuing education requirements of Rule 64B3-11.001, F.A.C., and Rule 64B3-8.002, F.A.C.

Specific Authority 456.036, 483.805(4) FS. Law Implemented 456.036 FS. History—New 12-26-94, Amended 12-3-96, Formerly 590-8.005, Amended 12-21-99, \_\_\_\_\_

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

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.: 64E-1.0015  
 RULE TITLES: Laboratory Certification Standards  
 64E-1.005 Records, Reports, and Contractual Agreements  
 64E-1.007 Fees and Certification Categories  
 64E-1.102 Certification Requirements  
 64E-1.105 Display of Certificate and Use of Certification  
 64E-1.106 Proficiency Testing Requirements

**NOTICE OF CORRECTION**

In the Notice of Proposed Rulemaking for Rule 64E-1, F.A.C., published March 14, 2003 in the F.A.W., the DATE PROPOSED RULE APPROVED BY AGENCY HEAD was listed as “to be determined.” This date is corrected to February 28, 2003.

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NO.: 64E-11.012  
 RULE TITLE: Manager Certification  
 NOTICE OF WITHDRAWAL

Notice is hereby given that the Notice of Change regarding the above rule, as noticed in Vol. 29, No. 11, March 14, 2003, Florida Administrative Weekly, has been withdrawn.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation Program**

RULE NO.: 65C-16.013  
 RULE TITLE: Determination of Maintenance Subsidy Payments

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 27, No. 27, July 6, 2001, Florida Administrative Weekly has been withdrawn.

**FLORIDA HOUSING FINANCE CORPORATION**

RULE NOS.: 67-50.001  
 RULE TITLES: Definitions  
 67-50.010 Fees  
 67-50.030 General Program Eligible Activities  
 67-50.040 General Program Restrictions  
 67-50.050 HAP Program Restrictions  
 67-50.060 HOME Program Restrictions  
 67-50.070 Application and Selection Procedures  
 67-50.080 Credit Underwriting Procedures

**NOTICE OF CHANGE**

Notice is hereby given that in response to oral and written comments and non-published technical corrections/clarifications the following changes have been made to Rule 67-50, Florida Administrative Code, as published in Vol. 29, No. 4 of the Florida Administrative Weekly, on January 24, 2003.

PURPOSE, EFFECT AND SUMMARY: The purpose of this Rule Chapter is to refine the procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing under the Florida Homeownership Assistance Program (HAP)/Construction Loan Program and provide purchase assistance to Eligible Homebuyers under the HAP Permanent Loan Program, authorized by Chapters 420.507 and 420.5088, Florida Statutes (F.S.); and

(2) Administer the Application process, determine loan amounts, and service loans to Developers for the construction of affordable housing and provide purchase assistance to Eligible Homebuyers under the HOME Investment Partnerships (HOME) Homeownership Loan Program, authorized by Chapter 420.5089, F.S. and HUD regulations, 24 CFR § 92, which is adopted and incorporated herein by reference.

(3) Prior to the opening of an Application Cycle, the Corporation researches the market need for affordable housing throughout the State of Florida and evaluates prior Application Cycles to determine the necessary changes or additions to the existing rules and applications. These ~~This~~ proposed amendments to the new Rule and adopted reference materials

establishes the procedures by which the Florida Housing Finance Corporation shall administer the Homeownership Loan Program, which combines funding from the HAP Construction, HAP Permanent, and HOME Homeownership Loan Programs.

67-50.001 Definitions.

(4) "Affiliate" means any person that:

(a) Directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant;

(b) Serves as an officer or director, ~~agent, employee, or any business entity or person associated with the Applicant in the furtherance of a business venture for which the Applicant is applying for assistance from the Corporation of or of any Affiliate of the Applicant;~~ or

(c) Is the spouse, parent, child, sibling, or relative by marriage of a person described in (a) or (b) above.

(8) "Application Package" or "HOMEOWN-0530 (Rev. 4/03)" means the forms and instructions obtained from the Corporation, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329 and available on the Corporation's website at [www.floridahousing.org](http://www.floridahousing.org), which shall be completed and submitted to the Corporation in order to apply for either HAP or HOME funds, which is adopted and incorporated herein by reference and effective on the date of the latest amendment to this Rule Chapter.

(9) "Application Period" means the period during which Applications shall be accepted, ~~with a deadline of no less than thirty (30) days from the beginning of the Application Period,~~ as noticed in the Florida Administrative Weekly and posted on Florida Housing's web site at [www.floridahousing.org](http://www.floridahousing.org).

(21) "Developer" means an individual, association, corporation, joint venturer, limited partnership, limited liability company, or partnership, possessing the requisite skill, experience, and credit worthiness to successfully produce single-family housing pursuant to this Rule Chapter.

(22) "Development" means any work or improvement located or to be located in the state, including real property, all buildings, and any other real and personal property which is:

(a) Designed and intended for the primary purpose of providing decent, safe, and sanitary residential housing for persons or households;

(b) Consists of at least four (4) homes; ~~and~~

(c) Meets the minimum set-aside requirements and sales price limits of either the HAP or HOME Program, as applicable; and

(d) Can be identified by legal description or street address.

(25) "Document" means a written, electronic media, or graphic matter of any kind whatsoever, however produced or reproduced, including ~~but not limited to~~ records, reports, memoranda, minutes, notes, graphs, maps, charts, contracts,

opinions, studies, analysis, photographs, financial statements and correspondence as well as any other tangible item on which information is recorded.

(49) "Non-Profit Sponsor" means, with respect to the HAP Program, a unit of local government or public housing authority, established pursuant to Chapter 421, F.S., or a Community Based Organization, as defined in subsection 67-50.005(14), F.A.C., which has agreed to sponsor an Eligible Development utilizing either a Non-Profit or for-profit Developer.

(50) "Note" means a unilateral agreement containing an express and absolute promise to pay to the Corporation a principal sum of money on a specified date, which provides the interest rate, ~~if applicable,~~ and is secured by a mortgage.

(54) "Principal" means an Applicant, any general partner of an Applicant, and any officer, or director, ~~or any shareholder of any Applicant or shareholder of any general partner of an Applicant.~~

(57) "Review Committee" means a committee of Corporation staff persons appointed by the Executive Director or assignee Board of Directors who will make recommendations to the Board regarding Program participation.

(60) "Scattered Sites" means a Development consisting of five or more single family residential units; where no more than four single family residential units are located on any one site and any additional site or sites must not share a common boundary at least 2,000 feet apart an individual action on a one (1) to four (4) family dwelling, unless the development is of five (5) or more units located within two thousand (2,000) feet of each other, undertaken as a single action.

(61) "Servicer" means the entity, and any subcontractors, under contract with the Corporation to provide loan servicing, including ~~but not limited to,~~ administration and compliance monitoring.

(63) "Sponsor" means, with respect to the HOME Program, any individual, association, corporation, joint venturer, partnership, trust, or other legal entity or combination thereof, that has been approved by the Corporation as qualified to construct a Development.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Amended \_\_\_\_\_.

67-50.010 Fees.

(1) The Corporation shall collect an Application fee ~~the following fees~~ from all Applicants when initially applying for either HAP or HOME funds;:

~~(a) Application Package fee~~

~~(b) Application submission fee~~

(2) With respect to the HAP Program, the Applicant is responsible for the following fees, which are part of the Development Cost and must ~~can~~ be included in the Development Cost ~~Pro Forma~~:

- (a) Credit Underwriting fee;
  - (b) Loan Servicing fees; and
  - (c) Construction inspection fees
- (3) With respect to the HOME Program, these fees ~~referenced in (2)~~ are paid directly by the HOME Program.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(19), 420.5088, 420.5089 FS. History—New 9-5-02, Amended.

67-50.030 General Program Eligible Activities

(1) Funds may be used to pay for the following eligible costs:

(a) Development hard costs as they directly relate to the identified assisted units for the costs necessary to meet local and State building codes and the Model Energy Code.

(b) Soft costs as they relate to the identified assisted units. The costs must be reasonable and necessary, as determined by the Corporation and Credit Underwriter, and associated with the financing, development, or both, ~~including, but not limited to~~ and include:

1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups;
2. Costs to process and close the financing for a Development, such as credit reports, fees for evidence of title, recordation, building permits, attorney fees, cost certifications, and estimates;
3. Developer fees, including administrative overhead, are limited to sixteen percent (16%) of the Total Development Cost;
4. Impact fees;
5. Costs of Development audits required by the Corporation or compliance monitoring agent;
6. Affirmative marketing and fair housing costs; and
7. Temporary relocation costs, as required for the HOME program.

(2) Funds may be used to construct one (1) speculative unit or model home for up to ten (10) units in the Development, up to two (2) speculative units or model homes for eleven (11) to twenty (20) units in the Development and a maximum of three (3) speculative units or model homes for a Development with over twenty (20) units at any period of time.

(4) The Corporation shall make HOME Permanent Loan funds available to participating lenders in the Single-Family Mortgage Revenue Bond (SF MRB) Program for eligible homebuyers, in accordance with the SF MRB documents and Rule Chapter 67-25, F.A.C.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.5088, 420.5089 FS. History—New 9-5-02, Amended.

67-50.040 General Program Restrictions.

(1) An Applicant may not submit an application for HAP and HOME funding for the same Development under the Homeownership cannot receive funding from both the HAP and HOME Construction Loan Programs for the same Development.

(2) Applications shall be limited to one submission per subject property, per Application Period, and funding requests shall be limited to the lesser of thirty-three percent (33%) of the total Development cost or \$1,000,000 for the HAP Program or the lesser of thirty-three percent (33%) of the total Development cost or \$2,000,000 for the HOME Program.

(10) The Corporation or its Servicer shall monitor the compliance with all terms and conditions of the HAP or HOME Loan and any violation of any term or condition shall constitute a default of the Loan. ~~If a default on a Loan occurs, the Corporation may commence legal action to protect the interest of the Corporation.~~

(11) The construction period shall be for a period of three (3) years beginning on the closing date of the Construction Loan or the date of Florida Housing's commitment for a Development utilizing purchase assistance only. With approval by the Board, a one-year extension is permissible provided that the Applicant:

- (a) Requests the extension in writing at least sixty (60) days prior to the end of the construction period;
- (b) States the reason the extension is needed;
- (c) Provides the Applicant's past performance history;
- (d) Provides a comprehensive work completion plan;
- (e) Supplies an alternate financing plan in the event the original financing source withdraws; and
- (f) Provides assurance that the one-year extension will result in the successful completion of the Development.

(14) If the Board of Directors determines that any Applicant or any Affiliate of an Applicant has:

- (a) ~~Has~~ Engaged in fraudulent actions;
- (b) ~~Has~~ Materially misrepresented information to the Corporation regarding any of its Developments, within the current Application or in any previous applications for financing or an allocation of Housing Credits administered by the Corporation;
- (c) ~~Has~~ Been convicted of fraud, theft or misappropriation of funds;
- (d) ~~Has~~ Been excluded from federal or Florida procurement programs; or
- (e) ~~Has~~ Been convicted of a felony, and uUpon a determination by the Board of Directors that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of two (2) years,

which will begin from the date the Board of Directors makes such determination. Such determination shall be made either pursuant to a proceeding conducted pursuant to Section 120.569 and 120.57, Florida Statutes, or as a result of a finding by a court of competent jurisdiction.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History—New 9-5-02, Amended \_\_\_\_\_.

67-50.050 HAP Program Restrictions.

(6) HAP Permanent Loan. The terms of the HAP Permanent Loan made to an Eligible Homebuyer are as follows:

(a) A HAP Permanent Loan shall be made available to an Eligible Homebuyer who purchases a home built by a Developer participating in the Homeownership Loan Program, under the HAP Program.

(b) The Eligible Homebuyer must have an Adjusted Income that does not exceed eighty percent (80%) AMI at the time of closing.

(c) A HAP Permanent Loan is available in an aggregate amount not to exceed the lesser of \$30,000, twenty five percent (25%) of the purchase price of the house, or the amount necessary to meet credit underwriting criteria, based on the monthly mortgage payment (which includes the principal, interest, taxes and insurance) to income underwriting ratio.

(d) When the HAP Permanent Loan is used in conjunction with another Corporation subordinate mortgage program, the Eligible Homebuyer's Adjusted Income may not exceed fifty percent (50%) AMI and the aggregate amount of the Corporation Loans may not exceed thirty-five percent (35%).

(e) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the appraised value. In the 105% loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a five (5) seven (7) year period.

(f) The HAP Permanent Loan shall be underwritten by the first mortgage lender and reviewed by the Corporation's designated Servicer.

(g) The purchase price of the house cannot exceed the appraised value or the maximum purchase price, as determined by the Single Family Mortgage Revenue Bond Program, as in effect at the time of the beginning of the construction of the house.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 9-5-02, Amended \_\_\_\_\_.

67-50.060 HOME Program Restrictions.

(8) All contracts for the construction of a Development with 12 or more HOME-Assisted Units must contain a provision requiring that not less than the wages paid to all laborers and mechanics employed for the construction of the Development will not be less than the wages prevailing in the locality, as predetermined by the U.S. Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. § 276a-265-a-5

(1994), 24 CFR § 92.354, 24 CFR § 70 (volunteers) and 40 U.S.C. 276c, which are adopted and incorporated herein by reference, ~~will be paid to all laborers and mechanics employed for the construction of the Development.~~ Such contracts shall also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-333 (1994), and the Copeland Act (Anti-Kickback Act) 40 U.S.C. § 276c (1994) and the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201 et seq.), which are adopted and incorporated herein by reference.

(14) A certification by the Corporation of the HUD Environmental Review is required, pursuant to 24 CFR 92.352.

~~(15)~~(14) A HOME-assisted unit shall qualify as affordable housing if:

(a) The value or initial purchase price of the property after construction does not exceed the Maximum Purchase Price;

(b) The combined loan-to-value ratio cannot exceed one hundred five percent (105%) of the after construction or appraised value of the HOME-Assisted unit, except when HOME funds are used with the SF MRB Program, where the combined loan-to-value of all assistance cannot exceed one hundred three (103%) of the lesser of the appraised value or the purchase price or as permitted in the applicable SF MRB issue documents. In the loan-to-value calculation, the Corporation will not include any subsidy that contains forgivable terms within a five (5) seven (7) year period;

(c) The person or household qualifies as an Eligible Homebuyer at the time of purchase and who will occupy the home acquired property as their principal residence; and

(d) The purchase price of the property after construction must not exceed the appraised value of the property.

(15) through (16) renumbered (16) through (17) No change.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088 FS. History—New 9-5-02, Amended \_\_\_\_\_.

67-50.070 Application and Selection Procedures.

(1) All Applications must be submitted complete, legible and consistent and must be received by the Application Deadline, as specified in the NOFA. Corporation staff may not assist any Applicant by copying, collating or adding documents to an Application, nor shall any Applicant be permitted to use the Corporation facilities or equipment for purposes of compiling or completing an Application.

(2) Each submitted Application will be reviewed and preliminarily scored ~~evaluated~~ using the factors specified in the Application Package and this Rule Chapter. Preliminary scores shall be transmitted to all Applicants along with the master scoring sheet and deficiency report.

(4) Cure Period. Within twenty (20) Calendar Days of the date of the notice set forth in subsection (2) above, each Applicant shall be allowed to submit revised pages and additional documentation, (the "revisions") as the Applicant



deems appropriate to address the issues raised in the master scoring sheet and deficiency report that could result in rejection of the Application or a score less than the maximum available.

(a) Each new page must be marked "revised."

(b) Failure to mark each new page "revised" will result in the Corporation not considering the revisions to that new page.

(c) Where revisions create an inconsistency elsewhere in the Application, the Applicant is required to make such other changes to keep the Application consistent.

(d) Pages of the Application that are not revised may not be resubmitted, with the exception of documents executed by third parties, which must be submitted in their entirety.

(e) The Applicant shall submit an original and three copies of all revisions; submissions via the internet or facsimile shall not be accepted.

(f) Only revisions received by the deadline set forth herein will be considered.

(g) Any subsequent revisions submitted prior to the deadline must include a written request to withdraw any previous revision.

(4) through (5) renumbered (5) through (6) No change.

(7)(6) At no time during the scoring process may Applicants or their representatives contact Board members or Corporation staff, except for Corporation's legal staff, concerning their own Development or any other Applicant's Development. If an Applicant or its representative does contact a Board member or staff in violation of this section, the Board may, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(8)(7) Following the receipt and review of the documentation described in subsection (4) above, After evaluation of the Applications received in each Application Period, the Corporation's staff shall issue a notification letter final score to each Applicant disclosing whether or not the Applicant met the threshold and minimum score requirements. In determining such final scores, no Application shall be rejected or receive a point reduction as a result of any issues not previously identified in the notice described in subsection (4) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsection (4) above will be justification for rejection or reduction of points as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (10) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application.

(8) Applicants shall be provided with their scoring sheets, the scoring and rankings, and a notice of deficiencies, if applicable.

(10) Notwithstanding any other provisions of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the

Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows: With respect to the HOME Program, a certification by the Corporation of the HUD Environmental Review is also required, pursuant to 24CFR 92.352.

(a) Name of Applicant;

(b) Name of the Developer;

(c) Program applied for;

(d) Number of units;

(e) Site for the Development;

(f) Type of Development Category;

(g) County;

(h) Demographic or Area Commitment or target demographic area;

(i) Total set-aside percentage of the Total Set-Aside Commitment;

(k) Designation of Applicant; and

(l) Funding request amount.

(11) At the time of submission of the Application, each Applicant shall disclose in writing, certifying under penalty of perjury, whether any current or recent financial business, professional, and family relationships or associations with an employee or agent of the Corporation exists or whether any current or recent financial business, professional, and family relationships or associations with a former employee or agent of the Corporation exists. In the case of a former employee or agent of the Corporation, the date of the former employee's or agent's departure from the Corporation, if the departure is less than two years from the date of the submission of the Application. The Corporation shall make HOME Permanent Loan funds in conjunction with Single Family Mortgage Revenue Bonds available to eligible Applicants in accordance with the Corporation's Single Family Mortgage Revenue Bond Program documents and Rule Chapter 67-25, F.A.C. Pending the availability of HOME funds and offering such funds to be used with a FHFC's Single Family Mortgage Revenue Bond (SF MRB) issue, the Corporation shall make HOME Second Mortgage Loan funds available to lenders participating under the FHFC's Single Family Mortgage Revenue Bond (SF MRB) Program on a first-come, first-served basis.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Amended \_\_\_\_\_.

67-50.080 Credit Underwriting Procedures.

(2) The Applicant shall submit the required information to the Credit Underwriter within sixty (60) days of the date of receipt of the notification letter. If an extension is needed, a written request substantiating the need for the extension must be provided to the Corporation prior to the sixty (60) day initial

deadline, subject to approval by the Credit Underwriter and the Corporation Staff. However, the extension shall not exceed a period of sixty (60) days. In the event the time limitation expires, the Corporation will request that the Applicant relinquish the preliminary allocation and it will be made available to the next ranked Applicant.

Specific Authority 420.507(12), (23) FS. Law Implemented 420.507(23), 420.5088, 420.5089 FS. History—New 9-5-02, Amended \_\_\_\_\_.

The following changes were made to the Application Package:

1. Application Instructions – HOMEOWN-0530 (Rev. 4/03) – Instructions:

Clarification of general instructions and submission requirements

2. Application – HOMEOWN-0530 (Rev. 4/03) – Application:

a. Part I. Applicant Certification and Acknowledgment: Revised Applicant Certification Form

b. Part II. Applicant and Development Team: Provided new Exhibit Forms

c. Part III. Development: Clarification for Scattered Sites Developments and HAP and HOME Program threshold requirements

d. Part V. Financing: Clarification of the required Forms and necessary documentation for firm commitments

3. Forms – Exhibits (Forms 1-40) – HOMEOWN-0530 (Rev. 4/03) – Forms – Exhibits:

Clarification of requirements and provided additional forms:

- Exhibit 11b Developer’s Experience Chart
- Exhibit 12b Contractor’s Experience Chart
- Exhibit 31 HOME Program Contractor Certification
- Exhibit 39 Affordability Analyses Form
- Exhibit 40 Defer Development Fee Form

4. Miscellaneous:
- 2003 HAP Sales Price Limits – revised for 2003
  - 2003 HOME Purchase Price Limits – revised for 2003
  - 2003 Income Limits – revised for 2003

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## Section IV Emergency Rules

**NONE**

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## Section V Petitions and Dispositions Regarding Rule Variance or Waiver

### DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN that the Department of Community Affairs received an Emergency Petition for Waiver on March 6, 2003, from the City of Arcadia. The petitioner seeks a waiver of paragraph 9B-43.006(2)(a), Fla. Admin. Code. This petition for waiver is being applied for under Chapter 120.542, F.S.; Chapter 28-104.004, F.S. and Executive Order 99-275.

A copy of the Petition, which has been assigned the number DCA03-WAI-076, may be obtained by writing: Paula P. Ford, Agency Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

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### WATER MANAGEMENT DISTRICTS

NOTICE IS HEREBY GIVEN that the South Florida Water Management District (SFWMD) Governing Board issued an Order Granting Waiver under Section 120.542, Fla. Stat. (SFWMD 2003-16 DAO-ROW), on February 13, 2003, to Coconut Key Homeowners Association. The petition for waiver was received by the SFWMD on July 22, 2002.

Notice of receipt of the petition requesting the waiver was published in the Florida Administrative Weekly, Vol. 28, No. 32, on August 9, 2002. No public comment was received.

This Order provides a waiver for existing landscaping within the north right of way of C-14, Section 31 Township 48 South, Range 42 East, Broward County. Specifically, the Order grants a waiver from paragraph 40E-6.221(2)(j), Fla. Admin. Code, and the Basis of Review for Use or Occupancy of the Works or Lands of the District Permit Applications within the South Florida Water Management District, incorporated by reference in subsection 40E-6.091(1), Fla. Admin. Code, which requires that a 40 foot wide strip of right of way, measured from the top of the bank landward, be unencumbered by permanent and/or semi-permanent above-ground structures to enable the District to perform the required routine and emergency operations and maintenance activities necessary to insure flood protection to the entire community. Generally, the Order sets forth the basis of the Governing Board decision to grant the waiver, as follows: 1) these facilities do not significantly interfere with the SFWMD’s ability to perform necessary construction, alteration, operation and maintenance activities; and 2) the Order granting a waiver from the subject rule would prevent Coconut Key Homeowners Association from suffering a substantial hardship and a violation of the principles of fairness.