(b) As to any one insured or claimant, no public adjuster shall charge, agree to, or accept as compensation or reimbursement any payment, commission, fee, or other thing of value equal to more than ten percent of the amount of any insurance settlement or proceeds.

(c) No public adjuster shall enter into any contract, agreement or other arrangement with any person, including an attorney, building contractor, architect, appraiser or repairman, by which the person would enter into an agreement to assist a claimant or insured on an insurance claim, utilize the services of the adjuster to carry out the agreement and pay the adjuster an amount that would exceed the limitation of the adjuster's compensation or reimbursement as provided in paragraph (b) above.

(d) This subsection applies to all claims that arise out of the events that created the State of Emergency, whether or not the adjusting contract was entered into while the State of Emergency was in effect and whether or not a claim is settled while the State of Emergency is in effect.

Specific Authority 624.308, 626.878, 626.9611 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS. History-New 6-2-93, Amended 12-18-01, 3-27-05, Formerly 4-220.201, Amended _____.

Section II
Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLE: RULE NO.:
Polling Place Procedures Manual 1S-2.034

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise the polling place procedures manual, that is incorporated by reference, to reflect changes regarding election procedures at the polls as set forth in Chapters 2005-277 and 2005-278, Laws of Florida. The proposed manual provides guidance to election officials and pollworkers on voting activities and will now be applicable to such activities on election day and during the early voting period. The proposed manual expands on procedures for handling provisional ballot voters, revises instructions on ballot accounting, and reflects changes to the solicitation restriction from 50-feet to 100-feet of the entrance to the polling place or early voting site. The proposed manual also addresses problems encountered by voters and pollworkers during the 2004 General Election.

SUMMARY: The proposed rule incorporates by reference Form DS-DE #11, entitled "The Polling Place Procedures Manual," that is used by election officials and pollworkers for guidance to govern election procedures at the polls on election day and during the early voting period.

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 costs, or to provide a proposal for a lower cost regulatory alternative, must do so within 21 days of this notice.

SPECIFIC AUTHORITY: 102.014(5) FS.

LAW IMPLEMENTED: 102.014(5) FS.

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

TIME AND DATE: 10:30 a.m., Monday, November 14, 2005

PLACE: Florida Heritage Hall, Plaza Level, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person needing special accommodations to participate in this proposed rule workshop should contact the Department of State, (850)245-6536, no later than November 10, 2005. Any person who is hearing or speech impaired may contact the Department by using the Florida Relay Service with the following toll free numbers: 1(800)955-8770 (Voice) or 1(800)955-8771.

Copies of the proposed rule and the draft Form DS-DE #11, incorporated by reference, may be obtained from: Division of Elections, Department of State, 3rd Floor, R. A. Gray Building, 500 S. Bronough Street, Tallahassee, Florida 32399, Division of Elections' website: http://election.dos.state.fl.us/index.html or from the contact person.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Maria I. Matthews, Assistant General Counsel, Office of the General Counsel, Division of Elections, Department of State, 500 S. Bronough Street, Tallahassee, Florida 32399-0250, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.034 Polling Place Procedures Manual.

The Department of State, Division of Elections, is required to establish a polling place procedures manual to guide election officials and pollworkers in the proper implementation of election procedures and laws.~~,~~ Form DS-DE 11 (rev. 01/06 ~~1/04~~), entitled "Polling Place Procedures Manual," ~~which~~ is hereby incorporated by reference and available from the Division of Elections, R. A. Gray Building, Room 316, 500 South Bronough Street, Tallahassee, Florida 32399-0250, by contact at (850)245-6200, or by download from the Division of Elections' rules webpage at: http://election.dos.state.fl.us/index.html.

Specific Authority 102.014(5) FS. Law Implemented 102.014(5) FS. History–New 7-4-02, Amended 1-25-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maria Matthews, Assistant General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Sarah Jane Bradshaw, Assistant Director of the Division of Elections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 12, 2005

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Water Quality/Quantity BMPs for Indian River Area Citrus Growers	5M-2
RULE TITLE:	RULE NO.:
Presumption of Compliance	5M-2.003

PURPOSE AND EFFECT: To amend Rule 5M-2.003, F.A.C., to incorporate the most recent version of the BMP manual.

SUMMARY: The rule amendment changes the date of the manual incorporated by reference to accurately reflect the most recent revisions.

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 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: 403.067(7)(c)2. FS.

LAW IMPLEMENTED: 403.067(7)(c)2. FS.

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

If an accommodation is needed for a disability in order to participate in this meeting, please notify the Bureau of Personnel Management, Department of Agriculture and Consumer Services, (850)488-1806, at least seven days prior to the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Brittany Mayock, Environmental Specialist I, Office of Agricultural Water Policy, 1203 Governors Square Boulevard, Suite 200, Tallahassee, Florida 32301, (850)488-6249, Fax (850)921-2153

THE FULL TEXT OF THE PROPOSED RULE IS:

5M-2.003 Presumption of Compliance.

In order to obtain the presumption of compliance with state water quality standards and release from the provisions of Section 376.307(5), F.S., for those pollutants addressed by the practices the applicant must:

(1) Conduct an assessment of the subject properties using the Citrus Grower Best Management Practices Checklist incorporated in the document titled *Water Quality/Quantity BMPs for Indian River Area Citrus Groves* (January, 2005 ~~May 2000~~).

(2) Submit a Notice of Intent to Implement as outlined in Rule 5M-2.005, F.A.C.

(3) Implement the non-regulatory and incentive-based programs identified as a result of the assessment of the subject properties and listed in the Notice of Intent to Implement.

(4) Maintain documentation to verify the implementation and maintenance of the non-regulatory and incentive-based programs.

Specific Authority 403.067(7)~~(d)~~(c)2. FS. Law Implemented 403.067(7)~~(d)~~(c)2. FS. History–New 6-24-02, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Brittany Mayock, Environmental Specialist I, Office of Agricultural Water Policy

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charles C. Aller, Director, Office of Agricultural Water Policy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2005

DEPARTMENT OF TRANSPORTATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida's Highway Guide Sign Program	14-51
RULE TITLES:	RULE NOS.:
Definitions	14-51.011
Design	14-51.052
Installation	14-51.053

PURPOSE AND EFFECT: This amendment creates a Part V entitled "Wayfinding Signs" in Rule Chapter 14-51, F.A.C. New definitions are added to Rule 14-51.011, F.A.C., and three new rules are established in a new Part V.

SUMMARY: This amendment creates a Part V entitled "Wayfinding Signs" in Rule Chapter 14-51, F.A.C. A rule development workshop was held on May 19, 2005. Some changes were made following the rule development workshop, including a new definition for "Wayfinding Sign System Plan," a revised reference to MUTCD guidelines regarding approved font size, and further clarification of the approval process, especially in regard to the Request to Experiment.

SPECIFIC AUTHORITY: 316.0745 FS.

LAW IMPLEMENTED: 316.0745 FS.

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 costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULES IS:

14-51.011 Definitions.

As used in this rule chapter, the following words and phrases shall have the following meanings.

(1) "Applicant" means the person or entity seeking permission for a sign under this rule chapter.

(2) "Department" means the Florida Department of Transportation.

(3) "Enhancement Marker" means a sign or portion of a sign where shape, color, or pictograph is used as an aesthetic identifier for a Wayfinding Sign.

(4) "FHWA" means the Federal Highway Administration.

(5)~~(3)~~ "Guide Sign" means a sign that shows route designations, destinations, directions, distances, services, points of interest, or other geographical, recreational, or cultural information.

(6)~~(4)~~ "Limited Access Facility" means as defined in Section 334.03(13), Florida Statutes.

(7) "Local Government" means the county or city having jurisdiction in the subject area, including the area involving the State Highway System.

(8)~~(5)~~ "*Manual on Uniform Traffic Control Devices* (MUTCD)" is a federal publication, which is incorporated by reference under Rule 14-15.010, F.A.C., and is used to establish the uniformity of traffic control devices, such as sign placement, color of sign backgrounds and letters, and sign messages. The Department has adopted the use of this manual in order to provide a uniform system of traffic control devices on the State Highway System.

(9)~~(6)~~ "Non-Limited Access Facility" means an arterial or collector road as these terms are defined in Sections 334.03(1) and (4), Florida Statutes, respectively, and which is not a limited access facility.

(10) "Pictograph" means the distinctive use of color(s), symbol(s), or copy as a brand identifier for Wayfinding Sign system areas and attractions. They are non-commercial graphics as opposed to commercial logos.

(11) "Official Traffic Control Devices" means as defined in Section 316.003(23), Florida Statutes.

(12)~~(7)~~ "Place Name Sign" means a sign identifying the geographic boundary of a city or county, lying on or along a road on the State Highway System.

(13)~~(8)~~ "Rural Interchange" means a grade separated intersection between streets or roadways outside the limits of any urban or urbanized area, as such areas are defined both in Sections 334.03(32) and (36), Florida Statutes. Where either the immediate right of way of a limited access facility or the right of way of an intersecting roadway is within the boundary of an urban or urbanized area, the interchange or intersection shall be considered urban.

(14)~~(9)~~ "Sign" means any traffic control device that is intended to communicate specific information to road users through a word or symbol legend. Signs do not include traffic control signals, pavement markings, delineators, or channelization devices.

(15)~~(10)~~ "Supplemental Guide Sign" means a sign placed or erected to provide information regarding destinations accessible from an interchange, other than places shown on the standard interchange signing. The standard guide signs are called "exit direction" signs. These signs usually contain information about the route number, nearest cities, and sometimes the local street name. The purpose of a supplemental guide sign is to provide direction to destinations for motorists unfamiliar with the local area.

(16)~~(11)~~ "Tourist Attraction" means facilities that principally provide recreation, amusement, or leisure activities to the general public, with the majority of its visitors not residing in the immediate area of the attraction, and traveling over 100 miles to enjoy what the facility offers. Tourist attractions are publicly or privately owned, but derive the major portion of their income from these non-resident visitors.

(17)~~(12)~~ "Trailblazers" means signs erected at strategic locations, usually along major urban arterials in conjunction with the signing of a major destination, tourist attraction, or general service facility on a limited access facility.

(18)~~(13)~~ "Unincorporated Area" means as defined in Section 153.53(1), Florida Statutes.

(19) "Wayfinding Sign" means a directional sign that guides the traveling public to key civic, cultural, visitor, and recreational destinations within a specific region.

(20) "Wayfinding Sign System Plan" means the location area, design, engineering, and sign plan submitted to the Department for approval.

Specific Authority 316.0745 FS. Law Implemented 316.0745 FS. History–New 3-27-05, Amended _____.

PART V WAYFINDING SIGNS

14-51.051 Standards.

(1) This section will provide statewide criteria for Wayfinding Signs to be installed on the State Highway System.

(2) All regulatory, warning, and general service signs shall conform to the MUTCD.

(3) On the State Highway System, destinations shown on Wayfinding Signs shall meet the criteria established in Rule 14-51.030, F.A.C.

(4) Communities eligible for Wayfinding Signs shall be on the Official Florida Transportation Map. Wayfinding Signs for either an incorporated or unincorporated area not appearing on the Official Florida Transportation Map are eligible upon written request of the local government. Such requests shall follow the process outlined in subsection 14-51.041(2), F.A.C.

(5) Wayfinding Signs installed on the State Highway System prior to October 14, 2005, shall be allowed to remain until January 1, 2012. As of that date, all existing Wayfinding Signs that are on the State Highway System, and which are not in compliance with this rule chapter, must be removed or be brought into compliance.

(6) Wayfinding Signs are not allowed within the right of way of limited access facilities, including ramps and frontage roads. Directional signing at limited access facilities ramps and frontage roads should be directed to the appropriate District Traffic Operations Engineer.

(7) Wayfinding Signs shall be designed, installed, and maintained in accordance with the standards referenced in subsection 14-51.014(8), F.A.C.

(8) The planning, design, installation, and maintenance of all Wayfinding Signs and their assemblies is the responsibility of the local government, including on the State Highway System.

Specific Authority 316.0745 FS. Law Implemented 316.0745 FS. History–New _____.

14-51.052 Design.

(1) Red, yellow, orange, fluorescent yellow-green, or flourescent pink shall not be used as background colors for Wayfinding Signs, in order to minimize confusion with regulatory, warning, construction, or incident management signs.

(2) Background colors, other than those stated in subsection 14-51.052(1), F.A.C., shall be allowed on Wayfinding Signs.

(3) A minimum contrast value of legend color to background color of 70 percent is required for Wayfinding Signs (ADA minimum contrast value).

(4) Enhancement markers shall be allowed as a means of aesthetically identifying the Wayfinding Signs. The size and shape of an enhancement marker shall be smaller than the Wayfinding Signs in order to avoid confusion with traffic control devices.

(5) A pictograph be incorporated into the overall design of a Wayfinding Sign.

(6) There shall be a maximum of three destinations shown on each Wayfinding Sign.

(7) All lettering used on Wayfinding Signs on the State Highway System must be highway gothic fonts or other FHWA approved fonts. If the local government proposes the use of other than approved fonts, the local government shall provide published research that defines the legibility of the non-standard highway fonts relative to the Standard Highway Signs Alphabet. This shall be done when the local government submits its Wayfinding Sign System Plan to the Department for review.

(8) The minimum lettering size on Wayfinding Signs shall be in accordance with Section 2D.06 of the MUTCD.

(9) Arrows shown on Wayfinding Signs shall be designed in accordance with Section 2D.08 of the MUTCD. The positioning of arrows relative to the destinations shown shall be in accordance with Section 2D.34 of the MUTCD.

(10) Wayfinding Signs and their supporting structures shall be designed, constructed, and installed to meet the Department's clear zone and safety criteria, including breakaway features. The design shall be signed and sealed by a Professional Engineer registered in the State of Florida.

(11) Sign panels shall be reflective and in accordance with Section 994 (Retroreflective and Nonreflective Sign Sheeting) of the *Standard Specifications for Road and Bridge Construction 2004*, referenced in subsection 14-51.014(8), F.A.C.

Specific Authority 316.0745 FS. Law Implemented 316.0745 FS. History–New _____.

14-51.053 Installation.

(1) The local government shall submit two Wayfinding Sign System Plans. One Plan shall be submitted to the appropriate District Traffic Operations Office and the other to the State Traffic Engineering and Operations Office in Tallahassee.

(2) The local government shall also submit to the State Traffic Engineering and Operations Office a Wayfinding Sign System Plan for the State Highway System only.

(3) The Wayfinding Sign System Plan shall be reviewed by the State Traffic Engineering and Operations Office for compliance with this rule chapter. Upon compliance, a letter of compliance signed by the State Traffic Operations Engineer will be sent to the local government. The local government will be notified of changes to be made to the Wayfinding Sign System Plan in order to meet the criteria of this rule chapter.

(4) The State Traffic Engineering and Operations Office shall prepare and submit an FHWA Request to Experiment for those Wayfinding Signs on the State Highway System.

(5) It is the responsibility of the State Traffic Engineering and Operations Office to send the local government an example of a Request to Experiment submittal package that can be used to prepare a Request to Experiment to the FHWA for Wayfinding Signs on a local road system.

(6) It is the responsibility of the local government to submit the Request to Experiment for the Wayfinding Signs on the local road system, along with the letter of compliance received from the State Traffic Engineering and Operations Office, to the FHWA for approval.

(7) Once the FHWA has approved the Request to Experiment for the local road system, the local government shall send a copy of the approval letter from the FHWA to the State Traffic Engineering and Operations Office.

(8) Upon receipt, the State Traffic Engineering and Operations Office shall issue Wayfinding Sign System Plan approval letter in order for the local government to begin the Department's permit process.

Specific Authority 316.0745 FS. Law Implemented 316.0745 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Gail Holley, State Traffic Engineering and Operations Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Denver J. Stutler, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 10, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 15, 2005

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Payment Methodology for Nursing Home Services 59G-6.010

PURPOSE AND EFFECT: The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Long-Term Care Reimbursement Plan (the Plan) payment methodology, effective July 1, 2005, for compliance with the 2005-06 General Appropriations Act, Senate Bill 2600, Specific Appropriation 219, and House Bill 1267, Section 2, 633.022 F.S.

1. Effective July 1, 2005, the Agency will modify the reimbursement methodology for nursing home rates in the Title XIX Long-Term Care Reimbursement Plan in order to implement a recurring methodology that may include, but is not limited to, the inflation factor, provider target, class ceiling, target rate class ceiling, new provider target, Medicaid Adjustment Rate, or any component of the Fair Rental Value System or property ceiling to result in a reduction in the reimbursement methodology for all components other than the direct patient care component. For the direct care component, the agency may reduce the class ceilings to help achieve the reduction. The recurring methodology will remove $132,096,857 from inflationary and other price level increases.
2. Effective July 1, 2005, in accordance with House Bill 1267, Section 2, and 633.022 F.S.:

   4.(a) Notwithstanding any provision of law to the contrary, each nursing home licensed under part II of chapter 400 shall be protected by an approved, supervised automatic sprinkler system in accordance with section 9 of the National Fire Protection Association, Inc., Life Safety Code, in accordance with the following schedule: Each hazardous area of each nursing home shall be protected by an approved, supervised automatic sprinkler system by no later than December 31, 2008. Each entire nursing home shall be protected by an approved, supervised automatic sprinkler system by no later than December 31, 2010.

   (b) The division may grant up to two 1-year extensions of the time limits for compliance in subparagraph (a)2. if the division determines that the nursing home has been prevented from complying for reasons beyond its control.

   (c) The division is authorized to adopt any rule necessary for the implementation and enforcement of this subsection. The division shall enforce this subsection in accordance with the provisions of this chapter, and any nursing home licensed under part II of chapter 400 that is in violation of this subsection may be subject to administrative sanctions by the division pursuant to this chapter.

   (d) Adjustments shall be made to the provider Medicaid rate to allow reimbursement over a 5-year period for Medicaid's portion of the costs incurred to meet the requirements of this subsection. Funding for this adjustment shall come from existing nursing home appropriations.

SUMMARY: The proposed change to Rule 59G-6.010, F.A.C., incorporates revisions to the Florida Title XIX Long-Term Care Reimbursement Plan. The rule modifies nursing home reimbursement rates and establishes reimbursement for automatic sprinkler systems.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., November 16, 2005

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2120B, Mail Stop 21, Tallahassee, Florida 32308, (850)414-2756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.010 Payment Methodology for Nursing Home Services.

Reimbursement to participating nursing homes for services provided shall be in accord with the Florida Title XIX Long-Term Care Reimbursement Plan, Version XXVIII ~~XXVII~~ Effective Date _____ ~~October 12, 2004~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Deputy Secretary for Medicaid, 2727 Mahan Drive, Mail Stop 8, Tallahassee, Florida 32308. The plan incorporates Provider Reimbursement Manual (CMS Pub. 15-1).

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History–New 7-1-85, Amended 10-1-85, Formerly 10C-7.482, Amended 7-1-86, 1-1-88, 3-26-90, 9-30-90, 12-17-90, 9-15-91, 3-26-92, 10-22-92, 4-13-93, 6-27-93, Formerly 10C-7.0482, Amended 4-10-94, 9-22-94, 5-22-95, 11-27-95, 11-6-97, 2-14-99, 10-18-99 01-11-00, 4-24-00, 9-20-00, 11-20-01, 2-20-02, 7-14-02, 1-08-03, 6-11-03, 12-3-03, 2-16-04, 7-21-04, 10-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Robert Butler

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.

Payment Methodology for Inpatient Hospital Services 59G-6.020

PURPOSE AND EFFECT: The purpose of the proposed rule is to incorporate changes to the Florida Title XIX Inpatient Hospital Reimbursement Plan (the Plan) payment methodology, effective July 1, 2005, to provide the following changes in compliance with the 2005-06 General Appropriations Act, Senate Bill 2600, Specific Appropriations 184, 190, 191, 221, 222 and Senate Bill 838, Section 4.

1. Effective July 1, 2005, Special Medicaid Payments will be made on a quarterly basis to statutory teaching hospitals, family practice teaching hospitals, hospitals providing primary care to low-income individuals, hospitals operating as designated or provisional trauma centers, and rural hospitals. Statutory teaching hospitals that received a special Medicaid payment in State Fiscal Year 2003-04 shall be paid interim payments of $12,203,921 distributed in the same proportion as the State Fiscal Year 2003-04 special Medicaid payments to statutory teaching hospitals. Family practice teaching hospitals shall be paid interim payments of $2,330,882 to be distributed equally among the hospitals. Hospitals providing primary care to low-income individuals and participating in the Primary Care DSH program in state Fiscal Year 2003-04 shall be paid interim payments of $12,203,921 distributed in the same proportion as the Primary Care DSH payments for State Fiscal Year 2003-04. Hospitals designated as provisional trauma centers shall be paid interim payments of $12,375,000. Of this amount $5,355,000 shall be distributed equally among hospitals that are a Level I trauma center; $4,500,000 shall be distributed equally among hospitals that are either a Level II or Pediatric trauma center; $2,520,000 shall be distributed equally among the hospitals that are both a Level II and Pediatric trauma center. Rural hospitals participating in the Rural Hospital DSH program shall be paid interim payments of $8,383,500 distributed in the same proportion as the DSH payments.
2. Effective July 1, 2005, Special Medicaid Payments will be made on a quarterly basis to hospitals that serve as a safety net in providing emergency, specialized pediatric trauma services and inpatient care to low-income individuals. Interim payments will be made in the following manner: $46,121,019 shall be paid to University Medical Center – Shands; $18,914,451 shall be paid to Tampa General Hospital; $9,072,075 shall be paid to Mt. Sinai Medical Center; $6,637,413 shall be paid to All Children's Hospital; $5,400,229 shall be paid to Miami Children's Hospital; $5,560,262 shall be paid to Orlando Regional Medical Center; $7,703,253 shall be paid to Shands Teaching Hospital; $3,322,365 shall be paid to Jackson Memorial Hospital; $1,200,000 shall be paid to Lee Memorial Hospital/CMS; $450,000 shall be paid to Baptist Hospital of Pensacola; $55,072 shall be paid to Florida Hospital; $54,402 shall be paid to Tallahassee Memorial Hospital; $52,835 shall be paid to St. Joseph's Hospital; $291,706 shall be paid to St. Mary's Hospital; $330,366 shall be paid to Broward General Medical Center; $215,975 shall be paid to Bayfront Medical Center and $466,977 shall be paid to Sacred Heart Hospital; $250,000 shall be paid to Naples Community Hospital.

3. Effective July 1, 2005, Special Medicaid Payments will be made on a quarterly basis to hospitals providing poison control programs. Total payments of $3,183,014 will be made to qualifying hospitals. AHCA shall work in collaboration with the Florida Department of Health to determine which hospitals will receive these payments.
4. Effective July 1, 2005, interim Special Medicaid Payments up to $7,297,495 will be made on a quarterly basis to hospitals to enhance primary care services to underserved areas of the state. AHCA shall work in collaboration with the Florida Department of Health to determine which hospitals will receive these payments.
5. Effective July 1, 2005, Special Medicaid Payments in the interim amount of $517,513,720 will be made on a quarterly basis to hospitals providing enhanced services to low-income individuals through agreements with local county or other governmental entities. The amount of the Special Medicaid Payment to each hospital is proportional to the amount of the intergovernmental transfer received from the local county or governmental entity.
6. Effective July 1, 2005, Special Medicaid Payments in the interim amount of $2,000,000 will be made on a quarterly basis to specialty pediatric facilities. The hospital must be licensed as a children's specialty hospital and its combined Medicaid managed care and fee-for-service days as a percentage to total inpatient days equals or exceeds thirty 30 percent. The Agency shall use the 2003 Financial Hospital Uniform Reporting System (FHURS) data to determine the combined Medicaid managed care and fee-for-service days. The total special Medicaid payments made shall be distributed equally to the qualifying hospitals.
7. Effective July 1, 2005, inpatient reimbursement ceilings will be eliminated for hospitals whose sum of charity care and Medicaid days, as a percentage of adjusted patient days, equals or exceeds 11 percent. The Agency will use the average of the 1999, 2000 and 2001 audited DSH data available as of March 1, 2005. In the event the Agency does not have the prescribed three years of audited DSH data for a hospital, the Agency will use the average of the audited DSH data for 1999, 2000 and 2001 that are available. Effective July 1, 2005 through June 30, 2006 these hospitals will receive an interim amount equal to 50 percent of the benefit of being exempt from the application of these ceilings, except any public hospital that meets the 11 percent threshold using the average of the 1999, 2000 and 2001 audited DSH data will receive an interim amount equal to 92 percent of the benefit of being exempt from the application of these ceilings. If the prescribed three years of audited DSH data is not available for the public hospital, the Agency shall use the average of the 1999, 2000, and 2001 audited DSH data that is available for the public hospital. Any hospital that met the 11 percent threshold in the State Fiscal Year 2004-2005 and was also exempt from the inpatient reimbursement ceilings shall remain exempt from the inpatient reimbursement ceilings for State Fiscal Year 2005-2006 subject to the payment limitations imposed in this paragraph.
8. Effective July 1, 2005, the inpatient reimbursement ceilings for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2 shall be eliminated. Effective July 1, 2005 through June 30, 2006 these hospitals will receive an interim amount equal to 50 percent of the benefit of being excluded from the application of an inpatient ceiling.
9. Effective July 1, 2005, the inpatient hospital reimbursement ceilings for hospitals whose Medicaid days as a percentage of total hospital days exceed 7.3 percent, and are designated or provisional trauma centers shall be eliminated. This provision shall apply to all hospitals that are a designated or provisional trauma center on July 1, 2005 and any hospitals that become a designated or provisional trauma center during State Fiscal Year 2005-2006. Effective July 1, 2005 through June 30, 2006 these hospitals will receive an interim amount equal to 92 percent of the benefit of being exempt from the application of these ceilings. The agency shall use the average of the 1999, 2000 and 2001 audited DSH data available as of March 1, 2005. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1999, 2000 and 2001 that are available.
10. Effective July 1, 2005, inpatient reimbursement ceilings shall be eliminated for teaching, specialty, Community Hospital Education Program hospitals and Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation. Effective July 1, 2005 through June 30, 2006 these hospitals will receive an interim amount equal to 92 percent of the benefit of being excluded from the application of an inpatient ceiling.
11. Interim payments regarding the elimination of reimbursement ceilings shall be increased up to 100% of the benefit of being exempt from the application of these ceilings should the hospital inpatient upper payment limit change to support such an increase. The hospitals qualifying for the restoration of their rates are the hospitals that qualified as teaching, Community Health Education program Hospitals, specialty, Level III Neonatal Intensive Care Units that have a minimum of three of the following designated tertiary services as regulated under the certificate of need program: pediatric bone marrow

transplantation, pediatric open heart surgery, pediatric cardiac catheterization and pediatric heart transplantation, trauma centers where their Medicaid days as a percentage to total hospital days equals or exceeds 7.3 percent, hospitals whose Medicaid and charity care days as a percentage to total adjusted hospital days equals or exceeds 11 percent and hospitals with a minimum of ten licensed level II Neonatal Intensive Care Units located in Trauma Services Area 2. The restoration of the inpatient rates is contingent on new cost report data providing for an increase in the amount of public hospital upper payment limit for State Fiscal Year 2005-2006. Any allowable growth in the public hospital upper payment limit balance will first be used to restore the loss in inpatient rates experienced by Jackson Memorial Hospital. Upon the loss by Jackson Memorial Hospital being restored any remaining growth in the public upper payment limit balance will be applied to the remaining hospitals in the same proportion as their rate reduction.

12. Effective July 1, 2005, the agency shall implement a recurring methodology in the Title XIX Inpatient Hospital Reimbursement Plan that may include, but is not limited to, the inflation factor, variable cost target, county rate ceiling, county ceiling target rate or rate for fixed costs to achieve a recurring reduction of $100,537,618 from inflationary and other price level increases.
13. For funds appropriated for public disproportionate share payments for state fiscal years beginning July 1, 2004 and later, the TAAPH (total amount available for public hospitals) shall be reduced by $6,365,257 before computing the DSHP (disproportionate share hospital payment) for each public hospital. The $6,365,257 shall be distributed equally between the public hospitals that are also designated statutory teaching hospitals. In computing the above amounts for public hospitals and hospitals that qualify under Section VI.A.2 of the Title XIX Inpatient Hospital Reimbursement Plan, the average of the 1998, 1999, and 2000 audited disproportionate share data will be used to determine each hospital's Medicaid days and charity care for the 2004-2005 state fiscal year and the average of the 1999, 2000, and 2001 audited disproportionate share data to determine the Medicaid days and charity care for the 2005-2006 state fiscal year. If the Agency does not have the prescribed 3 years of audited disproportionate share data as noted above for a hospital, the agency shall use the average of the years of the audited disproportionate share data as noted in the paragraph above that is available.
14. Effective July 1, 2005, for the 2005-2006 state fiscal year only, the DSHP (disproportionate share hospital payment) for the public non-state hospitals shall be computed using a weighted average of the disproportionate share payments for the 2004-2005 state fiscal year which uses an average of the 1998, 1999, and 2000 audited disproportionate share data and the disproportionate share payments for the 2005-2006 state fiscal year as computed using the formula above and using the average of the 1999, 2000, and 2001 audited disproportionate share data. The final DSHP (disproportionate share hospital payment) for the public non-state hospitals shall be computed as an average using the calculated payments for the 2005-2006 state fiscal year weighted at 65 percent and the disproportionate share payments for the 2004-2005 state fiscal year weighted at 35 percent.
15. The 2005-06 Disproportionate Share appropriations are as follows:

Regular DSH	$200,666,508
Mental Health	$60,998,692
Rural	$12,743,294
Specialty	$2,444,444

16. The definition of charity care or uncompensated charity care has been updated to include "other than restricted or unrestricted revenues provided to a hospital by local governments or tax districts regardless of the method of payment" to be in accordance with Section 409.911, F.S.
17. In accordance with Section 409.9062 F.S., lung transplant services for Medicaid recipients, Medicaid will reimburse approved lung transplant facilities a global fee for providing lung transplant services to Medicaid recipients.

SUMMARY: The proposed rule change to Rule 59G-6.020, F.A.C., incorporates revisions to the Florida Title XIX Inpatient Hospital Reimbursement Plan. The rule seeks to amend the Title XIX Inpatient Hospital Reimbursement Plan to be in compliance with the 2005-06 General Appropriations Act.

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 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: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 10:00 a.m., November 15, 2005

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robert Butler, Medicaid Program Analysis, 2727 Mahan Drive, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.020 Payment Methodology for Inpatient Hospital Services.

Reimbursement to participating inpatient hospitals for services provided shall be in accord with the Florida Title XIX Inpatient Hospital Reimbursement Plan, Version XIX ~~XXVIII~~, Effective Date _____ ~~October 12, 2004,~~ and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908, 409.9117 FS. History–New 10-31-85, Formerly 10C-7.391, Amended 10-1-86, 1-10-89, 11-19-89, 3-26-90, 8-14-90, 9-30-90, 9-16-91, 4-6-92, 11-30-92, 6-30-93, Formerly 10C-7.0391, Amended 4-10-94, 8-15-94, 1-11-95, 5-13-96, 7-1-96, 12-2-96, 11-30-97, 9-16-98, 11-10-99, 9-20-00, 3-31-02, 1-8-03, 7-3-03, 2-1-04, 2-16-04, 2-17-04, 8-10-04, 10-12-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Robert Butler

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2005

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE TITLE: RULE NO.:

Payment Methodology for Outpatient Hospital Services 59G-6.030

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to incorporate changes to the Florida Title XIX Outpatient Hospital Reimbursement plan (the Plan) payment methodology, effective July 1, 2005, to provide the following changes in compliance with the 2005-06 General Appropriations Act, Senate Bill 2600, Specific Appropriation 194:

1. Effective July 1, 2005 outpatient reimbursement ceilings shall be eliminated for hospitals whose charity care and Medicaid days as a percentage of total adjusted hospital days equals or exceeds 11 percent. Effective July 1, 2005 through June 30, 2006, these hospitals that qualify under this provision will receive an interim amount equal to 50 percent of the benefit of being exempt from the application of these ceilings, except any public hospital that meets the 11 percent threshold using an average of the 1999, 2000 and 2001 audited DSH data that is available shall not receive a reduction in the amount of their payments as a result of eliminating the outpatient reimbursement ceilings. The agency shall use the average of the 1999, 2000 and 2001 audited DSH data available as of March 1, 2005. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1999, 2000 and 2001 that are available. Any hospital that met the 11 percent threshold in State Fiscal Year 2004-2005 and was also exempt from the outpatient reimbursement ceilings shall remain exempt from the outpatient reimbursement ceilings for State Fiscal Year 2005-2006, subject to the payment limitations imposed in this paragraph.
2. Effective July 1, 2005 outpatient reimbursement ceilings shall be eliminated for hospitals that have a minimum of ten licensed Level II Neonatal Intensive Care Beds and are located in Trauma Services Area 2. Effective July 1, 2005 through June 30, 2006, these hospitals will receive an interim amount equal to 50 percent of the benefit of being excluded from the application of an inpatient ceiling.
3. Effective July 1, 2005, the outpatient reimbursement ceilings shall be eliminated for hospitals whose Medicaid days, as a percentage of total hospital days, exceed 7.3 percent, and are designated or provisional trauma centers. This provision shall apply to all hospitals that are designated or provisional trauma centers on July 1, 2005 or become a designated or provisional trauma center during State Fiscal Year 2005-2006. The agency shall use the average of the 1999, 2000 and 2001 audited DSH data available as of March 1, 2005. In the event the agency does not have the prescribed three years of audited DSH data for a hospital, the agency will use the average of the audited DSH data for 1999, 2000 and 2001 that are available.
4. Interim payments regarding the elimination of reimbursement ceilings shall be increased up to 100% of the benefit of being exempt from the application of these ceilings should the hospital inpatient upper payment limit change to support such an increase. The hospitals qualifying for the restoration of their rates are the hospitals that qualified as hospitals whose Medicaid and charity care days as a percentage to total adjusted hospital days equals or exceeds 11 percent and hospitals with a minimum of ten licensed level II Neonatal Intensive Care Units located in Trauma Services Area 2. The restoration of the inpatient rates is contingent on new cost report data providing for an increase in the amount of public hospital upper payment limit for State Fiscal Year 2005-2006. Any allowable growth in the public hospital upper payment limit balance will first be used to restore the loss in inpatient rates experienced by Jackson Memorial Hospital. Upon the loss by Jackson Memorial Hospital being

restored any remaining growth in the public upper payment limit balance will be applied to the remaining hospitals in the same proportion as their rate reduction.

5. Effective July 1, 2005 the Agency shall implement a recurring methodology in the Title XIX Outpatient Hospital Reimbursement Plan that may include, but is not limited to, the inflation factor, variable cost target, county rate ceiling or county ceiling target rate to achieve a recurring reduction of $16,796,807 from inflationary and other price level increases.
6. Updates to the outpatient hospital revenue center codes.

SUMMARY: The proposed rule change to Rule 59G-6.030, F.A.C., incorporates revisions to the Florida Title XIX Outpatient Hospital Reimbursement Plan. The rule change is in accordance with the 2005-06 General Appropriations Act for outpatient hospital reimbursement rates and ceilings. The outpatient revenue center codes are also updated for accuracy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared.

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.908 FS.

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

TIME AND DATE: 11:00 a.m., November 15, 2005

PLACE: 2727 Fort Knox Boulevard, Building 3, Conference Room E, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Edwin Stephens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Room 2149A, Mail Stop 21, Tallahassee, Florida 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.030 Payment Methodology for Outpatient Hospital Services.

Reimbursement to participating outpatient hospitals for services provided shall be in accordance with the Florida Title XIX Outpatient Hospital Reimbursement Plan, Version XIV ~~XIII~~ Effective date: _____ ~~July 4, 2005~~, and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, Florida 32308.

Specific Authority 409.919 FS. Law Implemented 409.908 FS. History–New 10-31-85, Amended 12-31-85, Formerly 10C-7.401, Amended 10-1-86, 3-26-90, 9-30-90, 10-13-91, 7-1-93, Formerly 10C-7.0401, Amended 4-10-94, 9-18-96, 9-6-99, 9-20-00, 12-6-01, 11-10-02, 2-16-04, 10-12-04, 7-4-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mr. Robert Butler

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mr. Robert Butler

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 12, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 8, 2005

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE TITLE: RULE NO.:

Application Fee for Licensure Through Examination or Endorsement and Reexamination Fees 61G3-20.002

PURPOSE AND EFFECT: The Board proposes to amend the rule to change the examination and the reexamination fee allocation for the restricted barbers written portion of the examination.

SUMMARY: The fee for the written portion of the restricted barbers' examination and reexamination will be reapportioned.

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: 455.2171, 476.064(4), 476.192 FS.

LAW IMPLEMENTED: 455.2171, 476.192 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Barbers' Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

THE FULL TEXT OF THE PROPOSED RULE IS:

61G3-20.002 Application Fee for Licensure Through Examination or Endorsement and Reexamination Fees.

(1) No change.

(2) The application fee for licensure by means of examination and reexamination for restricted barbers shall be as follows:

Method of Licensure: Application fee:

(a) Examination and Reexamination.

1. Practical Portion	The application fee for both the examination and reexamination for the practical portion shall be seventy-five dollars ($75.00). All fees shall be payable to the Department.
2. Written Portion	The application fee for both the examination and reexamination for the written portion shall be seventy-five dollars ($75.00). Seventy dollars and fifty cents ($70.50) ~~Sixty-one dollars and fifty cents ($61.50)~~ of both the examination and the reexamination application fee for the written portion of the examination shall be paid to the Department and four dollars and fifty-cents ($4.50) ~~thirteen dollars and fifty cents ($13.50)~~ shall be paid to the professional testing service.

(3) No change.

Specific Authority 455.2171, 476.064(4), 476.192 FS. Law Implemented 455.2171, 476.192 FS. History–New 7-16-80, Amended 6-30-83, 10-17-85, Formerly 21C-20.02, Amended 12-15-87, 5-11-88, Formerly 21C-20.002, Amended 9-21-94, 11-6-00, 2-19-04, 8-8-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Barbers' Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Barbers' Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 26, 2005

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: RULE NO.:

Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances 64B10-14.004

PURPOSE AND EFFECT: The Board proposes to amend Rule 64B10-14.004, F.A.C., to incorporate the changes to Section 456.072(1)(gg), F.S. A new ground for disciplinary action is being terminated from a treatment program for impaired practitioners, for failure to comply, without good cause, with the terms of the monitoring of treatment program, or for not successfully completing a drug or alcohol treatment program.

SUMMARY: The purpose of the Rule amendment is to incorporate the change to Section 456.072(1)(gg), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Costs 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: 456.072(1)(gg), 456.073(3), 468.1685(1) FS.

LAW IMPLEMENTED: 456.072(1)(gg), 456.073(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA,4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-14.004 Disciplinary Guidelines; Range of Penalties; Aggravating and Mitigating Circumstances.

(1) No change.

(2) The following disciplinary guidelines shall be followed by the Board in imposing disciplinary penalties upon licensees for violation of the below mentioned statutes and rules:

	Minimum	Maximum
(a) through (oo) No change.		
(pp) Being terminated from a treatment program for impaired practitioners, which is overseen by an impaired practitioner consultant as described in Section 456.076, F.S., for failure to comply, without good cause, with the terms of the monitoring or treatment contract entered into by the licensee, or for not successfully completing any drug-treatment or alcohol-treatment program.		
First Offense:	Reprimand	Probation and $500 fine
Second Offense:	Probation and $1,000 fine	Revocation and $1,000 fine.

(3) through (4) No change.

Specific Authority 456.079, 468.1685(1) FS. Law Implented 456.072, 456.079, 468.1685(4),(5),(6), 468.1755(1)(a),(j),(q) FS. History–New 11-23-86, Amended 4-22-87, Formerly 21Z-14.004, 61G12-14.004, 59T-14.004, Amended 10-12-97, 10-16-00, 2-13-01, 2-10-03, 5-1-03, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: RULE NO.:
Change of Status of Preceptor 64B10-16.0021

PURPOSE AND EFFECT: The Board proposes to adopt this new rule to provide that if a preceptor allows his or her license to become inactive or delinquent, the preceptor must complete the six hour training provided by Rule 64B10-16.0025, F.A.C. The preceptor must also pay the fees required by Rule 64B10-12.012, F.A.C., prior to reinstatement.

SUMMARY: This new rule provides that a preceptor who allows his or her license to become inactive or delinquent must complete (again) the six hour training seminar for reinstatement. Also, the fees required by Rule 64B10-12.012, F.A.C., must be paid prior to reinstatement.

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

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

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2),(3),(4) FS.

LAW IMPLEMENTED: 468.1695(2),(3),(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.0021 Change of Status of Preceptor.

(1) If a preceptor's license becomes inactive or reverts to a delinquent status, the preceptor must complete the six-hour preceptor training seminar set forth in Rule 64B10-16.0025, F.A.C., prior to reinstatement as a preceptor.

(2) The preceptor shall pay all fees required by Rule 64B10-12.012, F.A.C.

Specific Authority 468.1685(1), 468.1695(2),(3),(4) FS. Law Implemented 468.1695(2),(3),(4) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2005
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: RULE NO.:
Domains of Practice, Objectives, Reports 64B10-16.005

PURPOSE AND EFFECT: The Board proposes to amend this Rule to provide that the A.I.T. Program (Administrative-in-Training) shall cover certain listed domains of practice and delete the language "as established by the NAB." The Board proposes to delete references to "trainee" and replace this word with "administrator in training." The proposed rule also modifies the reporting requirements under the A.I.T. program.

SUMMARY: The contents of the A.I.T. program are no longer dependent on domains of practice established by the national board. A person enrolled in the program will be called an administrator in training instead of a "trainee." The reporting period has been changed from quarterly to every 90 days.

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

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

SPECIFIC AUTHORITY: 468.1685(1), 468.1695(2),(3),(4) FS.

LAW IMPLEMENTED: 468.1695(2),(3),(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Baker, Executive Director, Board of Nursing Home Administrators/MQA,4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.005 Domains of Practice, Objectives, Reports.

The Administrator-in-Training Program shall cover the following ~~six~~ domains of practice: ~~as established by the National Association of Boards of Long Term Care Administrators (NAB) of Examiners for Nursing Home Administrators, Inc. (NAB).~~

(1) PERSONNEL. Topics in this area should include recruitment, interviewing, employee selection, training, personnel policies, health and safety. Objectives of training are:

(a) To understand the need and procedures used in training personnel, including interviewing for vacant positions;

(b) To become familiar with proper human relations regarding management, employees, patients and families;

(c) To understand the organizational structure of the facility, the functions of each department, and the personnel relations within the facility.

(2) FINANCE. Topics in this area should include accounting, budgeting, financial planning and asset management. Objectives of training are:

(a) To understand accounting procedures, chart of accounts, profit and loss statements, balance sheets, cost reports, accounts receivable, and policies relative to accounts payable and collection of accounts receivable;

(b) To understand the preparation of budgets;

(c) To be familiar with cash flow preparations and needs;

(d) To be familiar with third party payment organizations.

(3) MARKETING. Topics in this area should include public relations activities and marketing programs. Objectives of training are:

(a) To present to the public the essential medical relations and benefits of the facility to the welfare of the local community, the local health agencies, and other organizations such as church groups, social clubs, and service organizations;

(b) To know and be able to utilize community volunteer agencies' resources in the care of residents;

(c) To be able to relate to a variety of community resources, such as churches, professional organizations and institutional structures that affect the facility.

(4) PHYSICAL RESOURCE MANAGEMENT. Topics in this area should include safety procedures, fire and disaster plans, and building and environment maintenance. Objectives of training are:

(a) To develop an effective supply appreciation and supervisory knowledge and ability to keep all medical equipment and appliances necessary, available, and in good working order;

(b) To have full knowledge of sanitation, communicable disease control, prevention of accidents and complete physical security for staff and patients, coordinating this information by application to safety codes and fire prevention;

(c) To understand routine maintenance needs and procedures for buildings, surrounding grounds, vehicles and other equipment.

(5) LAWS, REGULATORY CODES AND GOVERNING BOARDS. Topics in this area should include federal, state and local rules and regulations. Objectives of training are:

(a) To learn how to apply the state's codes, rules, regulations, and laws relating to long-term care facilities;

(b) To integrate current federal regulations pertaining to health care facilities with current state requirements;

(c) To become familiar with requirements of medicare and medicaid, and to learn to cope with their problems;

(d) To understand the basic insurance coverages;

(e) To have a sense of the legal implications of various activities, procedures or decisions routinely taken or performed in the facility.

(6) RESIDENT CARE. Topics in this area should include nursing, food, social and recreational services, pharmacy, rehabilitation, physician services and medical records. Objectives of training are:

(a) To understand the roles of the medical director, the attending physicians, the director of nursing, the charge nurse, the physical therapist, occupational therapist, speech therapist, dietitians, pharmacist, licensed practical nurses and aides who provide the continuing essential medical care and rehabilitation of the patients in the facility;

(b) To enable the trainee to develop an ability to understand the various components of personal, social, therapeutic and supportive care programs and their application in the total care program of the resident;

(c) To develop the ability to function as a planner of the social, therapeutic, and supportive care program;

(d) To study the emotional problems of aging in the lives of patients within the facility and to determine the role of the administrator in alleviating such characteristic feelings as loss, abandonment, dependency, depression, anxiety, or disengagement;

(e) To determine the role of the administrator in relating to the patient, and the family, who is faced with death;

(f) To determine the relationship between changes in a patient's behavior and changes in his or her environmental, intrapsychic, and/or physical state.

(7) In order to afford flexibility, and to account for a particular trainee's strengths or weaknesses in any particular area, the following minimum percentages in every area are established.

(a) PERSONNEL. A minimum of 15% of the program shall ~~should~~ be devoted to this area.

(b) FINANCE. A minimum of 15% of the program shall ~~should~~ be devoted to this area.

(c) MARKETING. A minimum of 5% of the program shall ~~should~~ be devoted to this area.

(d) PHYSICAL RESOURCE MANAGEMENT. A minimum of 10% of the program shall ~~should~~ be devoted to this area.

(e) LAWS, REGULATORY CODES AND GOVERNING BOARDS. A minimum of 10% of the program shall ~~should~~ be devoted to this area.

(f) RESIDENT CARE. A minimum of 20% of the program shall ~~should~~ be devoted to this area.

(8) A training plan for the program shall be prepared by the preceptor and the administrator in training ~~trainee~~, prior to the start of the program. This training plan shall include:

(a) A pre-training assessment of the administrator in training ~~trainee's~~ background in terms of educational level, pertinent experience, maturity, motivation and initiative. The pre-training assessment should underscore the particular administrator in training ~~trainee~~'s strengths and weaknesses in the areas to be covered in the program (e.g. a person with a degree in business administration will have strengths in the finance area; a person with a personnel or management background will have strengths in those areas, etc.).

(b) Based on this assessment, the administrator in training ~~trainee~~ and the preceptor will jointly develop a detailed goal oriented training plan with adequate supporting documentation which relates educational objectives, subject areas of the internship, internship site(s), agencies involved, total hours for the internship, and a breakdown of the number of hours needed to master each area and its objectives.

(c) Supporting documentation for the training plan shall include, but is not limited to, qualifications of the preceptor, the director of nursing in the program site, and such descriptive documentation for the program site and its staff to determine its adequacy for the specific objectives and areas of the program.

(d) The preceptor and administrator in training ~~trainee~~ must file ~~four quarterly~~ reports with the Board every 90 days. Each report shall be co-signed by the preceptor within two ~~one~~ weeks after the completion of each reporting period ~~25% segment~~ of the program. The quarterly reports shall ~~should~~ contain a synopsis of the areas covered in the program and any relevant learning experiences. The reports shall ~~should~~ show how the administrator in training ~~trainee~~ used the following methods to further his or her training:

1. On-the-job experience;
2. Meetings attended;
3. Surveys completed;
4. Written reports;
5. Texts or periodicals;
6. Visits to other facilities;
7. Academic programs, college or continuing education seminars.

(9) Nothing in this rule is intended to preclude any preceptor from requiring any additional areas in the program, objectives, or reports.

Specific Authority 468.1685(1), 468.1695(3),(4) FS. Law Implemented 468.1695(3),(4) FS. History–New 12-18-88, Formerly 21Z-16.005, 61G12-16.005, 59T-16.005, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 25, 2005

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE TITLE: RULE NO.:

Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees 64B17-2.005

PURPOSE AND EFFECT: The Board proposes the rule amendment to address the retired license status and to update the rule.

SUMMARY: The proposed rule amendment adds a retired license status and retired license status fee of $50.

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

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

SPECIFIC AUTHORITY: 486.025, 486.085 FS.

LAW IMPLEMENTED: 456.036(4),(6), 486.085, 486.108(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Board of Physical Therapy Practice/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-2.005 Biennial Renewal and Inactive Status; Delinquency; Reactivation; and Change of Status Fees.

(1) through (2) No change.

(3) The retired status for a retired status license is $50. Retired license status automatically revokes the privilege to practice in Florida.

(3) through (7) renumbered (4) through (8) No change.

Specific Authority 486.025, 486.085 FS. Law Implemented 456.036(4),(6), 486.085, 486.108(1) FS. History–New 8-6-84, Formerly 21M-8.10, Amended 9-22-87, 6-20-89, Formerly 21M-8.010, Amended 10-17-90, Formerly 21MM-2.005, 61F11-2.005, 59Y-2.005, Amended 12-6-01, 4-18-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 5, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 22, 2005

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Retired Status and Reactivation of Retired Status License; Fees 64B20-5.0022

PURPOSE AND EFFECT: The Board proposes the promulgation of this rule to address retired status licenses in order to implement Section 456.036, F.S., 2005 and other laws.

SUMMARY: The rule provides requirements for placing an active or inactive license into retired status and in the alternative, for reactivating a retired status license.

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: 456.036 FS.

LAW IMPLEMENTED: 456.036 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-5.0022 Retired Status and Reactivation of Retired Status License; Fees.

(1) A licensee may place an active or inactive license in retired status at any time. If the license is placed in retired status at the time of renewal the licensee shall pay the retired status fee of $50.00. If the license is placed in retired status at any time other than at the time of license renewal the licensee shall pay the change of status processing fee described in Rule 64B20-3.0105, F.A.C., and the retired status fee of $50.00.

(2) A licensee may reactivate a retired status license at any time, subject to meeting the following requirements:

(a) Paying the reactivation fee, which shall be the same amount as the renewal fee for an active status licensee under these rules for each biennial licensure period in which the licensee was in retired status;

(b) Demonstrating satisfaction of the continuing education requirements of Rule 64B11-5.001, F.A.C. for each licensure biennial period in which the licensee was in retired status.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

DEPARTMENT OF HEALTH

Board of Speech Language Pathology and Audiology

RULE TITLE: RULE NO.:
Disciplinary Guidelines 64B20-7.001

PURPOSE AND EFFECT: The Board proposes to add a new disciplinary guideline to address the addition of new Section 456.072(1)(gg), F.S. (2005).

SUMMARY: The rule adds a new disciplinary guideline to address a violation of Section 456.072(1)(gg), F.S.

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: 456.078 FS.

LAW IMPLEMENTED: 456.072, 456.078 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela E. King, Executive Director, Board of Speech Language Pathology and Audiology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B20-7.001 Disciplinary Guidelines.

(1) through (3) No change.

(4) Violations and Range of Penalties. In imposing discipline upon applicants and licensees, in proceedings pursuant to Sections 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 is descriptive only; the full language of each statutory provision cited must be consulted in order to determine the conduct included. For applicants, any and all offenses listed herein are sufficient for refusal to certify an application for licensure. In addition to the penalty imposed, the Board shall recover the costs of investigation and prosecution of the case. Additionally, if the Board makes a finding of pecuniary benefit or self-gain related to the violation, then the Board shall require refunds of fees billed and collected from the patient or a third party on behalf of the patient.

VIOLATIONS	RECOMMENDED PENALTIES		
	First Offense	Second Offense	Third Offense
(a) through (bb) No change.			
(cc) Violating Section 456.072(1)(gg), F.S. by failing to comply with, failing to successfully complete, or being terminated from an impaired practitioner treatment program.	Suspension until compliant up to Suspension until compliant with, followed by up to 5 years probation with conditions.	Up to $2000.00 fine, Suspension until compliant followed by up to five years probation with conditions, or revocation.	Up to $2000.00 fine, Suspension until compliant followed by up to five years probation with conditions, or revocation.

Specific Authority 456.078 FS. Law Implemented 456.078 FS. History–New 11-1-94, Formerly 59BB-7.007, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Speech Language Pathology and Audiology

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Speech Language Pathology and Audiology

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 18, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 30, 2005

DEPARTMENT OF HEALTH

Council of Licensed Midwifery

RULE TITLE: RULE NO.:
Licensure by Examination 64B24-2.003

PURPOSE AND EFFECT: To update the rule by incorporating a form by reference.

SUMMARY: The Department specifies the form to be used by licensed midwives to set forth the plan for the management of emergencies.

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: 456.004(5), 467.005 FS.

LAW IMPLEMENTED: 456.017, 467.011 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pamela King, Council of Licensed Midwifery, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B24-2.003 Licensure by Examination.

Persons desiring to obtain licensure as a midwife by examination shall make application to the department pursuant to Rule 64B24-2.001, F.A.C., and shall evidence compliance of licensure requirements by submitting the following:

(1) No change.

(2) A written plan for the management of emergencies which meets the requirements of Section 467.017(1), F.S. and submitted on Form DH-MQA 1077 (10/05), Emergency Back Up Plan For Licensed Midwifery Patients, incorporated herein by reference, which can be obtained from the Council of Licensed Midwifery, Department of Health, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-2356; and

(3) No change.

Specific Authority 456.004(5), 467.005 FS. Law Implemented 456.017, 467.011 FS. History–New 1-26-94, Formerly 61E8-2.003, 59DD-2.003, Amended 10-24-02, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pamela King

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Amy Jones

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 23, 2005

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE: RULE CHAPTER NO.:
Multifamily Mortgage Revenue Bond (MMRB) Program 67-21

RULE TITLES: RULE NOS.:
Definitions 67-21.002
Application and Selection Process for Developments 67-21.003
Applicant Administrative Appeal Procedures 67-21.0035
Federal Set-Aside Requirements 67-21.004
Determination of Method of Bond Sale 67-21.0045
Development Requirements 67-21.006
Fees. 67-21.007
Terms and Conditions of MMRB Loans 67-21.008
Interest Rate on Mortgage Loans 67-21.009
Issuance of Revenue Bonds 67-21.010
Non-Credit Enhanced Multifamily Mortgage Revenue Bonds 67-21.013
Credit Underwriting Procedures 67-21.014
Use of Bonds with Other Affordable Housing Finance Programs 67-21.015
Transfer of Ownership 67-21.017
Refundings and Troubled Development Review 67-21.018
Issuance of Bonds for Section 501(c)(3) Entities 67-21.019

PURPOSE AND EFFECT: The purpose of this Rule Chapter is to establish the procedures by which the Corporation shall administer the Application process, determine bond allocation amounts and implement the provisions of the Multifamily Mortgage Revenue Bond (MMRB) Program authorized by Section 142 of the Code and Section 420.509, F.S.

The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the State of Florida.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule and/or Application. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply in the 2006 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 420.507, 420.508, 420.509 FS.

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

TIME AND DATE: 10:00 a.m., November 14, 2005

PLACE: Tallahassee City Hall, Commission Chambers, 891 South Adams Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wayne Conner, Deputy Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-21.002 Definitions.

(1) "Acknowledgment Resolution" means the official action taken by the Corporation to reflect its intent to finance a Development provided that the requirements of the Corporation, the terms of the MMRB Loan Commitment, and the terms of the Credit Underwriting Report are met.

(2) "Act" means the Florida Housing Finance Corporation Act, Chapter 420, Part V, F.S.

(3) "Address" means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If the address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

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

(5) "ALF" or "Assisted Living Facility" means a Florida licensed living facility that complies with Sections 400.401 through 400.454, F.S., and Rule Chapter 58A-5, F.A.C.

(6) "Annual Household Income" means the gross income of a person, together with the gross income of all persons who intend to permanently reside with such person in the Development to be financed by the Corporation, as of the date of occupancy shown on the Income Certification promulgated by the Corporation.

(7) "Applicant" means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application for one of the Corporation's programs.

(8) "Application" means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for one or more of the Corporation's programs. A completed Application may include additional supporting documentation provided by an Applicant.

(9) "Application Deadline" means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(10) "Application Period" means a period during which Applications shall be accepted, as posted on the Corporation's website and with a deadline no less than thirty days from the beginning of the Application Period.

(11) "Board" or "Board of Directors" means the Board of Directors of the Corporation.

(12) "Bond Counsel" means the attorney or law firm retained by the Corporation to provide the specialized services generally described in the industry as the role of bond counsel.

(13) "Bond" or "Bonds" means Bond as defined in Section 420.503, F.S.

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

(15) "Calendar Days" means the seven (7) days of the week~~, with respect to computing any period of time allowed by this Rule, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.~~

(16) "Catchment Area" means the geographical area covered under a Local Homeless Assistance Continuum of Care Plan, as designated and revised as necessary by the State Office on Homelessness, in accordance with Section 420.624, F.S.

(17) "Commercial Fishing Worker" means Commercial fishing worker as defined in Section 420.503, F.S.

(18) "Commercial Fishing Worker Household" means a household of one or more persons wherein at least one member of the household is a Commercial Fishing Worker at the time of initial occupancy.

(19) "Contact Person" means the person with whom the Corporation will correspond concerning the Application and the Development. This person cannot be a third-party consultant.

(20) "Corporation" means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(21) "Cost of Issuance Fee" means the fee charged by the Corporation to the Applicant for the payment of the costs and expenses associated with the sale of Bonds and the loaning of the proceeds, including a fee for the Corporation.

(22) "Credit Enhancement" means a letter of credit, third party guarantee, insurance contract or other collateral or security pledged to the Corporation or its Trustee for a minimum of ten years by a third party Credit Enhancer or financial institution securing, insuring or guaranteeing the repayment of the Mortgage Loan or Bonds under the MMRB Program.

(23) "Credit Enhancer" means a financial institution, insurer or other third party which provides a Credit Enhancement or Guarantee Instrument acceptable to the Corporation securing repayment of the Mortgage Loan or Bonds issued pursuant to the MMRB Program.

(24) "Credit Underwriter" means the independent contractor under contract with the Corporation having the responsibility for providing Credit Underwriting services.

(25) "Credit Underwriting" means an in-depth analysis by the Credit Underwriter of all documents submitted in connection with an Application.

(26) "Credit Underwriting Report" means the report that is a product of Credit Underwriting.

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

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

(29) "Developer" means the individual, association, corporation, joint venturer or partnership, which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application.

(30) "Developer Fee" means the fee earned by the Developer.

(31) "Development" means Project as defined in Section 420.503, F.S.

(32) "Development Cost" means the total of all costs incurred in the completion of a Development excluding Developer Fee, acquisition cost of existing developments, and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

(33) "Disclosure Counsel" means the Special Counsel designated by the Corporation to be responsible for the drafting and delivery of the Corporation's disclosure documents such as preliminary official statements, official statements, re-offering memorandums or private placement memorandums and continuing disclosure agreements.

(34) "Elderly" means Elderly as defined in Section 420.503, F.S.

(35) "Elderly Housing", "Elderly Development", or "Elderly Unit" means housing or a unit being occupied or reserved for qualified persons pursuant to the Federal Fair Housing Act and Section 760.29(4), F.S., provided that such Development meets the requirements for an Elderly Development as set forth in the Universal Application Package.

(36) "Family" describes a household composed of one or more persons.

(37) "Farmworker" means Farmworker as defined in Section 420.503, F.S.

(38) "Farmworker Development" means a Development:

(a) Of not greater than 160 units, at least 40% of the total residential units of which are occupied or reserved for Farmworker Households;

(b) For which independent market analysis demonstrates a local need for such housing, and;

(39) "Farmworker Household" means a household of one or more persons wherein at least one member of the household is a Farmworker at the time of initial occupancy.

(40) "Financial Advisor" means, with respect to an issue of Bonds, a professional who is either under contract to the Corporation or is engaged by the Applicant who advises on matters pertinent to the issue, such as structure, timing, marketing, fairness of pricing, terms, bond ratings, cash flow, and investment matters.

(41) "Financial Beneficiary" means any Developer and its Principals or the Principals of the Applicant entity who receives or will receive a financial benefit of:

(a) 3% or more of Total Development Cost if Total Development Cost is $5 million or less; or

(b) 3% of the first $5 million and 1% of any costs over $5 million if Total Development Cost is greater than $5 million.

(42) "Florida Keys Area" means all lands in Monroe County, except:

(a) That portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;

(b) All lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments; and

(c) Federal properties.

(43) "General Contractor" means a person or entity duly licensed in the state of Florida with the requisite skills, experience and credit worthiness to successfully provide the units required in the Application, and which meets the criteria described in Rule 67-21.007, F.A.C.

(44) "Geographic Set-Aside" means the amount of allocation that has been designated by the Corporation to be allocated for Developments located in specific geographical regions within the state of Florida.

(45) "HC" or "Housing Credit Program" means the rental housing program administered by the Corporation in accordance with section 42 of the IRC and Section 420.5099, F.S., under which the Corporation is designated the Housing Credit agency for the state of Florida within the meaning of section 42(h)(7)(A) of the IRC, and Rule Chapter 67-48, F.A.C.

(46) "Homeless" means a Family who lacks a fixed, regular, and adequate nighttime residence or a Family who has a primary nighttime residence that is:

(a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing;

(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term does not refer to any individual imprisoned or otherwise detained pursuant to state or federal law.

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

(48) "HUD Risk Sharing Program" means the program authorized by section 542(c) of the Housing and Community Development Act of 1992, which is adopted and incorporated herein by reference.

(49) "Identity of Interest" means, for the purpose of the HUD Risk Sharing Program, any person or entity that has a one percent or more financial interest in the Development and in any entity providing services for a fee to the Development.

(50) "IRC" is the Internal Revenue Code of 1986, as in effect on the date of this rule chapter, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued or amended with respect thereto by the Treasury Department or Internal Revenue Service of the United States, and is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~Internal Revenue Service website at www.irs.gov~~.

(51) "Issuer" means the Florida Housing Finance Corporation.

(52) "Lead Agency" means a Local Government or Non-Profit serving as the point of contact and accountability to the State Office on Homelessness with respect to the Local Homeless Assistance Continuum of Care Plan, in accordance with Section 420.624, F.S.

(53) "Local Government" means Local government as defined in Section 420.503, F.S.

(54) "Local Homeless Assistance Continuum of Care Plan" means a plan for developing and implementing a framework for a comprehensive and seamless array of housing and services to address the needs of homeless persons and persons at risk for homelessness, in accordance with Section 420.624, F.S.

(55) "Local Public Fact Finding Hearing" means a public hearing requested by any person residing in the county or municipality in which the proposed Development is located and which is conducted by the Corporation for the purpose of receiving public comment or input regarding the financing of a proposed Development with Bonds by the Corporation.

(56) "Lower Income Residents" means Families whose annual income does not exceed either 50 percent or 60 percent depending on the minimum set-aside elected of the area median income as determined by HUD with adjustments for household size. In no event shall occupants of a Development unit be considered to be Lower Income Residents if all the occupants of a unit are students as defined in section 151(c)(4) of the IRC or if the residents do not comply with the provisions of the IRC defining Lower Income Residents. (See section 142 of the IRC.)

(57) "MMRB Funding Cycle" means the period of time established by the Corporation pursuant to this rule chapter and concluding with the issuance of allocations to Applicants who applied during a given Application Period.

(58) "MMRB LURA" or "MMRB Land Use Restriction Agreement" means an agreement among the Corporation, the Bond Trustee and the Applicant which sets forth certain set-aside requirements and other Development requirements under Rule Chapter 67-21, F.A.C.

(59) "MMRB Loan" means the loan made by the Corporation to the Applicant from the proceeds of the Bonds issued by the Corporation.

(60) "MMRB Loan Agreement" means the Program Documents or Loan Documents wherein the Corporation and the Applicant agree to the terms and conditions upon which the proceeds of the Bonds shall be loaned and the terms and conditions for repayment of the Loan.

(61) "MMRB Loan Commitment" means the Program Documents or Loan Documents executed by the Corporation and the Applicant after the issuance of a favorable Credit

Underwriting Report that defines the conditions under which the Corporation agrees to lend the proceeds of the Bonds to the Applicant for the purpose of financing a Development.

(62) "MMRB Program" means the Corporation's Multifamily Mortgage Revenue Bond Program.

(63) "MMRB Rehabilitation Development" means a Development, the Rehabilitation Expenditures with respect to which equal or exceed 15% of the portion of the cost of acquiring such Development to be financed with Bond proceeds.

(64) "Mortgage" means Mortgage as defined in Section 420.503, F.S.

(65) "Mortgage Loan" means Mortgage loan as defined in Section 420.503, F.S.

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

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

(68) "Private Placement" or "Limited Offering" means the sale of the Corporation Bonds directly or through an underwriter or placement agent to 35 or fewer initial purchasers who are not purchasing the Bonds with the intent to offer the Bonds for retail sale and who are Qualified Institutional Buyers.

(69) "Program Documents or Loan Documents" means the MMRB Loan Commitment, MMRB Loan Agreement, Note, Mortgage, Credit Enhancement, MMRB Land Use Restriction Agreement, Trust Indenture, Preliminary and Final Official Statements, Intercreditor Agreement, Assignments, Bond Purchase Agreement, Compliance Monitoring Agreement, Mortgage Servicing Agreement and such other ordinary and customary documents necessary to issue and secure repayment of the Bonds and Mortgage sufficient to protect the interests of the Bond owners and the Corporation.

(70) "QCT" or "Qualified Census Tract" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50% or more of the households at an income which is less than 60% of the area median gross income, or a poverty rate of at least 25%, in accordance with section 42(d)(5)(C) of the IRC.

(71) "Qualified Institutional Buyer" is sometimes called a "sophisticated investor" and specifically includes the following:

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

1. Any insurance company as defined in section 2(13) of the Securities Exchange Act, which is adopted and incorporated herein by reference;

2. Any investment company registered under the Investment Company Act of 1940 or any business development company as defined in section 80a-2(a)(48) of that Act, which is adopted and incorporated herein by reference;

3. Any Small Business Investment Company licensed by the U.S. Small Business Administration under sections 301(c) or (d) of the Small Business Investment Act of 1958, which is adopted and incorporated herein by reference;

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

5. Any employee benefit plan within the meaning of Title I of the Employee Retirement Income Security Act of 1974, which is adopted and incorporated herein by reference;

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

7. Any business development company as defined in section 80b-2(a)(22) of the Investment Advisors Act of 1940, which is adopted and incorporated herein by reference;

8. Any organization described in section 501(c)(3) of the IRC, corporation (except a bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities and Exchange Act, which is adopted and incorporated herein by reference, or a foreign bank or savings and loan or similar institution), partnership, Massachusetts or similar business trust, or any investment adviser registered under the Investment Advisors Act, which is adopted and incorporated herein by reference.

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

(c) Any dealer registered under section 15 of the Securities Exchange Act, which is adopted and incorporated herein by reference, acting in a riskless principal transaction on behalf of a Qualified Institutional Buyer.

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

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

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

(72) "Qualified Lending Institution" means any lending institution designated by the Corporation.

(73) "Qualified Project Period" means Qualified Project Period as defined in Section 142(d) of the IRC.

(74) "Received" as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, U.S. Postal Service, or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(75) "Rehabilitation Expenditures" has the meaning set forth in section 147(d)(3) of the IRC.

(76) "SBA" or "State Board of Administration" means the State Board of Administration created by and referred to in s. 9, Article XII of the State Constitution.

(77) "Scattered Sites" for a single Development means a Development consisting of real property ~~more than one parcel~~ in the same county ~~where two or more of the parcels~~ (i) any part of which is ~~are~~ not contiguous ("non-contiguous parts") ~~to one another~~ or (ii) any part of which is ~~are~~ divided by a street or easement ("divided parts") and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property ~~sites~~, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property ~~properties~~ are part of a common or related scheme of development.

(78) "Single Room Occupancy" or "SRO" means housing consisting of single room dwelling units that is the primary residence of its occupant or occupants. An SRO does not include facilities for students.

(79) "Special Counsel" means any attorney or law firm retained by the Corporation, pursuant to an RFQ, to serve as counsel to the Corporation, including Disclosure Counsel.

(80) "State Bond Allocation" means the allocation of the state private activity bond volume limitation pursuant to Chapter 159, Part VI, F.S., administered by the Division of Bond Finance and allocated to the Corporation for the issuance of Tax-exempt Bonds by either the SFMRB or MMRB Programs.

(81) "State Office on Homelessness" means the office created within the Department of Children and Family Services under Section 420.622, F.S.

(82) "Taxable Bonds" means those Bonds on which the interest earned is included in gross income of the owner for federal income tax purposes pursuant to the IRC.

(83) "Tax Exempt Bond-Financed Development" means a Development which has been financed by the issuance of tax-exempt bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the IRC.

(84) "Tax-exempt Bonds" means those Bonds on which all or part of the interest earned is excluded from gross income of the owner for federal income tax purposes pursuant to the IRC.

(85) "Tie-Breaker Measurement Point" means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. For a Development which consists of Scattered Sites, this means a single point on one of the Scattered Sites which comprise the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than 4 units.

(86) "TEFRA Hearing" means a public hearing held pursuant to the requirements of the IRC and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), section 147(f) of the IRC, at which members of the public or interested persons are provided an opportunity to present evidence or written statements or make comments regarding a requested application for Tax-exempt Bond financing of a Development by the Corporation.

(87) "Total Development Cost" means the sum total of all costs incurred in the construction of a Development all of which shall be subject to the review and approval by the Credit Underwriter and the Corporation pursuant to this rule chapter.

(88) "Urban In-Fill Development" means a Development (i) in a site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG) or area designated as a HOPE VI or Front Porch Florida Community or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

(89) "Website" means the Florida Housing Finance Corporation's website, the Universal Resource Locator (URL) of which is www.floridahousing.org.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.503, 420.503(4), 420.507, 420.508, 420.5099 FS. History–New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 2-6-97, 1-7-98, Formerly 9I-21.002, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 10-5-03, 3-21-04, 2-7-05, _____.

67-21.003 Application and Selection Process for Developments.

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 12-05 ~~2-05~~) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation's Website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the MMRB Program. ~~The Universal Application Package is adopted and incorporated herein by reference, effective on February 7, 2005.~~

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant by copying, collating, or adding documents to an Application nor shall any Applicant be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Universal Application Package and these rules. Preliminary scores shall be transmitted to all Applicants.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within 8 Calendar Days of the date the preliminary scores are sent by overnight delivery by the Corporation, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE timely Received.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant.

(6) Within 11 Calendar Days of the date of the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in rejection of the Application or a score less than the maximum available. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three copies of all additional documentation and revisions. Only revisions, changes and other information received by the deadline set forth herein will be considered. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(7) Within seven (7) Calendar Days of the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above, all Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. Each NOAD is limited only to issues created by document revisions, additions, or both, by the Applicant submitting the Application pursuant to subsection (6) above. Each NOAD must specify the assigned Application number, the pages and the documents in question, as well as describe the alleged deficiencies in detail. Each NOAD is limited to the review of only one Applicant's submission. However, there is no limit to the number of NOADs that may be submitted. NOADs that seek the review of more than one Applicant's submission will be considered improperly filed and ineligible for review. The Corporation will only review each written NOAD ~~timely~~ received timely.

(8) The Corporation shall transmit a copy of all NOADs to the affected Applicant.

(9) Following the receipt and review by the Corporation~~'s staff~~ of the documentation described in subsections (5), (6) and (7) above, the Corporation~~'s staff~~ shall then prepare final scores. 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 notices described in subsections

(3), (4) and (5) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsections (6) and (7) above will still be justification for rejection or reduction of points as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (14) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(10) Based on the order of the ranked Applications after informal appeals and the availability of State Bond Allocation designated by the Board of Directors for multifamily housing, the Board of Directors shall designate Applications for funding and offer the opportunity to enter Credit Underwriting, and shall designate those that are below the funding line on the MMRB ranked list. Any additional allocation designated by the Board of Directors for MMRB shall be applied to the next unfunded Application(s) on the ranked list, but only to the extent said Application's request can be fully funded. Any remaining allocation designated by the Board of Directors for multifamily housing, which as of December 1 of each year is insufficient to fully fund the next ranked Application shall be offered to the next ranked Applicant, continuing down the ranked list until sufficient to fully fund a proposed Development. After December 1, Applicants shall be permitted to downsize their allocation request by up to 15% of the original allocation request for the purpose of becoming fully funded but may not reduce the number of units or the unit sizes in the development. Any unused allocation shall, at the option of the Board of Directors, be carried over and applied to the next calendar year allocation or applied to single family housing. The Corporation may, after the cure period and upon a determination that such is necessary to assure timely processing of Applicants, invite Applicants who meet threshold into Credit Underwriting at their own risk. Applicants shall be notified in writing of the opportunity to enter Credit Underwriting. A detailed timeline for submitting required fees and information to the Credit Underwriter shall be included. Failure to meet the deadlines established by such timeline shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list. Applicants electing to proceed to Credit Underwriting without designation for funding do so at their own risk, and said opportunity does not ensure that the Application will be funded. Any Applicant that declines invitation to Credit Underwriting, when invited by the Board of Directors, shall be removed from the ranked list.

(11) Except for ~~Applications shall be limited to one submission per subject property with the exception that~~ Local Government-issued Tax-Exempt Bond-Financed Developments that ~~may~~ submit a separate Application for non-competitive Housing Credits, Applications shall be limited to one submission per subject property. Two or more Applications, submitted in the same Funding Cycle, that have the same demographic commitment and one or more of ~~with~~ the same Financial Beneficiaries ~~Beneficiary~~ will be considered submissions for the same Development if any of the following is true: (i) any part of any of the property sites is ~~for Developments that are~~ contiguous with any part of any of the other ~~the~~ property sites ~~of another Application~~, or (ii) any of the property sites ~~that~~ are divided by a street or easement, or (iii) ~~if~~ it is readily apparent from the ~~two~~ Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development.~~,~~ If two or more Applications are ~~the Applications will be~~ considered to be submissions for the same Development, ~~site and~~ the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application with the lowest lottery number will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number. ~~Two Applications by Applicants with common Financial Beneficiaries for Developments that are contiguous, or that are divided by a street or easement, or that are otherwise part of a common or related scheme of development, will not be considered to be submissions for the same Development site if one of the Applicants applies for SAIL pursuant to paragraph B.7.c.(6). of the Ranking and Selection Criteria of the Universal Application Instructions.~~ Financial Beneficiary, as defined in Rule 67-21.002, F.A.C., does not include third party lenders, third party management agents or companies, housing credit syndicators, Credit Enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or contractors whose total fees are within the limit described in Rule 67-21.007, F.A.C.

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

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present ~~of its Developments, or within the current~~ Application or Development ~~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 that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin from the date the Board of Directors makes such determination. Such determination shall be either

pursuant to a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(13) The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in subsection (6) above:

(a) The Development is inconsistent with the purpose of the MMRB Program or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits that are provided by the Corporation and adopted under this rule chapter;

(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation.

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of Applicant;

(b) Identity of each Developer, including all co-Developers;

(c) Program(s) applied for;

(d) Applicant applying as a Non-Profit or for-profit organization;

(e) Site for the Development;

(f) Development Category;

(g) Development Type;

(h) Designation selection;

(i) County;

(j) Total number of units;

(k) Funding request, except for Taxable Bonds and as provided in subsection 67-21.003(10), F.A.C.; notwithstanding the foregoing, requested amounts exceeding the Corporation and program funding limits can be reduced by the Applicant to reflect the maximum request amount allowed (and no other changes to this amount will be allowed);

(l) The Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application;

(m) Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(n) Payment of the required Application fee and TEFRA fee by the Application Deadline.

All other items may be submitted as cures pursuant to subsection (6) above.

(15) A Development will be withdrawn from funding and any outstanding commitments for funds will be rescinded if at any time the Board of Directors determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(16) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with the IRC, this rule chapter, or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a Credit Underwriting Report, the requested allocation will, upon a determination by the Board of Directors that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant and the Affiliates of the Applicant or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(17) When two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(18) At no time during the Application, scoring and appeal process may Applicants or their representatives contact members of the Board of Directors concerning their own Development or any other Applicant's Development. At no time from the Application Deadline until after issuance of the final scores as set forth in subsection (9) above, may Applicants or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If an Applicant or its representative does contact a member of the Board of Directors in violation of this section, the Board of Directors shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(19) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall

disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board of Directors is scheduled to convene to consider approval of the final rankings of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board of Directors has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board of Directors approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking. If an Applicant has applied for two or more programs, the withdrawal by the Applicant from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs.

(20) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is requested in writing and approved in writing by the Corporation.

(21) If an Applicant or any Affiliate of an Applicant has offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution and this is discovered prior to Board of Directors approval of the ranking, the Corporation shall reject the Application and any other Application submitted by the same Applicant and any Affiliate of the Applicant. If discovered after the Board of Directors approves final ranking, any tentative funding or allocation for the Application and any other Application submitted in the same cycle by the same Applicant and any Affiliate of the Applicant will be withdrawn. Such Applicant and any of such Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin the date the Board of Directors issues a final order on such matter in a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S.

(22) The Corporation shall initiate TEFRA Hearings on the proposed Developments whose Applications were received by the Application Deadline. Neither the TEFRA Hearing, the invitation into Credit Underwriting, nor the Acknowledgment Resolution obligate the Corporation to finance the proposed Development in any way.

(23) Upon receipt of the Credit Underwriting Report, the Corporation shall submit the Application to its Financial Advisor for a preliminary recommendation of the method of bond sale for each Development pursuant to Rule 67-21.0045, F.A.C.

(24) Proposed Developments that are ranked, but not selected by the Board of Directors to enter Credit Underwriting, shall remain on the ranked list in the event State Bond Allocation becomes available to fund additional Developments. If the current year's State Bond Allocation designated by the Board of Directors for the MMRB Program is insufficient to fully finance a Development, subject to the provisions of subsection 67-21.003(10), F.A.C., permitting reduction of the requested amount, a new Application must be filed to be eligible for a future year's State Bond Allocation.

(25) The Corporation shall notify the Applicant, in writing, of the Board of Directors determination related to approval of the Credit Underwriting Report and require the Applicant to submit one-half of the Good Faith Deposit within 7 Calendar Days from the receipt of such notice.

(26) Upon favorable recommendation of the Credit Underwriting Report and preliminary recommendation of the method of bond sale from the Corporation's Financial Advisor, the Board of Directors shall designate by resolution the method of bond sale considered appropriate for financing. The Board of Directors shall consider authorizing the execution of the Loan Commitment and shall consider final Board of Directors approval reserving State Bond Allocation for a Development. Requests for Taxable Bonds shall be considered by the Board of Directors in an amount recommended by the Credit Underwriter. The Board of Directors shall also assign a bond underwriter, structuring agent, or Financial Advisor and any other professionals necessary to complete the transaction. Staff shall assign the Corporation Bond Counsel and Special Counsel and Trustee as needed.

(27) Following receipt of one-half of the Good Faith Deposit, the Corporation's assigned Special Counsel shall begin preparation of the Loan Commitment.

(28) Upon execution of a Loan Commitment, Applicant shall pay the balance of the Good Faith Deposit and the Corporation shall authorize Bond Counsel and Special Counsel to prepare the Program Documents.

(29) For computing any period of time allowed by this rule, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4),(13),(14),(18),(19),(20),(21),(24), 420.508 FS. History–New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.003, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-21.0035 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-21.003, F.A.C., each Applicant will be provided with its final score and notice of rights, which shall constitute the point of entry to contest any issue related to the Applicant's Application for the MMRB Program.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation within 21 ~~22~~ Calendar Days after the date the Applicant receives its ~~of the date the Applicant's~~ notice of rights ~~is sent by overnight delivery by the Corporation~~. The petition must conform to subsection

28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue and score sought to be challenged. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board of Directors.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board of Directors. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with the Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board of Directors. Parties will not be permitted to make oral presentations to the Board of Directors in response to recommended orders. ~~The Board of Directors shall consider all recommended orders and written arguments and enter the appropriate final orders.~~

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with Rule Chapter 67-21, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board of Directors, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board of Directors, provide the requested allocation from the next available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable Credit Underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the point of entry to contest any ranking or scoring issue related to any other Applications for the MMRB Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st ~~within 22~~ Calendar Day~~s~~ after ~~of~~ the receipt of ~~date~~ the notice of rights ~~is sent by overnight delivery by the Corporation~~ pursuant to this subsection (5). The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-21.003(14), F.A.C., or (ii) be one that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-21.003(6), F.A.C.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time the Corporation provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board of Directors.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board of Directors. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with the Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board of Directors. Parties will not be permitted to make oral presentations to the Board of Directors in response to recommended orders. ~~The Board of Directors shall consider all recommended orders and written arguments and enter the appropriate final orders.~~

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested allocation from the next available allocation, whether in the current year

or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507, 420.508 FS. Law Implemented 120.569(2)(b), 120.57, 420.502, 420.507, 420.508 FS. History–New 11-14-99, Amended 2-11-01, 3-17-02, 10-8-02, 12-4-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-21.004 Federal Set-Aside Requirements.

Each Application shall designate one of the following minimum federal set-aside requirements that the Development shall meet commencing with the first day on which at least 10 percent of the units in the property are occupied:

(1) Twenty percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 50 percent of the area median income limits adjusted for Family size (the 20/50 set-aside); or

(2) Forty percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 60 percent of the area median income limits adjusted for Family size (the 40/60 set-aside).

(3) For Developments financed solely through the issuance of Taxable Bonds or refundings of Tax-exempt Bonds originally issued under section 103(b)(4)(A) of the Internal Revenue Code of 1954, as amended, which is adopted and incorporated herein by reference, 20 percent of the residential units in the Development shall be occupied by or reserved for occupancy by a Family whose Annual Household Income does not exceed 80 percent of the area median income limits adjusted for Family size (the 20/80 set-aside).

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(4),(6),(12),(13),(14),(18),(19),(21), 420.508 FS History–New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 9-25-96, 2-6-97, 1-7-98, Formerly 9I-21.004, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, _____.

67-21.0045 Determination of Method of Bond Sale.

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

(2) Following receipt of the Credit Underwriting Report, staff shall provide the Corporation's Financial Advisor copies of such report for review and preparation of a written recommendation for the method of Bond sale.

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

(a) The cost components of the sale, including interest costs and financing costs. The purpose of the analysis is to determine how these costs are affected by the alternative forms of sale.

(b) The anticipated credit and security structure of the transaction.

(c) The proposed financing structure of the transaction.

(d) The financing experience of the Applicant.

(e) The Corporation's programmatic objectives.

(f) Market stability.

(g) Other factors identified by staff, counsel, or the Applicant.

(4) The written recommendation shall include an identification of the Development, the recommended method of sale, and a summary statement as to why the particular method of sale is being recommended.

(5) For those transactions that the Corporation's Financial Advisor recommends as candidates for a competitive sale, the Corporation shall engage a structuring agent. The Applicant may, at its sole expense, engage a Financial Advisor for the transaction. Any cost to the Applicant for the Financial Advisor in excess of $18,000 must be paid out of Developer Fee.

(6) For those transactions that the Corporation's Financial Advisor recommends for a negotiated sale, the Corporation shall appoint a bond underwriter.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4),(13),(19),(20), 420.508, 420.509(12) FS. History–New 1-7-98, Formerly 9I-21.0045, Amended 1-26-99, Repromulgated 11-14-99, 2-11-01, Amended 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated _____.

67-21.006 Development Requirements.

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

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

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

(3) The Development shall consist of similar units, containing complete facilities for living, sleeping, eating, cooking and sanitation for a Family.

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

(5) All of the dwelling units shall be rented or shall be available for rent on a continuous basis to members of the general public, and the Applicant shall not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be occupied in compliance with the IRC or are being held for Elderly Persons, Commercial Fishing Workers, Homeless Persons or Farmworkers.

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

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

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

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

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

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

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

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

(11) The Applicant shall take such action or actions as shall be necessary to comply fully with the IRC, Florida Statues, and the Corporation's Rules.

(12) The Applicant may limit the leasing of units in a Development to Elderly Persons, Commercial Fishing Workers, Homeless Persons or Farmworkers as permitted hereby.

(13) In the event that the Applicant has determined that the market no longer supports the Development as Elderly Housing and desires to rent to younger persons or families, the following criteria must be met:

(a) A viable marketing plan is submitted to and is acceptable to the Corporation showing a good faith effort to market the unit as Elderly Housing.

(b) The Applicant demonstrates that a good faith effort was made to lease the unit as Elderly Housing and that such effort was made for at least six months after the certificate of occupancy for the relevant unit was issued.

(c) The Applicant has requested and received Board of Directors' approval that the Development no longer qualifies as Elderly Housing.

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

(15) The owner of a Development must notify the Corporation of an intended change in the management company. The Corporation must approve, pursuant to subsection 67-53.003(3), F.A.C., the Applicant's selection of a management agent prior to such company assuming responsibility for the Development. A key management company representative must attend a Corporation-sponsored training workshop on certification and compliance procedures prior to the leasing of any units in the Development.

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

(17) The Applicant shall provide annually to the Trustee not later than 120 days after the end of the Applicant's fiscal year, audited financial statements prepared by an independent certified public accounting firm, consolidated or consolidating, on the development and any other information required by the Corporation to comply with continuing disclosure requirements imposed by law.

(18) Unless otherwise approved by the Board of Directors, Cross-collateralization shall not be allowed.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.507(9),(11),(14),(18),(19),(20),(21), 420.508 FS. History–New 12-3-86, Amended 2-22-89, 12-4-90, 9-25-96, 1-7-98, Formerly 9I-21.006, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated _____.

67-21.007 Fees.

In addition to the fees specified in the Universal Application Package, the Corporation shall collect the following fees and charges in conjunction with the MMRB Program:

(1) TEFRA Fee: Applicants shall submit a non-refundable TEFRA fee to the Corporation in the amount of $500 by the Application Deadline, or, for refundings or 501(c)(3) Applicants, upon submission of the Application or request for refunding. This fee shall be applied to the actual cost of publishing required newspaper advertisements and Florida Administrative Weekly notices of TEFRA Hearings. If the actual cost of the required publishing exceeds $500.00, Applicant shall be invoiced for the difference. If a Local Public Fact Finding Hearing is requested, the Applicant shall be responsible for payment of any fees incurred by the Corporation. If the first TEFRA approval period has expired and a second TEFRA notice and hearing are required, Applicant is responsible for all costs associated with the additional TEFRA process.

(2) Credit Underwriting and Appraisal Fee: Applicants shall submit the required non-refundable Credit Underwriting and Appraisal Fee for each Development to the Credit Underwriter designated by the Corporation within seven Calendar Days of the date the Applicant accepts the invitation by the Corporation to enter the Credit Underwriting process and prior to final credit review by the Credit Underwriter. The Credit Underwriting fee shall be determined pursuant to a contract between the Corporation and the Credit Underwriter.

(3) Good Faith Deposit means a total deposit equal to one percent of the Loan amount reflected in the Loan Commitment paid by the Applicant to Florida Housing. The Applicant shall pay a total deposit equal to one percent of the aggregate principal amount of proposed Taxable and Tax-exempt Bonds, or $75,000, whichever is greater, to the Corporation, which deposit may be applied toward the Cost of Issuance Fee. The maximum Good Faith Deposit required is $175,000. The Good Faith Deposit is payable in two equal installments: the first installment (one-half of one percent) is due within seven Calendar Days of the date the Board of Directors approves the Credit Underwriting Report. The balance is payable no later than the date when the Applicant executes the Loan Commitment. If the Good Faith Deposit is exhausted, the Applicant shall be required to pay, within three days of notice, an additional deposit to ensure payment of the expenses associated with the processing of the Application, the sale of the Bonds, including document production and the securitization of the Loan. The Good Faith Deposit shall be remitted by certified check or wire transfer. In the event the MMRB Loan does not close, the unused portion of the Good Faith Deposit shall be refunded to the Applicant. Notwithstanding the foregoing, the Applicant is responsible for all expenses incurred in preparation for loan closing. Any and all costs of the Corporation will be deducted from the Good Faith Deposit prior to refunding any unused funds to the Applicant. In the event that additional invoices are received by the Corporation subsequent to a determination that the MMRB Loan will not close and refunding any unused funds to the Applicant, which invoices related to costs incurred prior to such determination and refunding, Applicant shall be responsible for payment of the balance due as invoiced.

(4) Cost of Issuance Fee: the Corporation shall require Applicants or participating Qualified Lending Institutions selected for participation in the program, to deliver to the Corporation, or, at the request of the Corporation, directly to the Trustee, before the date of delivery of the Bonds, a Cost of Issuance Fee in an amount determined by the Corporation to be sufficient to pay the costs and expenses relating to issuance of the Bonds, which amount shall be deposited into an account to be held by the Trustee. The Corporation shall provide the Applicant with a good faith estimate of the Cost of Issuance Fee prior to closing. The Applicant shall pay all costs and expenses incurred by the Corporation in connection with the issuance of the Bonds, the expenditure of the MMRB Loan proceeds, and provision of Credit Enhancement, if any, even if such costs and expenses exceed the Cost of Issuance Fee. Any amounts remaining in this account at the time the balance is transferred and the account closed pursuant to the Trust Indenture shall be returned to the Applicant.

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

(a) Format II Environmental Review Fee – The fee the Applicant shall pay will be determined by contract between the Corporation and the environmental professional.

(b) Subsidy Layering Review Fee – The fee the Applicant shall pay will be determined by the contract between the Corporation and the Credit Underwriter.

(6) Compliance Monitoring Fees: The annual monitoring fee the Applicant shall pay will be determined by contract between the Corporation and the monitoring agent.

(7) Permanent Loan Servicing Fees: The annual servicing fee the Applicant shall pay will be determined by contract between the Corporation and the servicer.

(8) Financial Monitoring Fees: The annual financial monitoring fee the Applicant shall pay will be determined by contract between the Corporation and the monitoring agent.

(9) Other Corporation Program Fees:

(a) Housing Credit Fees – If Housing Credits are used for the Development, the Compliance Monitoring Fee for that program shall be collected from the Applicant in conjunction with the Compliance Monitoring Fee for the program.

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

(10) Developer Fee shall be limited to 18 percent of Total Development Cost excluding land and, for rehabilitation, building acquisition costs. A Developer Fee on the building acquisition cost shall be limited to 4% of the cost of the building(s) exclusive of land cost. Consulting fees, if any, must be paid out of the Developer Fee. Consulting fees include payments for Application consultants, construction management or supervision, or Local Government consultants. Fees of the Applicant's or Developer's attorney(s) awarded in conjunction with litigation against the Corporation with respect to a Development shall also not be included in Total Development Costs. Fees for services provided by architects, accountants, appraisers, engineers or Financial Advisors may be included as part of the Total Development Costs, except that those fees for a Financial Advisor that are in excess of $18,000 must be paid out of the Developer Fee. In the event of extraordinary circumstances, Applicant may petition the Board for relief from the cap on Financial Advisor fees. The Corporation shall not authorize fees to be paid for duplicative services or duplicative overhead.

(11) General Contractor's Fees are inclusive of general requirements, profit and overhead and shall be limited to 14 percent of hard costs, excluding any hard cost contingencies. For the purpose of the HUD Risk Sharing Program, if there exists an Identity of Interest as defined herein between the Applicant or Developer and the General Contractor, the allowable fees shall in no case exceed the amount allowable pursuant to the HUD subsidy layering review requirements. Additionally, fees shall be allowed to be paid only to the person or entity that actually meets the definitional requirements to be considered a General Contractor. The Corporation shall not allow fees for duplicative services or duplicative overhead. ~~In order for~~ T~~t~~he General Contractor ~~to be eligible for the maximum fee stated above, it~~ must meet the following conditions:

(a) Employ a ~~The~~ Development superintendent ~~must be employed by the General Contractor~~ and charge the costs of such ~~that~~ employment ~~must be charged~~ to the general requirements line item of the General Contractor's budget;

(b) Charge the costs of the Development construction trailer, if needed, and other overhead ~~must be paid directly by the General Contractor and charged~~ to the general requirements line item of the General Contractor's budget;

(c) Secure b~~B~~uilding permits, ~~must be~~ issued in the name of the General Contractor;

(d) Secure a p~~P~~ayment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit ~~or other guarantee acceptable to the Corporation~~), ~~must be~~ issued in the name of the General Contractor, from ~~by~~ a company rated at least "A-" by AMBest & Co.;

(e) Ensure that n~~N~~one of the General Contractor duties to manage and control the construction of the Development are ~~may be~~ subcontracted; and

(f) Ensure that n~~N~~ot more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507(4),(19) FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.007, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-21.008 Terms and Conditions of MMRB Loans.

(1) Each Mortgage Loan for a Development made by the Corporation shall:

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

(b) Provide for a fully amortized payment of the Mortgage Loan in full beginning on the earlier of 36 months after closing, or stabilized occupancy, or conversion to permanent financing under the loan documents and ending no later than the expiration of the useful life of the property, and in any event, no later than 45 years from the date of the Mortgage Loan;

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

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

(e) Have the initial review, approval, and origination process accomplished by a Qualified Lending Institution;

(f) Be serviced by such Qualified Lending Institution or other private entity engaged in the business of servicing mortgage loans in Florida as the Corporation shall approve; and

(g) Require the submission to the Corporation of an annual audited financial statement for the Development, and for the Applicant if revenue from multiple projects is being pledged. An annual financial statement compiled or reviewed by a licensed Certified Public Accountant may be submitted in lieu of an audited financial statement for the Development prior to the issuance of a certificate of occupancy for any unit in the Development, provided that the subsequent annual audited financial statement shall include all operations since inception.

(h) If Credit Enhancement is used, a Credit Enhancement instrument of less than ten years must be approved by the Board of Directors.

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

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

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

(5) The Corporation shall charge such program administration fees as are required to pay the cost of administering the program during the life of the Bonds and MMRB Loan.

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

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

(8) The Corporation shall appoint a Trustee and servicing agent when necessary to administer the program and service the MMRB Loan.

(9) All MMRB Loans are contingent upon:

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

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

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

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

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

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

(10) All MMRB Loans shall be reviewed and originated by a servicer designated by the Corporation, in conformance with the Act.

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

(12) The Applicant shall, prior to the requested date for funding, or as requested during Credit Underwriting, supply in draft form to the Corporation the following documents with respect to the Development being financed, together with any other documents required by the MMRB Loan Agreement:

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

(b) A fully completed, executed and sealed surveyors' certification to the Corporation.

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

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

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

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

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

(h) A copy of the deed or form of deed conveying the land for the Development to the Applicant or a copy of the lease creating a long-term leasehold in favor of the Applicant acceptable to the Corporation and the Credit Underwriter.

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

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

(13) The Borrower shall not sell, transfer, or otherwise assign any of its interest in the Development without the prior written consent of the Corporation.

(14) The Corporation shall require all MMRB Loans to be secured to the extent necessary to protect the Corporation and Bond holders.

(15) Any MMRB Loan financed with proceeds of Tax-exempt Bonds, except for 501(c)(3) Bonds, shall provide that the portion of any debt service reserve fund associated therewith to be financed with the Tax-exempt Bonds shall not exceed six months of debt service on the Bonds.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.502, 420.507(4),(6),(9),(11),(21), 420.508 FS. History–New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 9I-21.008, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repromulgated _____.

67-21.009 Interest Rate on Mortgage Loans.

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

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented Chapter 75, 420.507, 420.508 FS. History–New 12-3-86, Amended 1-7-98 Formerly 9I-21.009, Amended 1-26-99, 11-14-99, Repromulgated 2-11-01, 3-17-02, 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated _____.

67-21.010 Issuance of Revenue Bonds.

The Corporation shall fund Mortgage Loans with the proceeds from the sale of Bonds. The issuance and sale of the Bonds shall be governed by resolutions adopted by the Corporation and by applicable law and rule. If Bonds cannot be sold or cannot be sold in an amount or at an interest rate or under conditions which satisfy the Credit Underwriting Report, as the same may be amended, the Corporation shall terminate its MMRB Loan Commitment and such other agreements as were executed in conjunction with the proposed MMRB Loan.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(6), 420.508, 420.509 FS. History–New 12-3-86, Amended 1-7-98, Formerly 9I-21.010, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated _____.

67-21.013 Non-Credit Enhanced Multifamily Mortgage Revenue Bonds.

Any issuance of non-Credit Enhanced revenue Bonds shall be sold only to a Qualified Institutional Buyer. Such non-Credit Enhanced revenue Bonds may only be utilized for financings where the Applicant has demonstrated that the issuance produces a substantial benefit to the Development not otherwise available from Credit Enhancement structures. The analysis of the substantial benefit must be provided in a format acceptable to the Corporation and shall include the initial issuer cost of issuance, underwriter's discount or placement agent fee, annual debt service, total debt service and any other factors necessary and appropriate to demonstrate that the issuance produces a substantial benefit to the Development. This analysis must be provided both prior to the review of the method of Bond sale conducted by the Corporation's Financial Advisor, and again prior to the pricing of the Bonds, showing any changes affecting the original estimated substantial benefit. The Corporation shall designate the bond underwriter or placement agent with respect to such Bonds, who shall be on the Corporation's approved bond underwriters list. The Corporation, in its discretion, will allow only an underwriting discount or a placement agent fee, but not both. Unless such Bonds are rated in one of the four highest rating categories by a nationally recognized rating service, such Bonds shall not be held in a full book-entry system (but may be DTC-Eligible) and shall comply with at least one of the following criteria:

(1) The Bonds shall be issued in minimum denominations of $100,000 (subject to reduction by means of redemption) and each purchaser of such Bond, including subsequent purchasers unless the requirements of subsection (2) or (3) below are met, shall certify to the Corporation prior to any purchase or transfer of any Bond that such purchaser is a Qualified Institutional Buyer; or

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

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

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507(4),(5),(6),(9),(11),(14),(16),(18),(19),(20),(21) FS. History–New 11-23-94, Amended 1-7-98, Formerly 9I-21.013, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repromulgated _____.

67-21.014 Credit Underwriting Procedures.

(1) An invitation into Credit Underwriting shall require that the Applicant submit the Credit Underwriting and Appraisal Fee and information required to complete the Credit Underwriting, to the Credit Underwriter in accordance with the schedule established by the Corporation upon the recommendation of the Credit Underwriter. Failure to submit the Credit Underwriting and Appraisal Fee or meet the deadlines as set forth in the schedule shall result in the immediate termination of Credit Underwriting activities and the Application shall be moved to the bottom of the ranked list.

(2) The Credit Underwriter shall in Credit Underwriting analyze and verify all information in the Application, or any proposed changes made subsequent thereto, in order to make a recommendation to the Board of Directors on the feasibility of

the Development, without taking into account the willingness of a Credit Enhancer to provide Credit Enhancement. Credit Underwriting services shall include, for example, a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, and the evidence of need for affordable housing in order to determine that the Development meets the MMRB Program requirements. The Credit Underwriter shall determine a recommended Bond amount that should be made to a Development, whether an initial loan or a refunding.

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

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

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

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

1. Liquidity of any guarantee provider.

2. Applicant's, Developer's and General Contractor's history in successfully completing Developments of similar type.

3. The past performance of the Applicant, Developer, General Contractor, or management agent, in developing, constructing or managing Developments financed by the Corporation or its predecessor, including, by way of example and not limitation, nonpayment of fees and noncompliance with program requirements.

4. Percentage of the Corporation's funds utilized compared to Total Development Costs. At a minimum, the corporate general partner of the borrowing entity shall provide a personal guarantee for completion of construction. In addition, a letter of credit or payment and performance bond shall be required if the Corporation determines upon recommendation of the Credit Underwriter after evaluation of conditions in subparagraphs 1. through 3., above, that additional surety is needed.

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

(f) The Credit Underwriter shall consider the appraisal of the Development and other market study documentation to make a recommendation as to whether the market exists to support both the demographic and income restriction set-asides committed to within the Application. The Credit Underwriter shall consider the market study and other documentation to make a recommendation of whether to approve or disapprove an allocation when the proposed Development would financially impair an existing Development previously funded by the Corporation.

(g) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process to complete the Credit Underwriting Report, the Credit Underwriter shall notify the Corporation and request the information from the Applicant. Such requested information shall be submitted within ten business days of receipt of the request therefor. Failure for any reason to submit required information on or before the specified deadline shall result in the Application being moved to the bottom of the ranked list.

(h) At a minimum, the Credit Underwriter shall require the following information during Credit Underwriting:

1. For Credit Enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or Credit Underwriting is complete.

2. For guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is ~~adopted and~~ incorporated ~~herein~~ by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links, and the two most recent years tax returns. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

3. For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit

verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

4. For the Applicant and General Partner, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If the entities are newly formed (less than 18 months in existence as of the date that Credit Underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(i) The Credit Underwriter shall require an operating deficit guarantee. The operating deficit guarantee will be released when the Development achieves a minimum 1.10 debt service coverage ratio on the MMRB Loan and 90% occupancy and 90% of the gross potential rental income, all for six consecutive months as certified by an independent Certified Public Accountant, and verified by the Credit Underwriter.

(j) The Credit Underwriter shall also require environmental indemnity and recourse obligation guarantees.

(k) Required appraisals, market studies, pre-construction analyses, physical needs assessments, and environmental studies (other than Phase I Environmental Site Assessments) shall be completed by professionals approved by the Credit Underwriter. Approval of appraisers and contractors to complete market and environmental studies shall be based upon review of qualifications, professional designations held, references and prior experience with similar types of Developments.

(l) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice, which is adopted and incorporated herein by reference, and a separate market study shall be ordered by the Credit Underwriter from an appraiser qualified for the geographic area and product type not later than when an Application enters Credit Underwriting. The Credit Underwriter shall review the appraisals to properly evaluate the MMRB Loan request in relation to the property value.

(m) Appraisals and separate market studies which have been ordered and submitted by third party Credit Enhancers or syndicators and which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal or market study referenced above.

(n) The Credit Underwriting Report shall include a thorough analysis of the proposed Development and a statement as to whether a MMRB Loan is recommended, and if so, the amount recommended. The Credit Underwriter or the Corporation may request such additional information as is necessary to properly analyze the credit risk being presented to the Corporation and the Bond holders.

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

(4) After approval by the Board of Directors following presentation of the Credit Underwriting Report and payment of one-half of the Good Faith Deposit, Corporation staff and Special Counsel shall begin negotiations of the MMRB Loan Commitment with the Applicant.

(5) At a minimum, a 10% retainage will be held by the Trustee or the servicer administering the construction loan funds until the Development is 50% complete. At 50% completion, no additional retainage will be held from the remaining draws. The total retainage dollars will be held by the Trustee or the servicer and released pursuant to the terms of the construction loan agreement.

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508, 420.508(3)(b)3., 420.509 FS. History–New 1-7-98, Formerly 9I-21.014, Amended 1-26-99, 11-14-99, 1-26-00, 2-11-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

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

(1) Applicants may submit one Application for the MMRB Program, SAIL, HOME Rental, competitive housing credits and non-competitive housing credits, subject to the restrictions set forth in the Universal Application Package.

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

Specific Authority 420.507(12), 420.508(3)(c) FS. Law Implemented 420.507, 420.508 FS. History–New 1-7-98, Formerly 9I-21.015, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, _____.

67-21.017 Transfer of Ownership.

(1) Any transfer of ownership of any Development shall be subject to compliance with the provisions of this section, provided that transfers of the limited partnership interest or limited liability company interest in the owner to a tax credit syndicator, or the transfer of ownership to a creditor by means of foreclosure or deed in lieu of foreclosure, need not comply with this provision. The determination of whether a transfer of ownership of a Development shall be deemed to take place for

purposes of this rule shall be made in accordance with the provisions of the MMRB Land Use Restriction Agreement and other Program Documents for such Development. Owners shall advise the Corporation in writing of any change of ownership of the owner aggregating 50 percent or more of ownership interests in the owner within any six-month period.

(2) A request for transfer of ownership shall be submitted to the Corporation in writing and include evidence that the current owner has agreed to the proposed sale. A detailed opinion letter from the legal counsel for the current owner or prospective purchaser describing the scope of the proposed transaction must also be provided. The Corporation shall review the letter and, if acceptable, assign a Credit Underwriter. The Credit Underwriter will notify the current owner and prospective purchaser of any additional information necessary to complete its Credit Underwriting Report.

(3) Upon demonstration of compliance with the provisions of this section, and favorable consideration by the Board of Directors of the Credit Underwriting Report, the Corporation shall assign a Bond Counsel, Special Counsel, and other professionals as needed to effect the transfer.

(4) Prior to the transfer of ownership:

(a) The Credit Underwriter shall conduct a Credit Underwriting of the prospective purchaser upon any transfer of ownership. Additionally, the prospective purchaser shall be notified that any refunding of Bonds associated with such Development shall require a full Credit Underwriting of the Development. The prospective purchaser and the conditions of the assumption of the Program Documents must be approved by the Credit Underwriter as meeting the terms of its Credit Underwriting Report, Bond Counsel and Special Counsel as complying with all applicable legal requirements, and the Corporation as meeting the stated purposes of the Corporation,

(b) All outstanding fees owing to the Corporation or any of its assigned professionals shall be paid,

(c) The Development shall be in compliance with all existing regulatory requirements imposed by the Corporation or its predecessor, and

(d) If the set-aside requirements in the MMRB Land Use Restriction Agreement are expired or have less than 12 months remaining, such agreement shall be extended for a minimum of two years from the date of closing. All transfer of ownership transactions shall be subject to all conditions of the Credit Underwriting Report including the requirements for a guarantee of recourse obligations and an environmental indemnity from the assuming owner.

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

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508, 420.508(3)(a) FS. History–New 1-7-98, Formerly 9I-21.017, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated _____.

67-21.018 Refundings and Troubled Development Review.

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

(2) The Corporation shall endeavor where feasible to refund Bonds which are either in default or face a pending default.

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

(a) Determination of the likelihood of the impending default;

(b) Submission of a sworn certificate of impending default by the owner or Credit Enhancer;

(c) Submission of sworn certificate from the owner or Credit Enhancer that conditions causing default are likely to continue;

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

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

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

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

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

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

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

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

(l) Retention of annual fees by the Corporation;

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

(n) Retention of the Credit Enhancement, or an acceptable non-Credit Enhancement structure; and

(o) Management of the Development is reviewed and approved by the Corporation.

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

(a) All outstanding fees of the Corporation and any of its assigned professionals shall be paid in connection with the refunding;

(b) The set-asides required by the original MMRB Land Use Restriction Agreement shall be increased by an amount and extended for a period determined by the Corporation;

(c) A Credit Underwriting Report shall be required, which may incorporate any Credit Underwriting undertaken within the past twelve months in connection with a transfer of ownership of the same Development;

(d) A guarantee of recourse obligations and an environmental indemnity shall be required;

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

(f) The MMRB Loan shall immediately, on the earlier of 24 months after closing or stabilized occupancy in the case of major rehabilitation, begin full amortization over the remaining life of the Bonds; and in no event shall it exceed the economic remaining life of the property, provided that, in the case of a refunding relating to a pending financial default, such amortization may be delayed to the extent recommended in the Credit Underwriting Report;

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

(h) Any extension or extensions of maturity cumulatively exceeding 60 months shall be deemed to constitute a refunding for purposes hereof; and

(i) The owner of the Development must provide a written request for the refunding and a detailed opinion from Applicant's counsel describing the scope of the transaction. It shall not be necessary to complete an Application in connection with a refunding request.

Specific Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508 FS. History–New 1-7-98, Formerly 9I-21.018, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, _____.

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

(1) The Corporation shall entertain requests, on a non-competitive basis, for it to serve as the issuer of Tax-exempt 501(c)(3) Bonds for the acquisition or construction of multifamily housing to be owned by a not-for-profit entity organized under section 501(c)(3) of the IRC.

(2) In connection with all Bonds issued pursuant to this section, Applicants shall be required to comply with the applicable provisions of Rules 67-21.0045 through 67-21.018, F.A.C., Florida Statutes, and the IRC, including all safe harbor provisions.

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

(a) An initial Bond Counsel fee of $1,000 along with IRS Form 1023, which is adopted and incorporated herein by reference, and all attachments and correspondence to and from the IRS relative to section 501(c)(3) status of the Applicant. A copy of IRS Form 1023 is available on the IRS web site at www.irs.gov; and

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

(c) If a Development to be acquired is intended to be exempt from ad valorem taxes, evidence that it has notified all local ad valorem taxing authorities of the acquisition of the proposed Development by a section 501(c)(3) entity.

(d) The completed Universal Application in effect at the time the Applicant submits the Application. Applicants must meet all threshold requirements of the Application as well as achieve 50% of all points (excluding tie-breaker points) available in the Application.

Specific Authority 420.507(12) FS. Law Implemented 420.502, 420.507(14),(24), 420.508 FS. History–New 11-14-99, Amended 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Conner, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 31, No. 35, September 2, 2005

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Elderly Housing Community Loan Program	67-32
RULE TITLES:	**RULE NOS.:**
General Program Restrictions	67-32.004
Application Procedures	67-32.005
Terms and Conditions of Loan	67-32.006
Scoring, Ranking, and Funding Guidelines	67-37.007

PURPOSE, EFFECT AND SUMMARY: Pursuant to Section 420.5087(3)(d), F.S., the Florida Housing Finance Corporation administers the Elderly Housing Community Loan (EHCL) Program. This program provides loans to sponsors of affordable rental housing for very low income elderly households. Chapter 67-32, F.A.C., provides the procedures for the administration of this loan program and criteria for receiving, evaluating, and competitively ranking all applications for loans under the EHCL program. The intent of this Rule is to provide loans to sponsors of housing for the elderly to make building preservation, health, or sanitation repairs or improvements which are required by federal, state, or local regulation or code, or life-safety or security-related repairs or improvements to such housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 420.5087 FS.

LAW IMPLEMENTED: 420.5087 FS.

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

TIME AND DATE: November 15, 2005, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Vicki Robinson, EHCL Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULES IS:

67-32.004 General Program Restrictions.

(1) No change.

(2) Funding provided under the EHCL Program may not exceed $750,000 ~~200,000~~ per Housing Community for the Elderly ~~per funding cycle~~.

(3) No change.

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.004, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated 5-5-03, Amended _____.

67-32.005 Application Procedures.

(1) The Corporation hereby adopts and incorporates by reference the EHCL Program Application Package EA0703 (12/05)~~, effective on the date of the latest amendment to this rule chapter~~.

(2) Application Packages may be obtained from the Corporation located at Suite 5000, City Centre Building, 227 North Bronough Street, Tallahassee, Florida 32301-1329 or at Florida Housing's website: http://www.floridahousing.org/Home/Developers/MultifamilyPrograms/EHCLProgram.htm.

(3) through (5) No change.

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.005, Amended 11-9-98, 1-2-00, 12-31-00, 3-17-02, Repromulgated 5-5-03, Amended 2-16-05, _____.

67-32.006 Terms and Conditions of Loan.

(1) through (3) No change.

(4) If the loan is repaid due to sale, transfer, or refinancing of the Development, all available proceeds shall be applied to pay the following items in order of priority:

(a) First mortgage debt service and fees;

(b) Any other superior debt service and fees; ~~Expenses of the sale;~~

(c) Expenses of the sale; ~~EHCL principal and accrued interest.~~

(d) EHCL principal and accrued interest.

(5) No change.

(6) Insurance shall be maintained on the Development as determined by the first mortgage lender, but which shall, in any case, include fire and hazard insurance, with the Corporation listed as a loss payee, in an amount sufficient to cover the amount of the EHCL loan and all superior mortgage loans and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective November 3, 2003 ~~September 10, 2002~~, which is adopted and incorporated herein by reference. A copy may obtained by visiting our website at: http://www.floridahousing.org/Home/Developers/MultifamilyPrograms/EHCLProgram.htm.

(7) No change.

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Amended 1-9-92, 2-25-96, Formerly 9I-32.006, Amended 11-9-98, Repromulgated 1-2-00, Amended 12-31-00, 3-17-02, 5-5-03, 2-16-05, _____.

67-32.007 Scoring, Ranking, and Funding Guidelines.

(1) through (8) No change.

~~(9) Each Application received by the Application Deadline will be assigned an Application number. Each Application that is assigned an Application number will receive a lottery number at or prior to the issuance of final scores. Lottery numbers will be assigned by having the Corporation's internal auditors run the total number of assigned Application numbers~~

~~through a random number generator program. Tie-breakers will be applied to Applications with tied scores in the order listed below. For purpose of this tie-breaker, "non-profit" is defined as an Applicant or Developer whose general partner is 100% non-profit and all partners are 100% non-profit. In addition, for purposes of this provision, a limited liability company will not be considered a nonprofit unless all of its members are 100% non-profit.~~

~~(a) Preference will be given to the Application from an Applicant that has not been previously funded through the Corporation's EHCL program.~~

~~(b) Preference will be given to the Application from an Applicant that is 100% non-profit.~~

~~(c) Lottery – Preference will be given to the Application with the lowest lottery number.~~

~~(10) If an Applicant rejects an offer of funding, the Corporation will offer the funding to remaining eligible Applications in order of ranking.~~

~~(11) An EHCL Application will not be funded if there are not enough funds available to fund at least 60% of the Application's request amount. In the event that an Application is not funded for this reason, a lower ranked Application will be considered for funding.~~

~~(9)~~(12) After all eligible Applications have been funded, any funds which have not been awarded shall be made available either to Applicants through an EHCL supplemental cycle, to applicants under the State Apartment Incentive Loan Program, or both.

~~(13) Any funds which have not been awarded after the supplemental cycle shall be made available to applicants under the State Apartment Incentive Loan Program.~~

Specific Authority 420.5087(3)(d) FS. Law Implemented 420.5087(3)(d) FS. History–New 10-2-89, Formerly 9I-32.007, Amended 11-9-98, 1-2-00, Repromulgated 12-31-00, Amended 3-17-02, 5-5-03, 2-16-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Derek Helms, Program Manager, Elderly Housing Community Loan (EHCL) Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197, Extension 1218

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Vicki Robinson, Program Administrator, Elderly Housing Community Loan (EHCL) Program, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 2005, Corporation Board of Director's Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 16, 2005

FLORIDA HOUSING FINANCE CORPORATION

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Affordable Multifamily Rental Housing SAIL/HOME/HC	67-48
RULE TITLES:	**RULE NOS.:**
PART I ADMINISTRATION	
Purpose and Intent	67-48.001
Definitions	67-48.002
Application and Selection Procedures for Developments	67-48.004
Applicant Administrative Appeal Procedures	67-48.005
Fees	67-48.007
Credit Underwriting and Loan Procedures	67-48.0072
Miscellaneous Criteria	67-48.0075
PART II STATE APARTMENT INCENTIVE LOAN PROGRAM	
SAIL General Program Procedures and Restrictions	67-48.009
Additional SAIL Application Ranking and Selection Procedures	67-48.0095
Terms and Conditions of SAIL Loans	67-48.010
Sale or Transfer of a SAIL Development	67-48.0105
SAIL Construction Disbursements and Permanent Loan Servicing	67-48.013
PART III HOME INVESTMENT PARTNERSHIPS PROGRAM	
HOME General Program Procedures and Restrictions	67-48.014
Match Contribution Requirement for HOME Allocation	67-48.015
Eligible HOME Activities	67-48.017
Eligible HOME Applicants	67-48.018
Eligible and Ineligible HOME Development Costs	67-48.019
Terms and Conditions of Loans for HOME Rental Developments	67-48.020
Sale or Transfer of a HOME Development	67-48.0205
HOME Disbursements Procedures and Loan Servicing	67-48.022
PART IV HOUSING CREDIT PROGRAM	
Housing Credit General Program Procedures and Requirements	67-48.023
Qualified Allocation Plan	67-48.025
Tax-Exempt Bond-Financed Developments	67-48.027
Carryover Allocation Provisions	67-48.028
Extended Use Agreement	67-48.029
Sale or Transfer of a Housing Credit Development	67-48.030
Termination of Extended Use Agreement and Disposition of Housing Credit Developments	67-48.031

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

(1) Administer the Application process, determine loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, F.S.; and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.; and

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.

The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the state of Florida.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule, Application and/or QAP. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply in the 2006 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

TIME AND DATE: 10:00 a.m., November 14, 2005

PLACE: Tallahassee City Hall, Commission Chambers, 300 South Adams Street, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I ADMINISTRATION

67-48.001 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

(1) Administer the Application process, determine loan amounts, make and service mortgage loans for new construction or Rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by Section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.; and

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.001, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, Amended 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.002 Definitions.

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

(2) "Address" means the address assigned by the United States Postal Service and must include address number, street name, city, state and zip code. If address has not yet been assigned, include, at a minimum, street name and closest designated intersection, city, state and zip code.

(3) "Adjusted Income" means, with respect to a HOME Development, the gross income from wages, income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, adjusted for family size, minus the deductions allowable under 24 CFR § 5.611, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~.

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

(5) "ALF" or "Assisted Living Facility" means a Florida licensed living facility that complies with Sections 400.401 through 400.454, F.S., and Chapter 58A-5, F.A.C.

(6)~~(5)~~ "Allocation Authority" means the total dollar volume of Housing Credits available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

(7)~~(6)~~ "Applicable Fraction" means Applicable Fraction as defined in Section 42(c)(1)(B) of the IRC.

(8)~~(7)~~ "Applicant" means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application for one or more of the Corporation's programs.

(9)~~(8)~~ "Application" means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for one or more Corporation programs. A completed Application may include additional supporting documentation provided by an Applicant.

(10)~~(9)~~ "Application Deadline" means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(11)~~(10)~~ "Application Period" means a period during which Applications shall be accepted as posted on the Corporation's Website and with a deadline no less than thirty days from the beginning of the Application Period.

~~(11) "ALF" or "Assisted Living Facility" means a Florida licensed living facility that complies with Sections 400.401 through 400.454, F.S., and Chapter 58A-5, F.A.C.~~

(12) "Binding Commitment" means, with respect to a Housing Credit Development, an agreement between the Corporation and an Applicant by which the Corporation allocates and the Applicant accepts Housing Credits from a later year's Allocation Authority in accordance with Section 42(h)(1)(C) of the IRC.

(13) "Board of Directors" or "Board" means the Board of Directors of the Corporation.

(14) "Building Identification Number" means, with respect to a Housing Credit Development, the number assigned by the Corporation to describe each building in a Housing Credit Development, pursuant to Internal Revenue Service Notice 88-91, which is incorporated by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~Internal Revenue Service website www.irs.gov~~.

(15) "Calendar Days" means the seven (7) days of the week~~, with respect to computing any period of time allowed by this rule, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.~~

(16) "Carryover" means the provision under Section 42 of the IRC and Rule 67-48.028, F.A.C., which allows a Development to receive a Housing Credit Allocation in a given calendar year and be placed in service by the close of the second calendar year following the calendar year in which the allocation is made.

(17) "Catchment Area" means the geographical area covered under a Local Homeless Assistance Continuum of Care Plan, as designated and revised as necessary by the State Office on Homelessness, in accordance with Section 420.624, F.S.

(18) "CHDOs" or "Community Housing Development Organizations" means Community housing development organizations as defined in Section 420.503, F.S., and 24 CFR Part 92.

(19) "Commercial Fishing Worker" means Commercial fishing worker as defined in Section 420.503, F.S.

(20) "Commercial Fishing Worker Household" means a household of one or more persons wherein at least one member of the household is a Commercial Fishing Worker at the time of initial occupancy.

(21) "Competitive Housing Credits" or "Competitive HC" means those Housing Credits which come from the Corporation's annual Allocation Authority.

(22) "Compliance Period" means a period of time that the Development shall conform to all set-aside requirements as described further in the rule chapter and agreed to by the Applicant in the Application.

(23) "Consolidated Plan" means the plan prepared in accordance with 24 CFR Part 91, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~, and which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs, including the HOME Program.

(24) "Contact Person" means the person with whom the Corporation will correspond concerning the Application and the Development. This person cannot be a third-party consultant.

(25) "Corporation" means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

(26) "Credit Underwriter" means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting services.

(27) "Department" means the Department of Community Affairs as defined in Section 420.503, F.S.

(28) "Developer" means any individual, association, corporation, joint venturer, or partnership which possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing as required in the Application.

(29) "Development" means Project as defined in Section 420.503, F.S.

(30) "Development Cash Flow" means, with respect to SAIL Developments, cash flow of a SAIL Development as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles ("GAAP") and as adjusted for items including any distribution or payment to the Principal(s) or any Affiliate of the Principal(s) or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report.

(31) "Development Cost" means the total of all costs incurred in the completion of a Development excluding developer fee, acquisition cost of existing developments, and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

(32) "Development Expenses" means, with respect to SAIL Developments, usual and customary operating and financial costs, such as the compliance monitoring fee, the financial monitoring fee, replacement reserves, the servicing fee and the debt service reserves. As it relates to SAIL Developments and to the application of Development Cash Flow described in subsections 67-48.010(3) and (4), F.A.C., the term includes only those expenses disclosed in the operating pro forma included in the final credit underwriting report, as approved by the Board.

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

(34) "Document" means ~~written,~~ electronic media, written or graphic matter, of any kind whatsoever, however produced or reproduced, including records, reports, memoranda, minutes, notes, graphs, maps, charts, contracts, opinions, studies, analysis, photographs, financial statements and correspondence as well as any other tangible thing on which information is recorded.

(35) "Draw" means the disbursement of funds to a Development.

(36) "Elderly" means Elderly as defined in Section 420.503, F.S.

(37) "Eligible Persons" means one or more natural persons or a family, irrespective of race, creed, national origin, or sex, determined by the Corporation to be of Low Income or Very Low Income, as further described in Rule 67-48.0075, F.A.C.

(38) "EUA" or "Extended Use Agreement" means, with respect to the HC Program, an agreement between the Corporation and the Applicant which sets forth the set-aside requirements and other Development requirements under the HC Program.

(39) "Executive Director" means the Executive Director of the Corporation.

(40) "Family" describes a household composed of one or more persons.

(41) "Farmworker" means Farmworker as defined in Section 420.503, F.S.

(42) "Farmworker Household" means a household of one or more persons wherein at least one member of the household is a Farmworker at the time of initial occupancy.

(43) "Final Housing Credit Allocation" means, with respect to a Housing Credit Development, the issuance of Housing Credits to an Applicant upon completion of construction or Rehabilitation of a Development and submission to the Corporation by the Applicant of a completed and executed Final Cost Certification Application pursuant to Rule 67-48.023, F.A.C.

(44) "Financial Beneficiary" means any Developer and its p~~P~~rincipals or Principals of the Applicant entity who receives or will receive a financial benefit as outlined in paragraphs (a) and (b) below and as further described in Rule 67-48.0075, F.A.C.:

(a) 3% or more of Total Development Cost if Total Development Cost is $5 million or less; or

(b) 3% of the first $5 million and 1% of any costs over $5 million if Total Development Cost is greater than $5 million.

(45) "Financial Institution" means Lending institution as defined in Section 420.503, F.S.

(46) "Florida Keys Area" means all lands in Monroe County, except:

(a) That portion of Monroe County included within the designated exterior boundaries of the Everglades National Park and areas north of said Park;

(b) All lands more than 250 feet seaward of the mean high water line owned by local, state, or federal governments; and

(c) Federal properties.

(47) "Funding Cycle" means the period of time commencing with the Notice of Funding Availability or Notice of Credit Availability pursuant to this rule chapter and concluding with the issuance of allocations or loans to Applicants who applied during a given Application Period.

(48) "General Contractor" means a person or entity duly licensed in the state of Florida with the requisite skills, experience and credit worthiness to successfully provide the units required in the Application, and which meets the criteria described in Rule 67-48.0072, F.A.C.

(49) "Geographic Set-Aside" means the amount of Allocation Authority or funding which has been designated by the Corporation to be allocated for Developments located in specific geographical regions within the state of Florida.

(50) "HC" or "Housing Credit Program" means the rental housing program administered by the Corporation pursuant to Section 42 of the IRC and Section 420.5099, F.S., under which the Corporation is designated the Housing Credit agency for the S~~s~~tate of Florida within the meaning of Section 42(h)(7)(A) of the IRC and Rule Chapter 67-48, F.A.C.

(51) "HOME" or "HOME Program" means the HOME Investment Partnerships Program administered by the Corporation pursuant to 24 CFR Part 92, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~, and Section 420.5089, F.S.

(52) "HOME-Assisted Unit" means the specific units that are funded with HOME funds. HOME units shall adhere to rent controls and income targeting requirements pursuant to 24 CFR § 92.252.

(53) "HOME Development" means any Development which receives financial assistance from the Corporation under the HOME Program.

(54) "HOME Rental Development" means a Development proposed to be constructed or rehabilitated with HOME funds.

(55) "HOME Rent-Restricted Unit" means the maximum allowable rents designed to ensure affordability on the HOME-Assisted Units.

(56) "Homeless" means a Family who lacks a fixed, regular, and adequate nighttime residence or a Family who has a primary nighttime residence that is:

(a) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing;

(b) An institution that provides a temporary residence for individuals intended to be institutionalized; or

(c) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

The term does not refer to any individual imprisoned or otherwise detained pursuant to state or federal law.

(57) "Housing Credit" means the tax credit issued in exchange for the development of rental housing pursuant to Section 42 of the IRC and the provisions of Rule Chapter 67-48, F.A.C.

(58) "Housing Credit Allocation" means the amount of Housing Credits determined by the Corporation as necessary to make a Development financially feasible and viable throughout the Development's Compliance Period pursuant to Section 42(m)(2)(A) of the IRC.

(59) "Housing Credit Development" means the proposed or existing rental housing Development(s) for which Housing Credits have been applied or received.

(60) "Housing Credit Extended Use Period" means, with respect to any building that is included in a Housing Credit Development, the period that begins on the first day of the Compliance Period in which such building is part of the Development and ends on the later of: (i) the date specified by the Corporation in the Extended Use Agreement or (ii) the date that is the fifteenth anniversary of the last day of the Compliance Period, unless earlier terminated as provided in Section 42(h)(6) of the IRC.

(61) "Housing Credit Period" means with respect to any building that is included in a Housing Credit Development, the period of 10 years beginning with:

(a) The taxable year in which such building is placed in service, or

(b) At the election of the Developer, the succeeding taxable year.

(62) "Housing Credit Rent-Restricted Unit" means, with respect to a Housing Credit Development, a unit for which the gross rent does not exceed 30% of the imputed income limitation applicable to such unit as chosen by the Applicant in the Application and in accordance with Section 42 of the IRC.

(63) "Housing Credit Set-Aside" means the number of units in a Housing Credit Development necessary to satisfy the percentage of units set-aside at 60% of the Area Median Income (AMI) or less as chosen by the Applicant in the Application.

(64) "Housing Credit Syndicator" means a person, partnership, corporation, trust or other entity that regularly engages in the purchase of interests in entities that produce Qualified Low Income Housing Projects [as defined in Section 42(g) of the Internal Revenue Code] and provides at least one written reference in the Application that such person, partnership, corporation, trust or other entity has performed its obligation under the partnership agreements and is not currently in default under those agreements.

(65) "Housing Provider" means, with respect to a HOME Development, Local Government, consortia approved by HUD under 24 CFR Part 92, for-profit and Non-profit Developers, and qualified CHDOs, with demonstrated capacity to construct or rehabilitate affordable housing.

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

(67) "IRC" means Section 42 and subsections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, as in effect on the date of this rule chapter, together with corresponding and applicable final, temporary or proposed regulations, notices, and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States, which are incorporated by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~Internal Revenue Service website www.irs.gov~~.

(68) "Lead Agency" means a Local Government or Non-Profit serving as the point of contact and accountability to the State Office on Homelessness with respect to the Local Homeless Assistance of Continuum of Care Plan, in accordance with Section 420.624, F.S.

(69) "Local Government" means Local government as defined in Section 420.503, F.S.

(70) "Local Homeless Assistance Continuum of Care Plan" means a plan for developing and implementing a framework for a comprehensive and seamless array of housing and services to address the needs of homeless persons and persons at risk for homelessness, in accordance with Section 420.624, F.S.

(71) "Low Income" means the Adjusted Income for a Family which does not exceed 80% of the area median income.

(72) "LURA" or "Land Use Restriction Agreement" means an agreement between the Corporation and the Applicant which sets forth the set-aside requirements and other Development requirements under a Corporation program.

(73) "Match" means non-federal contributions to a HOME Development eligible pursuant to 24 CFR Part 92.

(74) "Mortgage" means Mortgage as defined in Section 420.503, F.S.

(75) "Non-Profit" means a qualified non-profit entity as defined in Section 42(h)(5)(C), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida Corporation, or organized under similar state law if organized in a jurisdiction other than Florida, to provide housing and other services on a not-for-profit basis, which owns at least 51% of the ownership interest in the Development held by the general partner or managing member entity and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing, as further described in Rule 67-48.0075, F.A.C.

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

(77) "Portfolio Diversification" means a distribution of SAIL and HOME Program loans to Developments in varying geographic locations with varying design structures and sizes and with different types and identity of Sponsors.

(78) "Preliminary Allocation" means a non-binding reservation of Housing Credits issued to a Housing Credit Development which has demonstrated a need for Housing Credits and received a positive recommendation from the Credit Underwriter.

(79) "Preliminary Determination" means an initial determination by the Corporation of the amount of Housing Credits outside the Allocation Authority needed from the Treasury to make a Tax-Exempt Bond-Financed Development financially feasible and viable.

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

(81) "Progress Report" or "Form Q/M Report" means, with respect to a Housing Credit Development, a report format that is required to be completed and submitted to the Corporation pursuant to Rule 67-48.028, F.A.C., and is adopted and incorporated herein by reference, effective January 2005 ~~2003~~. A copy of such form is available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(82) "Project" or "Property" means Project as defined in Section 420.503, F.S.

(83) "QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2006 ~~2005~~ Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon approval by the Governor of the state of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(84) "QCT" "Qualified Census Tract" means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50% or more of the households at an income which is less than 60% of the area median gross income, or a poverty rate of at least 25 percent, in accordance with Section 42(d)(5)(C) of the IRC.

(85) "RD" or "Rural Development" means Rural Development Services (formerly the "Farmer's Home Administration" or "FmHA") of the United States Department of Agriculture.

(86) "Received" as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, U.S. Postal Service or other courier service, in the office of the Corporation no later than 5:00 p.m., Eastern Time, on the deadline date.

(87) "Rehabilitation" means, with respect to the HOME and Housing Credit Program(s), the alteration, improvement or modification of an existing structure, as further described in Rule 67-48.0075, F.A.C.

(88) "Review Committee" means a committee established pursuant to Sections 420.5087 and 420.5089, F.S.

(89) "SAIL" or "SAIL Program" means the State Apartment Incentive Loan Program created pursuant to Sections 420.507(22) and 420.5087, F.S.

(90) "SAIL Development" means a residential development comprised of one or more residential buildings, each containing five or more dwelling units and functionally related facilities, proposed to be constructed or substantially rehabilitated with SAIL funds for Eligible Persons.

(91) "SAIL Minimum Set-Aside Requirement" means the least number of set-aside units in a SAIL Development which must be held for Very Low-Income persons or households pursuant to the category (i.e., Family, Elderly, Homeless, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, F.A.C.

(92) "Scattered Sites" for a single Development means a Development consisting of real property ~~more than one parcel~~ in the same county ~~where two or more of the parcels~~ (i) any part of which is ~~are~~ not contiguous ("non-contiguous parts") ~~to one another~~ or (ii) any part of which is ~~are~~ divided by a street

or easement (“divided parts”) and (iii) it is readily apparent from the proximity of the non-contiguous parts or the divided parts of the real property ~~sites~~, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property ~~properties~~ are part of a common or related scheme of development.

(93) “Section 8 Eligible” means a Family with an income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, which is adopted and incorporated herein by reference and available on the Corporation’s Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~.

(94) “Single Room Occupancy” or “SRO” means housing, consisting of single room dwelling units, that is the primary residence of its occupant or occupants. An SRO does not include facilities for students.

(95) “Sponsor” means Sponsor as defined in Section 420.503, F.S.

(96) “State Office on Homelessness” means the office created within the Department of Children and Family Services under Section 420.622, F.S.

(97) “Substantial Rehabilitation” means, with respect to the SAIL Program, to bring a Development back to its original state with added improvements, where the value of such repairs or improvements (excluding the costs of acquiring or moving a structure) exceeds 40% of the appraised as is value (excluding land) of such Development before repair. For purposes of this definition, the value of the repairs or improvements means the Development Cost. To be considered “Substantial Rehabilitation,” there must be at least the foundations remaining from the previous structures, suitable to support the proposed construction.

(98) “Tax Exempt Bond-Financed Development” means a Development which has been financed by the issuance of tax-exempt bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the IRC.

(99) “Tie-Breaker Measurement Point” means a single point selected by the Applicant on the proposed Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. For a Development which consists of Scattered Sites, this means a single point on one of the Scattered Sites which comprise the Development site that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development. In addition, the Tie-Breaker Measurement Point must be located on the site with the most units if any of the Scattered Sites has more than 4 units.

(100) “Total Development Cost” means the total of all costs incurred in the completion of a Development, all of which shall be subject to the review and approval by the Credit Underwriter and the Corporation pursuant to this rule chapter, and as further described in Rule 67-48.0075, F.A.C.

(101) “Treasury” means the United States Department of Treasury or other agency or instrumentality created or chartered by the United States to which the powers of the Department of Treasury have been transferred.

(102) “Urban In-Fill Development” means a Development (i) in a site or area that is targeted for in-fill housing or neighborhood revitalization by the local, county, state or federal government as evidenced by its inclusion in a HUD Empowerment/Enterprise Zone, a HUD-approved Neighborhood Revitalization Strategy, Florida Enterprise Zone, area designated under a Community Development Block Grant (CDBG), area designated as HOPE VI or Front Porch Florida Community, or a Community Redevelopment Area as described and defined in the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

(103) “Very Low-Income” means:

(a) With respect to the SAIL Program,

1. If using tax-exempt bond financing for the first mortgage, income which meets the income eligibility requirements of Section 8 of the United States Housing Act of 1937, as in effect on the date of this rule chapter; or

2. If using taxable financing for the first mortgage, total annual gross household income which does not exceed 50% of the median income adjusted for family size, or 50% of the median income adjusted for family size for households within the metropolitan statistical area (MSA), within the county in which the Family resides, or within the state of Florida, whichever is greater; or

3. If used in a Development using Housing Credits, income which meets the income eligibility requirements of Section 42 of the IRC; or

(b) With respect to the HOME Program, income which does not exceed 50% of the median income for the area, as determined by HUD, with adjustments for family size, except that HUD may establish income ceilings higher or lower than 50% of the median for the area on a basis of HUD findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(104) “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089(2) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.002, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.004 Application and Selection Procedures for Developments.

(1) When submitting an Application, Applicants must utilize the Universal Application in effect at the Application Deadline.

(a) The Universal Application Package or UA1016 (Rev. 12-05 ~~2-05~~) is adopted and incorporated herein by reference and consists of the forms and instructions, obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation's Website under the 2006 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the SAIL, HOME, HC, or SAIL and HC Program(s). ~~The Universal Application Package is adopted and incorporated herein by reference, effective February 7, 2005.~~

(b) All Applications must be complete, legible and timely when submitted, except as described below. Corporation staff may not assist any Applicant by copying, collating, or adding documents to an Application nor shall any Applicant be permitted to use the Corporation's facilities or equipment for purposes of compiling or completing an Application.

(2) Failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold, rejection of the Application, a score less than the maximum available, or a combination of these results in accordance with the instructions in the Application and this rule chapter.

(3) Each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Universal Application Package and these rules. Preliminary scores shall be transmitted to all Applicants.

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application must file with the Corporation, within eight (8) Calendar Days of the date of the preliminary scores are sent by overnight delivery by the Corporation, a written Notice of Possible Scoring Error (NOPSE). Each NOPSE must specify the assigned Application number and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE timely Received.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant.

(6) Within 11 Calendar Days of the date of the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation, each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate to address the issues raised pursuant to subsections (3) and (5) above that could result in rejection of the Application or a score less than the maximum available. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. The Applicant shall submit an original and three copies of all additional documentation and revisions. Only revisions, changes and other information Received by the deadline set forth herein will be considered. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

(7) Within seven (7) Calendar Days of the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above, all Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. Each NOAD is limited only to issues created by document revisions, additions, or both, by the Applicant submitting the Application pursuant to subsection (6) above. Each NOAD must specify the assigned Application number, the pages and the documents in question, as well as describe the alleged deficiencies in detail. Each NOAD is limited to the review of only one Applicant's submission. However, there is no limit to the number of NOADs which may be submitted. NOADs which seek the review of more than one Applicant's submission will be considered improperly filed and ineligible for review. The Corporation will only review each written NOAD ~~timely~~ Received timely.

(8) The Corporation shall transmit a copy of all NOADs to the affected Applicant.

(9) Following the receipt and review by the Corporation~~'s Staff~~ of the documentation described in subsections (5), (6) and (7) above, the Corporation~~'s Staff~~ shall then prepare final scores. 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 notices described in subsections

(3), (4) and (5) above. However, inconsistencies created by the Applicant as a result of information provided pursuant to subsections (6) and (7) above will still be justification for rejection or reduction of points, as appropriate. Notwithstanding the foregoing, any deficiencies in the mandatory elements set forth in subsection (14) below can be identified at any time prior to sending the final scores to Applicants and will result in rejection of the Application. The Corporation shall then transmit final scores to all Applicants.

(10) The availability of any remaining funds or Allocation Authority shall be noticed or offered to a Development as approved by the Board of Directors. With respect to the HC Program, in the event there remains Allocation Authority after the Corporation has exhausted its waiting list of Applications during a Funding Cycle and time requirements preclude an Application Period and notice thereof, the Corporation shall allocate any unused Allocation Authority to any eligible Development meeting the requirements of Section 42 of the IRC and in accordance with the Qualified Allocation Plan.

(11) Except for ~~Applications shall be limited to one submission per subject property with the exception that~~ Local Government-issued Tax-Exempt Bond-Financed Developments that ~~may~~ submit a separate Application for non-competitive Housing Credits, Applications shall be limited to one submission per subject property. Two or more Applications, submitted in the same Funding Cycle, that have the same demographic commitment and one or more of ~~with~~ the same Financial Beneficiaries ~~Beneficiary~~ will be considered submissions for the same Development if any of the following is true: (i) any part of any of the property sites is ~~for Developments that are~~ contiguous with any part of any of the other ~~the~~ property sites ~~of another Application~~, or (ii) any of the property sites ~~that~~ are divided by a street or easement, or (iii) ~~if~~ it is readily apparent from the ~~two~~ Applications, proximity, chain of title, or other information available to the Corporation that the properties are part of a common or related scheme of development.~~,~~ If two or more Applications are ~~the Applications will be~~ considered to be submissions for the same Development, ~~site and~~ the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application with the lowest lottery number will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number. ~~Two Applications by Applicants with common Financial Beneficiaries for Developments that are contiguous, or that are divided by a street or easement, or that are otherwise part of a common or related scheme of development, will not be considered to be submissions for the same Development site if one of the Applicants applies for SAIL pursuant to paragraph B.7.c.(6). of the Ranking and Selection Criteria of the Universal Application Instructions.~~

(12) If the Board determines that any Applicant or any Affiliate of an Applicant:

(a) Has engaged in fraudulent actions;

(b) Has materially misrepresented information to the Corporation regarding any past or present ~~of its Developments, or within the current~~ Application or Development ~~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 that such action substantially increases the likelihood that the Applicant will not be able to produce quality affordable housing, the Applicant and any of the Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin from the date the Board makes such determination. Such determination shall be either pursuant to a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(13) The Corporation shall reject an Application if, following the submission of the additional documentation, revised pages and other information as the Applicant deems appropriate as described in subsection (6) above:

(a) The Development is inconsistent with the purposes of the SAIL, HOME, or HC Program(s) or does not conform to the Application requirements specified in this rule chapter;

(b) The Applicant fails to achieve the threshold requirements as detailed in these rules, the applicable Application, and Application instructions;

(c) The Applicant fails to file all applicable Application pages and exhibits which are provided by the Corporation and adopted under this rule chapter;

(d) An Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears for any financial obligation it has to the Corporation or any agent or assignee of the Corporation. For purposes of the SAIL and HOME Programs, this rule subsection does not include permissible deferral of SAIL or HOME interest.

(14) Notwithstanding any other provision of these rules, there are certain items that must be included in the Application and cannot be revised, corrected or supplemented after the Application Deadline. Failure to submit these items in the Application at the time of the Application Deadline shall result in rejection of the Application without opportunity to submit additional information. Any attempted changes to these items will not be accepted. Those items are as follows:

(a) Name of Applicant;

(b) Identity of each Developer, including all co-Developers;

(c) Program(s) applied for;

(d) Applicant applying as a Non-Profit or for-profit organization;

(e) Site for the Development;

(f) Development Category;

(g) Development Type;

(h) Designation selection;

(i) County;

(j) Total number of units;

(k) With regard to the SAIL and HC Programs, the Total Set-Aside Percentage as stated in the last row of the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application. With regard to the HOME Program, the Total Set-Aside Percentage as stated in the Set-Aside Commitment section of the Application, unless the change results from the revision allowed under (m) below;

(l) CHDO election for the HOME Program;

(m) Funding Request (except for Taxable Bonds) amount; notwithstanding the foregoing, requested amounts can be changed only as follows:

1. Reduced by the Applicant to reflect the maximum request amount allowed in those instances where an Applicant requested more than its request limit, or

2. When the county in which the Development is located is newly designated as a Difficult Development Area (DDA) after the Application Deadline but prior to the end of the cure period outlined in Rule 67-48.004, F.A.C.: (i) an Applicant, who has not failed threshold for exceeding its Competitive HC request limit, may increase its Competitive HC request by an amount equaling 30%, rounded to whole dollars, of the remainder of the Applicant's initial request amount minus the Application's Deep Targeting Incentive Amount or, (ii) an Applicant, that failed threshold during preliminary scoring for requesting more than its Competitive HC request limit because the Development was not then designated as being in a DDA, may increase its Competitive HC request amount to the maximum allowable amount for the Development.

(n) Submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

(o) Payment of the required Application fee by the Application Deadline. All other items may be submitted as cures pursuant to subsection (6) above.

(15) A Development will be withdrawn from funding and any outstanding commitments for funds or HC will be rescinded if, at any time, the Board determines that the Applicant's Development or Development team is no longer the Development or Development team described in the Application, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(16) If an Applicant or any Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer has any existing Developments participating in any Corporation programs that remain in non-compliance with Section 42 of the IRC, this rule chapter, or applicable loan documents, and any applicable cure period granted for correcting such non-compliance has ended as of the time of submission of the Application or at the time of issuance of a credit underwriting report, the requested allocation will, upon a determination by the Board that such non-compliance substantially increases the likelihood that such Applicant will not be able to produce quality affordable housing, be denied and the Applicant and the Affiliates of the Applicant or Developer will be prohibited from new participation in any of the Corporation's programs for the subsequent cycle and continuing until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(17) With respect to the SAIL, HOME and HC Program Applications, when two or more Applications receive the same numerical score, the Applications will be ranked as outlined in the Application instructions.

(18) At no time during the Application, scoring and appeal process may Applicants or their representatives contact Board members concerning their own Development or any other Applicant's Development. At no time from the Application Deadline until the issuance of the final scores as set forth in subsection (9) above, may Applicants or their representatives verbally contact Corporation staff concerning their own Application or any other Applicant's Application. If an Applicant or its representative does contact a Board member in violation of this section, the Board shall, upon a determination that such contact was deliberate, disqualify such Applicant's Application.

(19) Applicants may withdraw an Application from consideration only by submitting a written notice of withdrawal to the Corporation Clerk. Applicants may not rescind any notice of withdrawal that was submitted to the Corporation Clerk. For ranking purposes, the Corporation shall disregard any withdrawal that is submitted after 5:00 p.m., Eastern Time, 14 Calendar Days prior to the date the Board is scheduled to convene to consider approval of the final ranking of the Applications and such Application shall be included in the ranking as if no notice of withdrawal had been submitted. After the Board has approved the final ranking, any notice of withdrawal submitted during the time period prohibited above and before the Board approves the final ranking, shall be deemed withdrawn immediately after Board approval of the final ranking. If an Applicant has applied for two or more programs, the withdrawal by the Applicant from any one program will be deemed by the Corporation to be a withdrawal of the Application from all programs.

(20) The name of the Development provided in the Application may not be changed or altered after submission of the Application during the history of the Development with the Corporation unless the change is requested in writing and approved in writing by the Corporation.

(21) If an Applicant or any Affiliate of an Applicant has offered or given consideration, other than the consideration to provide affordable housing, with respect to a local contribution and this is discovered prior to Board approval of the final ranking, the Corporation shall reject the Application and any other Application submitted by the same Applicant and any Affiliate of the Applicant. If discovered after the Board approves final ranking, any tentative funding or allocation for the Application and any other Application submitted in the same cycle by the same Applicant and any Affiliate of the Applicant will be withdrawn. Such Applicant and any of such Applicant's Affiliates will be ineligible for funding or allocation in any program administered by the Corporation for a period of up to two years, which will begin the date the Board issues a final order on such matter, in a proceeding conducted pursuant to Sections 120.569 and 120.57, F.S.

Specific Authority 420.507, 420.507(22)(f) FS. Law Implemented 420.5087, 420.5087(6)(c), 420.5089, 420.5089(6), 420.5099, 420.5099(2) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.004, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.005 Applicant Administrative Appeal Procedures.

(1) At the conclusion of the review and scoring process established by Rule 67-48.004, F.A.C., each Applicant will be provided with its final score and notice of rights, which shall constitute the point of entry to contest any issue related to the Applicant's Application for the SAIL Program, the HOME Program or the HC Program.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation within 21 ~~22~~ Calendar Days after the date Applicant receives its ~~of the date the Applicant's~~ notice of rights ~~is sent by overnight delivery by the Corporation~~. The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue and score sought to be challenged. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered by the designated hearing officer which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its own Application shall be allowed the opportunity to submit written arguments to the Board. Any written argument should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. ~~The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.~~

(4) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with the prioritization of the QAP and Rule Chapter 67-48, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation shall, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested funding, allocation, or both, from the next available funding, allocation, or both, whether in the current year or a subsequent year. If the final order is executed on or before the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the current year. If the final order is executed after the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements.

(5) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the point of entry to contest any ranking or scoring issue related to any other Applications for the SAIL Program, the HOME Program or the HC Program. An Applicant that wishes to contest the final ranking or score of another Applicant may do so only if:

(a) The competing Applicant files a petition on or before the 21st ~~within 22~~ Calendar Days ~~after of~~ the receipt of ~~date~~ the notice of rights ~~is sent by overnight delivery by the Corporation~~ pursuant to this subsection (5). The petition must conform to subsection 28-106.201(2) or 28-106.301(2), and subsection 67-52.002(3), F.A.C., and specify in detail each issue, score or ranking sought to be challenged.

(b) For any Application cycle closing after January 1, 2002, if the contested issue involves an error in scoring, the contested issue must (i) be one that could not have been cured pursuant to subsection 67-48.004(14), F.A.C., or (ii) be one

that could have been cured, if the ability to cure was not solely within the Applicant's control. The contested issue cannot be one that was both curable and within the Applicant's sole control to cure. With regard to curable issues, a petitioner must prove that the contested issue was not feasibly curable within the time allowed for cures in subsection 67-48.004(6), F.A.C.

(c) The competing Applicant alleges facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time the Corporation provided the Applicant with its final ranking.

(d) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(2), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommended order shall be entered which will then be considered by the Board.

(6) Any Applicant who wishes to challenge the findings and conclusions of the recommended order entered pursuant to a Section 120.57(2), F.S., proceeding as described in subsection (5) above concerning the final ranking of another Application, shall be allowed the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. ~~The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.~~

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demonstrates that its Application would have been in the funding range of the applicable final ranking, provide the requested funding, allocation, or both from the next available funding, allocation, or both, whether in the current year or a subsequent year. If the final order is executed on or before the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the current year. If the final order is executed after the Corporation issues the current year's final scores, the funding, allocation, or both, will come from the subsequent year. Funding refers to SAIL or HOME and allocation refers to HC. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings referenced in subsection (4) above.

Specific Authority 420.507 FS. Law Implemented 120.569, 120.57, 420.5087, 420.5089, 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.005, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02, 10-8-02, 12-4-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.007 Fees.

The Corporation, the Credit Underwriter or the environmental provider shall collect via check or money order the following fees and charges in conjunction with the SAIL, HOME and/or HC Program, as outlined in the Universal Application instructions:

(1) Universal Application Package fee, if applicable.

(2) Application fee.

(3) Credit Underwriting fees.

(4) Administrative fees.

(5) Commitment fees.

(6) Compliance monitoring fees.

(7) Loan servicing fees.

(8) Construction inspection fees.

(9) Financial monitoring fees.

(10) Tax-exempt mortgage financing.

(11) HUD environmental fee.

(12) Qualified Contract Package fees.

All of the fees set forth above with respect to the SAIL Program are part of Development Cost and can be included in the Development Cost pro forma and paid with SAIL loan proceeds. Failure to pay any fee shall cause the firm loan commitment under any program to be terminated or shall constitute a default on the respective loan documents.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.007, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, _____.

67-48.0072 Credit Underwriting and Loan Procedures.

The credit underwriting review shall include a comprehensive analysis of the Applicant, the real estate, the economics of the Development, the ability of the Applicant and the Development team to proceed, the evidence of need for affordable housing in order to determine that the Development meets the program requirements and determine a recommended SAIL or HOME loan amount, Housing Credit allocation amount or a combined SAIL loan amount and Housing Credit Allocation amount, if any. As part of the credit underwriting review, the Credit Underwriter will consider the applicable provisions of Rule Chapter 67-48, F.A.C.

(1) After the final rankings are approved by the Board, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting. The Corporation shall select the Credit Underwriter for each Development.

(2) For SAIL and HOME Applicants, the invitation to enter credit underwriting constitutes a preliminary commitment.

(3) A response to the invitation to enter credit underwriting must be received by the Corporation and the Credit Underwriter not later than seven (7) Calendar Days after the date of the letter of invitation.

(4) If the credit underwriting invitation is accepted:

(a) The Applicant shall submit the credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the letter of invitation.

(b) ~~Unless an extension is obtained from the Corporation,~~ F~~f~~ailure to submit the required credit underwriting fee by the specified deadline shall result in withdrawal of the invitation and issuance of an invitation to the next eligible Applicant as outlined in the Universal Application instructions. For HOME Applicants that apply and qualify as a Non-Profit entity, the Corporation shall bear the cost of the credit underwriting review and environmental review. However, if the HOME commitment is canceled for failure to adhere to rule deadlines or for reasons within the Applicant's control, the Development will be responsible for reimbursing the Corporation for fees incurred for credit underwriting and environmental review processing.

(c) A Tax-Exempt Bond-Financed Development that has previously received an allocation of Competitive HC for the proposed Development shall, as part of its acceptance to enter credit underwriting for SAIL (if the proposed Development will be funded with Local Government-issued tax-exempt bonds) or MMRB and SAIL (if the proposed Development will be funded with Corporation-issued tax-exempt bonds and SAIL), also acknowledge to the Corporation that it is returning any previously received allocation of Competitive HC for the proposed Development.

(5) The Credit Underwriter shall verify all information in the Application, including information relative to the Applicant, Developer, Syndicator, General Contractor, and, if an ALF, the service provider(s), as well as other members of the Development team.

(6) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting.

(7) The Applicant will be responsible for all fees in connection with the documentation submitted to the Credit Underwriter.

(8) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of the Credit Underwriter's expertise, the fee for such services shall be borne by the Applicant.

(9) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed property's financial feasibility. Appraisals which have been ordered and submitted by third party credit enhancers, first mortgagors or syndicators and which meet the above requirements and are acceptable to the Credit Underwriter may be used instead of the appraisal referenced above. The market study must be completed by a disinterested party who ~~which~~ is approved by the Credit Underwriter. The Credit Underwriter shall consider the market study, the Development's financial impact on Developments in the area previously funded by the Corporation, and other documentation when making its recommendation of whether to approve or disapprove a SAIL or HOME loan, a Housing Credit Allocation, or a combined SAIL loan and Housing Credit Allocation. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application.

(10) The proposed Development must demonstrate, based on current rates, that it can meet minimum 1.10 debt service coverage (DSC) requirements with all first and second mortgages for Competitive Housing Credits and non-competitive Housing Credits without SAIL. For HOME Applications, the minimum debt service coverage shall be 1.10 for the HOME loan, including all superior mortgages. Developments receiving first mortgage funding from the United States Department of Agriculture Rural Development (RD) are not required to meet the debt service coverage standards if RD is providing rental assistance and has acknowledged that rents will be set at an amount sufficient to pay all operating expenses, replacement reserve requirements and debt service on the first and second mortgages. For SAIL Applications, the minimum debt service coverage shall be 1.10 for the SAIL loan, including all superior mortgages. However, if the Applicant defers at least 35% of their developer fee for at least 6 months following construction completion, the minimum debt service coverage shall be 1.00 for the SAIL loan, including all superior mortgages. For SAIL and HOME Applications, the maximum debt service coverage shall be 1.50 for the SAIL or HOME loan, including all superior mortgages. In extenuating circumstances, such as when the Development has deep or short term subsidy, the debt service coverage may exceed 1.50 if the Credit Underwriter's favorable recommendation is supported by the projected cash flow analysis.

(11) The Corporation's assigned Credit Underwriter shall require a guaranteed maximum price or stipulated sum construction contract, which may include change orders for changes in cost or changes in the scope of work, or both, if all parties agree, and shall order, at the Applicant's sole expense, a

pre-construction analysis for all new construction or a physical needs assessment for Rehabilitation or Substantial Rehabilitation and a review of the Development's costs.

(12) In addition to operating expenses, the Credit Underwriter must include an estimate for replacement reserves and operating expense reserves deemed appropriate by the Credit Underwriter when calculating the final net operating income available to service the debt. A minimum amount of $200 per unit must be used for all Developments. However, the amount may be increased based on a physical needs assessment. An Applicant may choose to fund a portion of the replacement reserves at closing. The amount cannot exceed 50% of the required replacement reserves for two (2) years and must be placed in escrow at closing.

(13) For SAIL, HOME, and HC Applications, the underwriters may request additional information, but at a minimum for SAIL and HOME, the following will be required during the underwriting process:

(a) For credit enhancers, audited financial statements for their most recent fiscal year ended, if published; otherwise the previous year's audited statements will be provided until the current statements are published or credit underwriting is complete. The audited statements may be waived if the credit enhancer is rated at least "A-" by Moody's, Standard and Poor's or Fitch.

(b) For the Applicant, general partner(s), and guarantors, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. If audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant are not available, unaudited financial statements prepared within the last 90 days and reviewed by the Credit Underwriter in accordance with Part III, Sections 604 through 607, of the Fannie Mae Multifamily Delegated Underwriting and Servicing (DUS) Guide, effective November 6, 2003, which is incorporated by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links, and the two most recent year's tax returns. If the entities are newly formed (less than 18 months in existence as of the date that credit underwriting information is requested), a copy of any and all tax returns with related supporting notes and schedules.

(c) For the General Contractor, audited financial statements or financial statements compiled or reviewed by a licensed Certified Public Accountant for the most recent fiscal year ended, credit check, banking and trade references, and deposit verifications. The audited or compiled statements may be waived if a payment and performance bond equal to 100% of the total construction cost is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(14) The Credit Underwriter shall consider the following when determining the need for construction completion guarantees:

(a) Liquidity of the guarantor.

(b) Developer and General Contractor's history in successfully completing Developments of similar nature.

(c) Problems encountered previously with Developer or contractor.

(d) Exposure of Corporation funds compared to Total Development Cost.

At a minimum, the Credit Underwriter shall require a personal guarantee for completion of construction from the principal individual or the corporate general partner of the borrowing entity. In addition, a letter of credit or payment and performance bond will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection ~~above~~ that additional surety is needed. However, a completion guarantee will not be required if SAIL funds are not drawn until evidence of lien free completion is provided.

(15) For all Developments, the Developer fee and General Contractor's fee shall be limited to:

(a) The Developer fee shall be limited to 16% of Development Cost. A Developer fee on the building acquisition cost shall be limited to 4% of the cost of the building exclusive of land. A total Developer fee of 18% of Development Cost shall be allowed if the proposed Development is qualified for Housing Credits pursuant to Rule 67-48.027, F.A.C., pertaining to Tax-Exempt Bond-Financed Developments. However, the Developer fee shall be limited to 10% of Development Cost for those Developments involving Rehabilitation or Substantial Rehabilitation of buildings which have received a Corporation funding commitment or a Preliminary Allocation/Determination for other construction work within fourteen years of the Application Deadline.

(b) The General Contractor's fee shall be limited to a maximum of 14% of the actual construction cost.

(16) ~~In order for~~ T~~t~~he General Contractor ~~to be eligible for the maximum fee stated above, it~~ must meet the following conditions:

(a) Employ a~~A~~ Development superintendent ~~must be employed by the General Contractor~~ and charge the costs of such ~~that~~ employment ~~must be charged~~ to the general requirements line item of the General Contractor's budget;

(b) Charge the costs of the Development construction trailer, if needed, and other overhead ~~must be paid directly by the General Contractor and charged~~ to the general requirements line item of the General Contractor's budget;

(c) Secure b~~B~~uilding permits, ~~must be~~ issued in the name of the General Contractor;

(d) Secure a p~~P~~ayment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit ~~or other guarantee~~

~~acceptable to the Corporation~~). ~~must be~~ issued in the name of the General Contractor, from ~~by~~ a company rated at least "A-" by AMBest & Co.;

(e) Ensure that n~~N~~one of the General Contractor duties to manage and control the construction of the Development are ~~may be~~ subcontracted; and

(f) Ensure that n~~N~~ot more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

(17) For SAIL Applications, the Credit Underwriter shall require an operating deficit guarantee, to be released upon achievement of 1.00 debt service coverage for a minimum of 6 consecutive months for the combined permanent first mortgage and SAIL loan. For HOME Applications, the Credit Underwriter shall require an operating deficit guarantee, to be released upon achievement of 1.10 debt service coverage for a minimum of 6 consecutive months for the combined permanent first mortgage and HOME loan. An operating deficit guarantee, to be released upon achievement of 1.00 debt service coverage for a minimum of six (6) consecutive months for the combined permanent first mortgage and HOME loan will be required for Developments receiving first mortgage funding from the United States Department of Agriculture Rural Development (RD) if RD is providing rental assistance and has acknowledged that rents will be set at an amount sufficient to pay all operating expenses, replacement reserve requirements and debt service on the HOME loan and all superior mortgages.

(18) Contingency reserves which total no more than 5% of hard and soft costs for new construction and no more than 15% of hard and soft costs for Rehabilitation or Substantial Rehabilitation may be included within the Total Development Cost for Application and underwriting purposes. Contingency reserves shall not be paid from SAIL or HOME funds.

(19) The Credit Underwriter will review and determine if the number of loans and construction commitments of the Applicant and its Principals will impede its ability to proceed with the successful development of each proposed Corporation-funded Development.

(20) All items required by the Credit Underwriter must be provided to the Credit Underwriter within 35 Calendar Days of notification from the Credit Underwriter. The Applicant will have an additional 25 Calendar Days to submit the appraisal, survey and final plans to the Credit Underwriter. Unless an extension is approved by the Corporation, failure to submit the required credit underwriting information by the specified deadlines shall result in withdrawal of the preliminary commitment or, if applicable, the HC invitation to enter credit underwriting, and the funds will be made available to the next eligible Applicant as outlined in the Universal Application instructions.

(21) If the Credit Underwriter requires additional clarifying materials in the course of the underwriting process, the Credit Underwriter shall request same from the Applicant and shall specify deadlines for the submission of same. Failure to submit required information by the specified deadline, unless a written extension of time has been approved by the Corporation, shall result in rejection of the Application. If the Application is rejected, the Corporation will select additional Application(s) as outlined in the Universal Application instructions.

(22) The Credit Underwriter shall complete its analysis and submit a written draft report and recommendation to the Corporation. Upon receipt, the Corporation shall provide to the Applicant the section of the written draft report consisting of supporting information and schedules. The Applicant shall review and provide written comments to the Corporation and Credit Underwriter within 48 hours of receipt. After the 48 hour period, the Corporation shall provide to the Credit Underwriter comments on the draft report and, as applicable, on the Applicant's comments. Then, the Credit Underwriter shall review and incorporate, if deemed appropriate, the Corporation's and Applicant's comments and release the revised report to the Corporation and the Applicant. Any additional comments from the Applicant shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised report. Then, the Credit Underwriter will provide a final report, which will address comments made by the Applicant, to the Corporation.

(23) For SAIL and HOME Applications, the Credit Underwriter's recommendations will be sent to the Board for approval.

(24) After approval of the Credit Underwriter's recommendation for funding by the Board, the Corporation shall issue a firm SAIL or HOME loan commitment.

(25) For SAIL and HOME Applications, other mortgage loans related to the Development and the SAIL or HOME loan must close within 60 Calendar Days of the date of the firm SAIL or HOME loan commitment unless an extension is approved by the Board. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting an extension and shall detail the time frame to close the loan. The written request will then be submitted to the Corporation's Board for consideration. For SAIL Applications, the Corporation shall charge an extension fee of one-half of one percent of the SAIL loan amount if the Board approves the request to extend the SAIL commitment beyond the period outlined in this rule chapter.

(26) At least five (5) Calendar Days prior to any SAIL or HOME loan closing:

(a) The Applicant must provide evidence of all necessary consents or required signatures from first mortgagees or subordinate mortgagees to the Corporation and its counsel, and

(b) The Credit Underwriter must have received all items necessary to release its letter confirming that all closing contingencies have been met, including the finalized sources and uses of funds and Draw schedule.

(27) For Housing Credit Applications, the Credit Underwriter shall use the following procedures during the credit underwriting evaluation:

(a) The Credit Underwriter, in determining the amount of Housing Credits a Development is eligible for when using the qualified basis calculation, shall use a Housing Credit percentage of:

1. Thirty (30) basis points over the percentage as of the date of invitation to credit underwriting up to nine percent (9%) for nine percent (9%) credits for new construction and Rehabilitation Developments;

2. Fifteen (15) basis points over the percentage as of the date of invitation to credit underwriting up to four percent (4%) for four percent (4%) credits for acquisition and federally subsidized Developments. A percentage of fifteen (15) basis points over the percentage as of the date of invitation to final credit underwriting up to four percent (4%) will be used for Developments receiving tax-exempt bonds.

(b) Costs such as syndication fees and brokerage fees cannot be included in eligible basis. All consulting fees and the cost of the independent market study must be paid out of the Developer fee. Consulting fees and the cost of the independent market study cannot cause the Developer fee to exceed the maximum allowable fee as set forth in subsection 67-48.0072(15), F.A.C.

(c) All contracts for hard or soft Development Costs must be itemized for each cost component.

(d) If the Credit Underwriter is to recommend a Competitive Housing Credit allocation, the recommendation will be the lesser of (i) the qualified basis calculation result, (ii) the gap calculation result, or (iii) the Applicant's request amount. In the event the Credit Underwriter is making a recommendation for non-competitive Housing Credits, the recommendation will be the lesser of the qualified basis calculation result or the gap calculation result.

(28) If the Credit Underwriter recommends that Housing Credits be allocated to the Development, the Corporation shall determine the credit amount, if any, necessary to make the Development financially feasible and viable throughout the Housing Credit Extended Use Period and shall issue a Preliminary Allocation certificate or a Preliminary Determination of Housing Credits in the case of Tax-Exempt Bond-Financed Developments. If the Credit Underwriter recommends that no credits be allocated to the Development and the Executive Director accepts the recommendation, the Applicant shall be notified that no Housing Credits will be allocated to the Development. No Preliminary Allocation certificate shall be issued on a RD (formerly FmHA) Development which competed for Housing Credits within the RD set-aside and has not received an Obligation of Funding (RD or FmHA Form 3560-51 ~~1944-51~~) by October 1st of the year the Applicant is invited into credit underwriting. The Obligation of Funding (RD or FmHA Form 3560-51 ~~1944-51~~), Rev. 02-05 ~~10-97~~, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~a copy of the form can be obtained from the United States Department of Agriculture, P. O. Box 147010, Gainesville, FL 32614-7010~~. All contingencies required in the Preliminary Allocation shall be met or satisfied by the Applicant within 45 Calendar Days from the date of issuance or as otherwise indicated on the certificate unless an extension of this deadline is requested in writing by the Applicant and is granted by the Corporation in writing for good cause.

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History–New 2-7-05, Amended _____.

67-48.0075 Miscellaneous Criteria.

(1) In addition to the alteration, improvement or modification of an existing structure, Rehabilitation with respect to the HOME and Housing Credit Programs also includes:

(a) For HOME Developments, moving an existing structure to a foundation constructed with HOME funds. Rehabilitation may include adding rooms outside the existing walls of a structure, but adding a housing unit is considered new construction.

(b) For Housing Credit Developments, what is stated in Section 42(e) of the IRC, with the exception of Section 42(e)(3)(A)(ii)(II), which, for the purposes of Competitive HC, is changed to read: "II. The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units, in the building, is $20,000 or more," and, for the purposes of all other HC, is changed to read: "II. The requirement of this subclause is met if the qualified basis attributable to such amount, when divided by the number of low-income units, in the building, is $10,000 or more."

(2) For purposes of this rule chapter, in accordance with Section 42 of the IRC, a for-profit entity wholly owned by one or more qualified non-profit organizations will constitute a Non-Profit entity. The purpose of the Non-Profit must be, in part, to foster low-income housing and such purpose must be reflected in the Articles of Incorporation of the Non-Profit entity. To evidence its qualification as a Non-Profit entity, the Applicant must provide within its Application a written opinion from legal counsel. The total cost of securing this written legal opinion will be borne entirely by the Applicant. A Non-Profit entity shall own an interest in the Development, either directly or indirectly; shall not be affiliated with or controlled by a for-profit Corporation; and shall materially participate in the development and operation of the Development throughout the total affordability period as stated

in the Land Use Restriction Agreement and the Extended Use Agreement. If an Applicant applies to the Corporation as a Non-Profit entity but does not qualify as such, the Application will be rejected.

(3) Total Development Cost includes the following:

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

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

(c) Any expenses relating to the issuance of tax-exempt bonds or taxable bonds, if any, related to the particular Development.

(d) Fees in connection with the planning, execution, and financing of the Development, such as those of architects, engineers, attorneys, accountants, Developer fee, and the Corporation.

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

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

(g) The cost of land improvements, such as landscaping and offsite improvements related to the Development, whether such costs are paid in cash, property, or services. However, offsite improvements are not eligible to be paid with HOME funds.

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

(i) Allowances for working capital, contingency reserves, and reserves for any anticipated operating deficits during the first two (2) years after completion of the Development.

(j) The cost of such other items, including relocation costs, indemnity and surety bonds, premiums on insurance, and fees and expenses of trustees, depositories, and paying agents for the Corporation's bonds, for the construction or Rehabilitation/Substantial Rehabilitation of the Development.

(4) In determining the income standards of Eligible Persons for its various programs, the Corporation shall take into account the following factors:

(a) Requirements mandated by federal law.

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

(c) Whether the determination is for rental housing.

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

With respect to the HC Program, an Eligible Person shall mean a Family having a combined income which meets the income eligibility requirements of the HC Program and Section 42 of the IRC.

(5) Financial Beneficiary, as defined in Rule 67-48.002, F.A.C., does not include third party lenders, third party management agents or companies, Housing Credit Syndicators, credit enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or contractors whose total fees are within the limit described in Rule 67-48.0072, F.A.C.

(6) For computing any period of time allowed by this rule chapter, the day of the event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. ~~To be eligible for the maximum General Contractor fee, the General Contractor employed by the Developer must meet the criteria outlined in Rule 67-48.0072, F.A.C.~~

~~(7) The Developer fee is limited to the percentages outlined in Rule 67-48.0072, F.A.C.~~

Specific Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History–New 2-7-05, Amended _____.

PART II STATE APARTMENT INCENTIVE LOAN PROGRAM

67-48.009 SAIL General Program Procedures and Restrictions.

(1) Loans shall be in an amount not to exceed 25% of the Total Development Cost except as described in subsection (2) below, or the minimum amount required to make the Development economically feasible, whichever is less, as determined by the Credit Underwriter.

(2) The following types of Sponsors are eligible to apply for loans in excess of 25% of Total Development Cost pursuant to Section 420.507(22), F.S.:

(a) Non-Profit and public Sponsors which are able to secure grants, donations of land, or contributions from other sources collectively totaling at least 10% of Total Development Cost; or

(b) Sponsors that maintain an 80% occupancy of residents qualifying as Farmworkers as defined in Section 420.503(18), F.S., Commercial Fishing Workers as defined in Section 420.503(5), F.S., or the Homeless as defined in Section 420.621(4), F.S., over the life of the loan.

(3) At a minimum, the percentage of set-aside units committed to in the Application must be held for Very Low-Income persons or households for a period of time equal to the greater of the following:

(a) The term of the SAIL loan; or

(b) 12 years; or

(c) Such longer term agreed to by the Applicant in the Application.

(4) An Applicant is not eligible to apply for SAIL Program funding if any of the following pertain to the proposed Development:

(a) Construction or construction-permanent financing of the costs associated with construction or Substantial Rehabilitation of the Development, including tax-exempt bonds or conventional financing with conversion clauses, has closed as of January 1, 2005 ~~2004~~;

(b) The Applicant has received an allocation of Housing Credits or a Competitive Housing Credit commitment for the proposed Development, unless (i) the Applicant is also applying for Corporation-issued tax exempt bonds in the current Application cycle or provides evidence of a Local Government-issued tax exempt bond commitment as stated in the Universal Application Instructions, or (ii) the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its HC funding from a prior cycle; or (iii) the Applicant was successful in receiving SAIL funding for the proposed Development for the first time in the 2005 Universal Application cycle, in which case it may receive additional SAIL funding for the same Development as provided in the End-of-the-Line SAIL section of the Universal Application Instructions;

(c) The Applicant has already accepted a preliminary commitment of funding for the proposed Development through the SAIL Program from a prior Funding Cycle, unless the Applicant has provided written notice to the Corporation prior to the Application Deadline for the current cycle that it is withdrawing its acceptance and returning its SAIL funding from such prior cycle, with one exception. That exception being that a proposed Development that ~~an Applicant who~~ was successful in receiving SAIL funding for the first time in the 2005 ~~2004~~ Universal Application cycle may receive ~~request~~ additional SAIL funding for the same Development as provided in the End-of-the-Line SAIL section of the Universal Application Instructions.

~~(5) The Developer fee and General Contractor's fee shall be limited as described in Rule 67-48.0072, F.A.C.,~~

(5)~~(6)~~ The SAIL Minimum Set-Aside Requirement is:

(a) 20% of the SAIL Development's units set-aside for residents with annual household incomes at or below 50% of the area, metropolitan statistical area ("MSA") or state or county median income, whichever is higher, adjusted for family size, or

(b) 40% of the SAIL Development's units set-aside for residents with annual household incomes at or below 60% of the area, MSA or state or county median income, whichever is higher, adjusted for family size. Sponsors of SAIL-funded Developments shall have the option of selecting this minimum set-aside only if the SAIL Development is scheduled to be assisted with Housing Credits, in addition to the SAIL loan, or

(c) 100% of the SAIL Development's units set aside for residents with annual household incomes below 120% of the state or local median income, whichever is higher, adjusted for family size. Sponsors of SAIL-funded Developments shall have the option of selecting this minimum set aside only if the SAIL Development is located in the Florida Keys Area.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.009, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.0095 Additional SAIL Application Ranking and Selection Procedures.

(1) During the first six (6) months following the publication date of the first Notice of Funding Availability published each year within the state of Florida, SAIL funds shall be allocated in accordance with the ranking and selection process set forth in the Universal Application Package and based upon the requirements specified in Section 420.5087(3), F.S., which specifies the required funding within the four demographic categories of:

(a) Family;

(b) Elderly;

(c) Homeless; and

(d) Commercial Fishing Workers and Farmworkers.

(2) 10% of the funds reserved for Applicants in the Elderly category shall be reserved to provide loans to Sponsors of housing for the Elderly for the purpose of making life-safety or security-related repairs or improvements to such housing which are required by federal, state or local regulation, as further specified in Section 420.5087, F.S.

(3) Program funds designated for Commercial Fishing Workers and Farmworkers will be allocated through a request for proposal (RFP), the Universal Application Package, or both.

(4) The Corporation shall assign, in order of ranking, tentative loan amounts to the Applications in each demographic and geographic category, up to the total amount available. However, the Corporation shall make adjustments to ensure that minimum funding distribution levels by geographic category are met, as required by Section 420.5087(1), F.S., and further described in the SAIL Notice of Funding Availability.

(5) In the event that the 10% of program funds required to be allocated to counties with a population of 100,000 or less remains unallocated at the conclusion of a successive three-year cycle, the unallocated funds shall be equitably distributed pursuant to the instructions included in the Universal Application Package.

(6) Selection for SAIL Program participation is contingent upon fund availability at the conclusion of the appeals process as set forth in Rule 67-48.005, F.A.C.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0095, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.010 Terms and Conditions of SAIL Loans.

(1) The proceeds of all SAIL loans shall be used for new construction or Substantial Rehabilitation of affordable, safe and sanitary multifamily rental housing units.

(2) The SAIL loan may be in a first, second, or other subordinated lien position. For purposes of this rule, mortgages securing a letter of credit as credit enhancement for the bonds financing the first mortgage shall be considered a contingent liability and part of the first mortgage lien, provided that the Applicant's counsel furnishes an opinion regarding the contingent nature of such mortgage satisfactory to the Corporation and its counsel.

(3) The loans shall be non-amortizing and shall have interest rates as follows:

(a) 1% simple interest per annum on loans to Developments that maintain an 80% occupancy of residents qualifying as Farmworkers, Commercial Fishing Workers or Homeless, over the life of the loan;

(b) 3% simple interest per annum on loans to Developments other than those identified in paragraph (a) above;

(c) Except as provided in Section 420.5087(5), F.S., the amount of any superior mortgages combined with the SAIL mortgage shall be less than the appraised value of the Development. Any debt service reserve requirement associated with a superior mortgage shall be excluded from the amount of the superior mortgage for purposes of this calculation.

(d) Payment on the loans shall be based upon the Development Cash Flow, as determined pursuant to the SAIL Cash Flow Reporting Form SR-1. Any distribution or payment to the Principal(s) or any Affiliate of the Principal or to the Developer or any Affiliate of the Developer, whether paid directly or indirectly, which was not expressly disclosed in determining debt service coverage in the Board approved final credit underwriting report, will be added back to the amount of cash available for the SAIL loan interest payment, as calculated in the SAIL Cash Flow Reporting Form SR-1, for the purpose of determining interest due. Interest may be deferred as set forth in subsection 67-48.010(6), F.A.C., without constituting a default on the loan.

(4) The loans described in paragraphs 67-48.010(3)(a) and (b), F.A.C., above shall be repaid from all Development Cash Flow, and if the SAIL loan is not a first mortgage loan, each year, subject to the provisions of subsection (6) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) All superior mortgage fees and debt service;

(b) Development Expenses on the SAIL loan, including up to 20% of total Developer fees per year;

(c) Interest payment on SAIL loan balance equal to 1% as stated in paragraph (3)(a) above and equal to 3% as stated in paragraph (3)(b) above over the life of the SAIL loan;

(d) Interest payments on the SAIL loan deferred from previous years;

(e) Mandatory payment on subordinate mortgages.

After the full SAIL loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(5) If the SAIL loan is secured by a first mortgage lien, each year, subject to the provisions of subsection (6) below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) First mortgage fees and interest payment on SAIL loan balance equal to 1% as stated in paragraph (3)(a) above and equal to 3% as stated in paragraph (3)(b) above over the life of the SAIL loan;

(b) Development Expenses on the SAIL loan including up to 20% of total Developer fees per year;

(c) Interest payments on the SAIL loan deferred from previous years;

(d) Mandatory payment on subordinate mortgages.

After the full SAIL loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

(6) The determination of Development Cash Flow, determination of payment priorities, and payment of interest on SAIL loans shall occur annually. Any payments of accrued and unpaid interest due annually on SAIL loans shall be deferred to the extent that Development Cash Flow is insufficient to make said payments pursuant to the payment priority schedule established in this rule chapter. If Development Cash Flow is under-reported and such report causes a deferral of SAIL interest, such under-reporting shall constitute an event of default on the SAIL loan. A penalty of 5% of any required payment shall be assessed.

(a) By May 31 of each year of the SAIL loan term, the Applicant shall provide the Corporation with audited financial statements and a certification detailing the information needed to determine the annual payment to be made. However, this certification requirement will be waived until May 31 following the calendar year within which the first unit is occupied. The certification shall require submission of audited financial statements and the SAIL annual reporting form, Cash Flow Reporting Form SR-1, Rev. 9/05 ~~10/04~~, which is incorporated by reference. Form SR-1 can be obtained from the Credit Underwriter acting as the assigned servicer or on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links. The audited financial statements are to be prepared in accordance with generally accepted accounting principles for the 12 months ended December 31 and shall include:

1. Comparative Balance Sheet with prior year and current year balances;

2. Statement of revenue and expenses;

3. Statement of changes in fund balances or equity;

4. Statement of cash flows; and

5. Notes.

The financial statements referenced above should also be accompanied by a certification of the Applicant as to the accuracy of such financial statements. A late fee of $500 will be assessed by the Corporation for failure to submit the required audited financial statements and certification by May 31 of each year of the SAIL loan term. Failure to submit the required audited financial statements and certification by May 31 of each year of the SAIL loan term shall constitute an event of default on the SAIL loan. The Applicant shall furnish to the Corporation or its servicer, unaudited statements, certified by the Applicant's principal financial or accounting officer, covering such financial matters as the Corporation or its servicer may reasonably request, including without limitation, monthly statements with respect to the Development.

For SAIL loans applied for prior to February 22, 2001, the Corporation will extend the annual filing deadline for submission of the audited financial statements and certification detailing the information needed to determine the annual payment to be made, pursuant to subsection 67-48.010(6), F.A.C., to May 31 of each year of the SAIL loan term. The Corporation servicer shall issue a billing for interest due on the SAIL loan for the immediately preceding calendar year by July 31 of each calendar year of the SAIL loan. In addition, for SAIL loans applied for prior to December 23, 1996, so long as the executed loan agreements contain a provision to assess a late fee for failure to provide the audited financial statement and certification detailing the information needed to determine the annual payment due, such fee will be assessed by the Corporation as outlined above.

(b) The Corporation servicer shall issue a billing for interest due on the SAIL loan for the immediately preceding calendar year by July 31 of each calendar year of the SAIL loan.

(c) The Applicant shall remit the interest due to the Corporation servicer no later than August 31 of each year of the SAIL loan term. The first payment of SAIL interest will be due no later than August 31 following the calendar year within which the first unit is occupied. The first payment of interest shall include all interest for the period which begins accruing on the date of the first Draw and ends on December 31 of the calendar year during which the first unit is occupied.

(7) After maturity or acceleration, the Note shall bear interest at the Default Interest Rate from the due date until paid. Unless the Corporation has accelerated the SAIL loan, the Applicant shall pay the Corporation a late charge of 5% of any required payment that is not received by the Corporation within 15 days of the due date.

(8) Any sale, conveyance, assignment, or other transfer of interest or the grant of a security interest in all or any part of the title to the Development other than a superior mortgage shall be subject to the Corporation's prior written approval.

(9) The final billing for the purpose of payoff of the SAIL loan shall also include a billing for compliance fees to cover monitoring of SAIL Program requirements beyond the maturity date of the Note. Such fees shall be computed by determining the present value of the annual compliance monitoring fee and multiplying that by the number of years for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. The present value discount rate shall be 2.75% per annum. Such amount shall be reduced by the amount of any compliance monitoring fees for other programs collected by the Corporation for the Development provided:

(a) The compliance monitoring fee covers some or all of the period following the anticipated SAIL loan repayment date; and

(b) The Development has substantially equivalent set-asides for Very Low-Income persons or households mandated through another Corporation program for which the compliance monitoring fee was collected.

(10) The SAIL loans shall be serviced either directly by the Corporation or by the servicer on behalf of the Corporation.

(11) The Corporation shall monitor compliance of all terms and conditions of the SAIL loan and shall require that certain terms and conditions be embodied in the Land Use Restriction Agreement and recorded in the public records of the county wherein the Development is located. ~~The Land Use Restriction Agreement will be recorded first.~~ Violation of any term or condition of the documents evidencing or securing the SAIL loan shall constitute a default during the term of the SAIL loan. The Corporation shall take legal action to effect compliance if a violation of any term or condition relative to the set-asides of units for Very Low-Income persons or households is discovered during the course of compliance monitoring or by any other means.

(12) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective November 3, 2003, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links.

(13) The SAIL loan shall be for a period of not more than 15 years. However, if both a SAIL loan and federal housing credits are to be used to assist a Development, the Corporation may set the SAIL loan term for a period commensurate with the investment requirements associated with the Housing Credit syndication. The loan term may also exceed 15 years as

required by the Federal National Mortgage Association whenever it is participating in the financing of the Development, or if otherwise approved by the Board.

(14) Upon maturity of the SAIL loan, the Corporation may renegotiate and extend the loan in order to extend the availability of housing for the target population. Such extensions shall be based upon:

(a) Performance of the Applicant during the SAIL loan term;

(b) Availability of similar housing stock for the target population in the area;

(c) Documentation and certification by the Applicant that funds are not available to repay the Note upon maturity;

(d) A plan for the repayment of the loan at the new maturity date; and

(e) Assurance that the security interest of the Corporation will not be jeopardized by the extension.

(15) After accepting a preliminary commitment, the Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the SAIL mortgage without prior approval of the Corporation's Board of Directors. However, an Applicant may reduce the interest rate on any superior or inferior mortgage loan without the Board's permission, provided that no other terms of the loan are changed. The Corporation must be notified of any such change.

(a) The Board shall approve requests for mortgage loan refinancing only if Development Cash Flow is improved, the Development's economic viability is maintained, the security interest of the Corporation is not adversely affected, and the Credit Underwriter provides a positive recommendation.

(b) Following construction completion, t~~T~~he Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in paragraph 67-48.010(15)(a), F.A.C., are met, the original combined loan to value ratio for the superior mortgage and the SAIL mortgage is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding SAIL loan balance. To calculate the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the SAIL loan balance, the following calculation shall be used: divide the amount of the original SAIL mortgage by the combined amount of the original SAIL mortgage and the original superior mortgage; then multiply the quotient by the amount of the increase in the superior mortgage after deducting refinancing costs. For example, if the amount of the original SAIL mortgage is $2,000,000, the original superior mortgage is $4,000,000, but the current balance is $3,000,000, the proposed new superior mortgage is $5,000,000, and refinancing costs are $200,000, then the amount of the increase in the superior mortgage after deducting refinancing costs would be $1,800,000, and the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the SAIL loan balance would be $594,000. This $594,000 would be applied first to accrued interest and then to principal.

(c) The Board shall deny requests for mortgage loan refinancing which require extension of the SAIL loan term or otherwise adversely affect the security interest of the Corporation unless the criteria outlined in paragraph 67-48.010(15)(a), F.A.C., are met, the Credit Underwriter recommends that the approval of such a request is crucial to the economic survival of the Development or unless the Board determines that public policy will be better served by the extension as a result of the Applicant agreeing to further extend the Compliance Period or provide additional amenities or resident programs suitable for the resident population. Further, the Board shall limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

(16) All SAIL loans shall be in conformance with applicable federal and state statutes, including the Fair Housing Act as implemented by 24 CFR Part 100, which is adopted and incorporated herein by reference, and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which is adopted and incorporated herein by reference. These provisions are available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov.~~ The Corporation shall allow units dedicated to occupancy by the Elderly in a Development designed for occupancy by elderly households pursuant to authorization by HUD under the Fair Housing Amendments of 1988 as implemented by 24 CFR Part 100.

(17) Rent controls shall not be allowed on any Development except as required in conjunction with the issuance of tax-exempt bonds or federal Housing Credits; however, rents must be determined to be reasonable by the Credit Underwriter.

(18) The documents creating, evidencing or securing each SAIL loan must provide that any violation of the terms and conditions described in Rule Chapter 67-48, F.A.C., constitutes a default under the SAIL loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

(19) A failure to pay any principal or interest due under the terms of this section shall constitute a default on the SAIL loan.

(20) If, after a four-month rent-up period commencing after issuance of the last certificate of occupancy on the units, an Applicant is unable to meet the agreed-upon demographic commitment for Elderly, Homeless, Farmworker or Commercial Fishing Worker, the Applicant may request to rent such units to Very Low-Income persons or households without demographic restriction.

(a) The written request must provide documentation of marketing efforts implemented over the past four-month period which demonstrate the inclusion of sources of potential residents, advertising to be used, other means of encouraging residents to rent at the Development, and priority to the original targeted group of residents. If the Corporation determines that prior marketing efforts were insufficient, a revised plan which is satisfactory to the Corporation must be submitted and implemented for a four-month period prior to reconsideration.

(b) The Board will require Applicants to provide additional amenities or resident programs suitable for the proposed resident population.

(c) The Board will require Applicants with 1% loans, as described in paragraph 67-48.010(3)(a), F.A.C., to modify loan documents to conform to the terms and conditions of 3% loans, as described in paragraph 67-48.010(3)(b), F.A.C., or to accelerate payments of SAIL loan principal or interest.

(21) The Applicant shall provide to the Corporation an annual budget of income and expenses for the Development, certified as accurate by an officer of the Development, no later than 30 days prior to the beginning of the Development's fiscal year.

(22) Failure to provide the Corporation and its servicer with the SAIL available Cash Flow Statement detailing the information needed to determine the annual payment to be made pursuant to this rule chapter shall constitute a default on the SAIL loan.

(23) For SAIL loans applied for prior to March 17, 2002, at the borrower's request, the Corporation will include up to 20% of total Developer fees per year as a Development Expense when calculating the interest due on the SAIL loan for the 2003 calendar year for the billing issued in 2004 pursuant to paragraph 67-48.010(6)(b), F.A.C., and for the billing for interest due each calendar year thereafter. Development Expense will not include Developer fees for determination of payment of interest on SAIL loans applied for prior to March 17, 2002 for the 2002 calendar year or any previous calendar year. For purposes in this paragraph, Development Expense has the same meaning as Project Expense and Eligible Project Expense as those terms are used in SAIL loans applied for prior to March 17, 2002.

(24) The Compliance Period for a SAIL Development shall be, at a minimum, a period of 12 years from the date the first residential unit is occupied. For SAIL Developments which contain occupied units to be Substantially Rehabilitated, the Compliance Period shall begin not later than 60 days from the termination of the last annual lease in effect at the time of closing of the SAIL loan.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.010, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.0105 Sale~~, Refinancing~~ or Transfer of a SAIL Development.

(1) The SAIL loan shall be assumable upon sale or~~,~~ transfer ~~or refinancing~~ of the Development if the following conditions are met:

(a) The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

(b) The proposed transferee agrees to maintain all set-asides and other requirements of the SAIL loan for the period originally specified or longer; and

(c) The proposed transferee and release of transferor receives a favorable recommendation from the Credit Underwriter and approval by the Board of Directors of the Corporation.

(2) If the SAIL loan is not assumed since the buyer does not meet the criteria for assumption of the SAIL loan, the SAIL loan (principal and any outstanding interest) shall be repaid from the proceeds of the sale in the following order of priority:

(a) First mortgage debt service, first mortgage fees;

(b) SAIL compliance and loan servicing fees;

(c) An amount equal to the present value of the compliance monitoring fee, as computed by the Corporation and its servicer, times the number of payment periods for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. The present value discount rate shall be 2.75% per annum. Such amount shall be reduced by the amount of any compliance monitoring fees collected by the Corporation for the Development, provided:

1. The compliance monitoring fee covers some or all of the period following the anticipated SAIL repayment date; and

2. The Development has substantially equivalent set-asides for Very Low-Income persons or households mandated through another program of the Corporation for which the compliance monitoring fee was collected.

(d) Unpaid principal balance of the SAIL loan;

(e) Any interest due on the SAIL loan;

(f) Expenses of the sale;

(g) If there will be insufficient funds available from the proposed sale of the Development to satisfy paragraphs (2)(a)-(f) above, the SAIL loan shall not be satisfied until the Corporation has received:

1. An appraisal prepared by an appraiser selected by the Corporation or the Credit Underwriter indicating that the purchase price for the Development is reasonable and consistent with existing market conditions;

2. A certification from the Applicant that the purchase price reported is the actual price paid for the Development and that no other consideration passed between the parties and that the Development Cash Flow reported to the Corporation during the term of the SAIL loan was true and accurate;

3. A certification from the Applicant that there are no Development funds available to repay the SAIL loan, including any interest due, and the Applicant knows of no source from which funds could or would be forthcoming to pay the SAIL loan; and

4. A certification from the Applicant detailing the information needed to determine the final billing for SAIL loan interest. Such certification shall require submission of financial statements and other documents that may be required by the Corporation and its servicer.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0105, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, Repromulgated 2-7-05, Amended _____.

67-48.013 SAIL Construction Disbursements and Permanent Loan Servicing.

(1) SAIL loan proceeds shall be disbursed during the construction phase in an amount per Draw which does not exceed the ratio of the SAIL loan to the Total Development Cost, unless approved by the Credit Underwriter.

(2) Ten business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw. The request shall set forth the amount to be paid and shall be accompanied by documentation specified by the Corporation's servicer including claims for labor and materials to date of the last inspection.

(3) The Corporation and its servicer shall review the request for a Draw, and the servicer shall provide the Corporation with approval of the request or an alternative recommendation, after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation.

(4) The Corporation will disburse construction Draws through Automated Clearing House (ACH). The Applicant may request disbursement of construction Draws via a wire transfer. The Applicant will be charged a fee of $10 for each wire transfer requested. This charge will be netted against the Draw amount.

(5) The Corporation shall elect to withhold any Draw or portion of any Draw, notwithstanding any documentation submitted by the Applicant in connection with the request for a Draw, if

(a) The Corporation or the Corporation's servicer determines at any time that the actual cost budget or progress of construction differs from that as shown on the loan documents; or

(b) The percentage of progress of construction of the improvements differs from that shown on the request for a Draw.

(6) The servicer may request submission of revised construction budgets.

(7) If the Corporation determines that further analysis by the Credit Underwriter is required prior to the release of the final Draw, the Applicant shall pay to the Credit Underwriter a fee based on an hourly rate determined pursuant to the contract between the Corporation and the Credit Underwriter.

(8) Retainage in the amount of 10% per Draw shall be held by the servicer during construction until the Development is 50% complete. At 50% completion, no additional retainage shall be held from the remaining Draws. Release of funds held by the Corporation's servicer as retainage shall occur pursuant to the SAIL loan agreement.

Specific Authority 420.507 FS. Law Implemented 420.5087 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.013, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, _____.

PART III HOME INVESTMENT PARTNERSHIPS PROGRAM

67-48.014 HOME General Program Procedures and Restrictions.

(1) Unless otherwise provided in the Application instructions, the Corporation shall utilize up to 10% of the HOME allocation for administrative costs pursuant to 24 CFR Part 92.

(2) The Corporation shall utilize at least 15% of the HOME allocation for CHDOs pursuant to the 24 CFR Part 92. In order to apply under the CHDO set-aside, the CHDO must have at least 51% ownership interest in the Development held by the General Partner entity and meet all other CHDO requirements as defined by HUD in 24 CFR 92 and other Corporation requirements identified in the CHDO Checklist. The CHDO Checklist is adopted and incorporated herein by reference, effective 11/02, and is available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links or by contacting the HOME-Rental Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(3) Within the rental cycle administered pursuant to Rule Chapter 67-48, F.A.C., the Corporation will distribute funds as provided in the Universal Application instructions, through a competitive request for proposal (RFP) process, or both.

(4) The maximum per-unit subsidy amount of HOME funds that the Corporation shall invest on a per-unit basis in affordable housing shall not exceed the per-unit dollar limits established by the Corporation as identified in the current Application instructions and included on the HUD Subsidy Limits chart, which is adopted and incorporated by reference, effective 09-09-2005 ~~8-24-04~~. A copy of such chart is available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links or by contacting the HOME-Rental Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(5) The minimum amount of HOME funds that must be invested in a Rental Development is $1,000 times the number of HOME-Assisted Units in the Development.

(6) A Development qualifies as affordable housing and for HOME funds if, with respect to income and occupancy:

(a) 80% of the HOME-Assisted Units are occupied by families whose annual income does not exceed 60% of the median family income for the area, as determined by HUD, with adjustments for family size, and

(b) 20% of the HOME-Assisted Units are occupied by families whose annual income does not exceed 50% of the median family income for the area, as determined by HUD, with adjustments of family size.

(c) When the income of a resident increases above 80% of area median income, the next unit that becomes available in the Development must be rented to a HOME income-eligible resident. If the income of a Very Low-Income household increases above the limits for a Very Low-Income household, then the Developer must rent the next available unit to a Very Low-Income household. The amount of rent the resident whose income has increased must pay is the lesser of the amount payable by resident under state or local law or 30% of the adjusted monthly income for rent and utilities.

(d) High HOME rent means 80% of the HOME-Assisted Units in a Development must have rents set at no more than the lesser of the Section 8 Fair Market Rent (FMRs) or rents that are 30% for a Family at 65% of median income limit, minus resident-paid utilities. Low HOME rent means 20% of the HOME-Assisted Units in a Development must have rents set at no more than the lesser of the Section 8 Fair Market Rent (FMRs), or 30% of the gross income of a Family at 50% of the area median income, minus resident-paid utilities. With respect to rent limits, the HOME Rent Chart at 65% or 50%, or the Fair Market Rent, less the applicable utility allowance, is the maximum rent that can be charged for a HOME Rent-Restricted Unit. HOME-Assisted Units with Section 8 subsidy must compare the Section 8 gross rent (resident rent, subsidy amount, and utility allowance) to the maximum applicable HOME high or low rent limit minus utilities. However, Developments with project-based rental assistance may utilize the project-based rents as compared to the HOME High and Low rents. Compliance with the HOME rent restrictions will take precedence over the Developer's acceptance of a full Section 8 (resident-based) subsidy for the HOME-Assisted Units.

(e) The minimum Compliance Period for Rehabilitation Developments is 15 years from the date the first residential unit is occupied. For Developments that contain occupied units at the time of closing, the Compliance Period shall begin not later than 60 days from the termination of the last annual lease in effect at the time of closing of the HOME loan. The Compliance Period will be extended until the loan is repaid as enumerated in subsection 67-48.020(1), F.A.C.

(f) The minimum Compliance Period for newly-constructed rental housing is 20 years from the date the first residential unit is occupied. The Compliance Period will be extended until the loan is repaid as enumerated in subsection 67-48.020(1), F.A.C.

(g) The minimum percentage of HOME-Assisted Units within a Development must be at least equal to the percentage (ratio) calculated by dividing the HOME loan amount by the Total Development Cost. This percentage will be utilized to determine the minimum number of HOME-Assisted Units required within a Development. HOME-Assisted Units must be identified at the time of Application. For purposes of meeting affordable housing requirements for a Development, the HOME-Assisted Units counted may be changed over the Compliance Period, so long as the total number of HOME-Assisted Units remains the same, and the substituted units are, at a minimum, comparable in terms of size, features, and number of bedrooms to the original HOME-Assisted Units.

(h) The Development will remain affordable, pursuant to commitments documented within the executed Land Use Restriction Agreement without regard to the term of the mortgage or to transfer of ownership.

(7) The Development must comply with all applicable provisions of 24 CFR Part 92 and Rule Chapter 67-48, F.A.C.

(8) A Development that is under construction may be eligible to apply for HOME funds only if the final building permit is dated no earlier than six (6) months prior to the Application Deadline, the Development is able to provide evidence of compliance with federal labor standards (if 12 or more HOME-Assisted Units are developed under a single contract) for any work already completed, and the Development is able to provide evidence of compliance with HUD environmental requirements as well as all other federal HOME regulations as listed in Rule 67-48.014, F.A.C. and 24 CFR Part 92. The federal requirements may require completion of activities prior to submission of an Application for HOME funding.

(9) Any single contract for the development (rehabilitation or new construction) of affordable housing with 12 or more HOME-Assisted Units under the HOME Program must contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the United States Secretary of Labor pursuant to the Davis-Bacon Act, 40 U.S.C. §§ 3142 – 3144, 3146 and 3147 (2002) ~~276a-276-a-5 (1994)~~, which is adopted and incorporated herein by reference, 24 CFR § 92.354, 24 CFR Part 70 (volunteers), which is adopted and incorporated herein by reference, and 40 U.S.C. § 3145 (2002) ~~276c~~, which is adopted and incorporated herein by reference, will be paid to all laborers and mechanics employed for the construction or rehabilitation of the Development, and such contracts must also be subject to the overtime provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C.

§§ 3701 – 3706 and 3708 (2002) ~~327-333 (1994)~~, which is adopted and incorporated herein by reference, the Copeland Act (Anti-Kickback Act), 40 U.S.C. § 3145 (2002) ~~276c (1994), which is adopted and incorporated herein by reference~~, and the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 201 et seq.), which is adopted and incorporated herein by reference. The foregoing provisions are available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov.~~

(10) All HOME Developments must conform to the following federal requirements which are available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~:

(a) Equal Opportunity and Fair Housing as enumerated in 24 CFR § 92.202 and 92.250, Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), which is adopted and incorporated herein by reference, Fair Housing Act (42 U.S.C. §§ 3601-3620), which is adopted and incorporated herein by reference, Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101), which is adopted and incorporated herein by reference, Executive Order 11063 (amended by Executive Order 12259), which is adopted and incorporated herein by reference, and 24 CFR § 5.105(a), which is adopted and incorporated herein by reference.

(b) Affirmative Marketing as enumerated in 24 CFR § 92.351.

(c) Environmental Review as enumerated in 24 CFR § 92.352, 24 CFR Part 58, which is adopted and incorporated herein by reference, and National Environmental Policy Act of 1969, which is adopted and incorporated herein by reference.

(d) Displacement, Relocation, and Acquisition as enumerated in 24 CFR § 92.353, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. §§ 4201-4655), which is adopted and incorporated herein by reference, 49 CFR Part 24, which is adopted and incorporated herein by reference, 24 CFR Part 42 (Subpart C), which is adopted and incorporated herein by reference, and Section 104(d) "Barney Frank Amendments," which is adopted and incorporated herein by reference.

(e) Lead-based Paint as enumerated in 24 CFR § 92.355, and 24 CFR Part 35, which is adopted and incorporated herein by reference.

(f) Conflict of Interest as enumerated in 24 CFR § 92.356, 24 CFR §~~§~~ 85.36 and § 84.42, which are adopted and incorporated herein by reference.

(g) Debarment and Suspension as enumerated in 24 CFR Part 24, which is adopted and incorporated herein by reference.

(h) Flood Insurance as enumerated in Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. § 4106), which is adopted and incorporated herein by reference.

(i) Handicapped Accessibility as enumerated in Section 504 of the Rehabilitation Act of 1973 (implemented in 24 CFR Part 8) and 24 CFR § 100.205, which are adopted and incorporated herein by reference.

(j) Americans with Disabilities Act as enumerated in 42 U.S.C. § 12131; and 47 U.S.C. §§ 155, 201, 218 and 225, which are adopted and incorporated herein by reference.

(k) Equal Opportunity Employment as enumerated in Executive Order 11246 (implemented in 41 CFR Part 60), which is adopted and incorporated herein by reference.

(l) Economic Opportunity as implemented in 24 CFR Part 135, which is adopted and incorporated herein by reference.

(m) Minority/Women Employment as enumerated in 24 CFR § 85.36(e)~~,~~ and Executive Orders 11625, 12432, and 12138, which are adopted and incorporated herein by reference.

(n) Site and Neighborhood Standards as enumerated in 24 CFR § 983.6(b), which is adopted and incorporated herein by reference.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(2) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.014, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.015 Match Contribution Requirement for HOME Allocation.

(1) The Corporation is required by HUD to match non-federal funds to the HOME allocation as specified in 24 CFR Part 92.

(2) A Match Credit Fund funded by the state of Florida has been appropriated to the Corporation. The funds are to be used for demonstration Developments, pilot programs, or other Developments selected and approved by the Corporation's Board of Directors. Such pilot programs or Developments shall be counted as the Corporation's required match for HUD purposes and may be any eligible activity acceptable to 24 CFR Part 92 and approved by the Corporation's Board of Directors.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(4) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.015, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.017 Eligible HOME Activities.

HOME funds may be used for acquisition (must include new construction and/or Rehabilitation), new construction, reconstruction, or moderate or substantial rehabilitation of non-luxury housing with suitable amenities or for tenant based rental assistance pursuant to 24 CFR Part 92.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.017, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, 3-17-02, Amended 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.018 Eligible HOME Applicants.

(1) Applicants for HOME loans may include CHDO's, public housing authorities, local governments, Non-Profit organizations, and private for-profit organizations. The Applicant must be a legally-formed, existing entity at the time of Application Deadline. Pursuant to 24 CFR Part 92, Applicants may not request additional HOME funding during the period of affordability. However, additional funds may be committed to a Development up to one year after Development completion provided the amount does not exceed the maximum per-unit subsidy and the additional amount is not used to pay for Developer fees.

(2) For tenant based rental assistance, eligible public housing authorities shall be limited to those public housing authorities that provide a copy of their most recent Section Eight Management Assessment Program (SEMAP) and can demonstrate compliance with 24 CFR § 982.401, which is incorporated by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~on the HUD website www.hud.gov~~.

(a) Eligible public housing authorities shall use the HOME Investment Partnership Program, state of Florida, TBRA Agreement (Rev. 09/05 ~~10/04~~), which is incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links.

(b) An eligible public housing authority's request for funding shall be based upon demonstration of recipient need~~; however, funding will be limited to $50,000 per request~~.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.018, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, Amended 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, _____.

67-48.019 Eligible and Ineligible HOME Development Costs.

(1) HOME funds may be used to pay for the following eligible costs as enumerated in 24 CFR Part 92:

(a) Development hard costs as they directly relate to the identified HOME Assisted Units only for:

1. New construction, the costs necessary to meet local and state of Florida building codes and the Model Energy Code referred to in 24 CFR Part 92;

2. Rehabilitation, the costs necessary to meet local and state of Florida rehabilitation building codes and at a minimum, the Section 8 Housing Quality Standards under 24 CFR Part 92;

3. Both new construction and rehabilitation, costs to demolish existing structures, improvements to the Development site and utility connections;

(b) The cost of acquiring improved or unimproved real property. A HOME Development and HOME loan that involves acquisition must include Rehabilitation or new construction in order to be an eligible Development.

(c) Soft costs as they relate to the identified HOME-Assisted Units. The costs must be reasonable, as determined by the Corporation and the Credit Underwriter, and associated with the financing, development, or both. These costs may include:

1. Architectural, engineering or related professional services required to prepare plans, drawings, specifications or work write-ups;

2. Costs to process and settle the HOME financing for a Development, such as credit reports, fees for evidence of title, recordation, building permits, attorney fees, cost certifications, and estimates;

3. Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C.;

4. Impact fees;

5. Costs of Development audits required by the Corporation;

6. Affirmative marketing and fair housing costs;

7. Temporary relocation costs as required under 24 CFR Part 92;

(2) HOME funds shall not be used to pay for the following ineligible costs:

(a) Development reserve accounts for replacements, unanticipated increases in operating costs, or operating subsidies, except as described in 24 CFR § 92.206(d)(5);

(b) Public housing;

(c) Administrative costs;

(d) Developer fees unless the HOME funds include Rehabilitation or new construction; or

(e) Any other expenses not allowed under 24 CFR Part 92.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(3) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.019, Amended 11-9-98, 2-24-00, Repromulgated 2-22-01, Amended 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.020 Terms and Conditions of Loans for HOME Rental Developments.

All HOME Rental Development loans shall be in compliance with the Act, 24 CFR Part 92 and, at a minimum, contain the following terms and conditions:

(1) The HOME loan may be in a first, second, or subordinated lien position. The term of the loan shall be for a minimum period of 15 years for Rehabilitation Developments and 20 years for new construction Developments. The term of the HOME loan may be extended to coterminate with the first mortgage term upon the recommendation of the Credit Underwriter and approval by the Corporation.

(2) The annual interest rate will be determined by the following:

(a) All for-profit Applicants that own 100% of the ownership interest in the Development held by the general partner entity will receive a 1.5% ~~3%~~ per annum interest rate loan.

(b) All qualified non-profit Applicants that own 100% of the ownership interest in the Development held by the general partner entity will receive a 0% interest rate loan. For purposes of determining the annual HOME interest rate, the definition of Non-Profit found at Rule 67-48.002, F.A.C., shall not apply; instead, qualified non-profit Applicants shall be those entities defined in 24 CFR Part 92, Section 42(h)(5)(c), subsection 501(c)(3) or 501(c)(4) of the IRC and organized under Chapter 617, F.S., if a Florida corporation, or organized under similar state law if organized in a jurisdiction other than Florida.

(c) All Applicants consisting of a non-profit and for-profit partnership will receive a 0% interest rate loan on the portion of the loan amount equal to the qualified non-profit's ownership interest in the Development held by the general partner entity. A 1.5% ~~3%~~ interest rate shall be charged for loans on the portion of the loan amount equal to the for-profit's interest in the Development held by the general partner entity. After closing, should the Applicant sell any portion of the Development ownership, the loan interest rate ratio will be adjusted to conform to the new percentage of ownership.

(3) The loans shall be non-amortizing and repayment of principal shall be deferred until maturity, unless otherwise recommended by the Credit Underwriter and approved by the Corporation. Interest payments on the loan shall be paid to the Corporation's servicer annually on the date specified in the Note.

(4) As approved by the Board of Directors, loans which finance demonstration Developments or Developments located in a state or federally declared disaster area may be provided with forgivable terms.

(5) The accumulation of all Development financing, including the HOME loan and all existing debt within a Development, may not exceed the Total Development Cost, as determined and certified by the Credit Underwriter.

(6) Before disbursing any HOME funds, there must be a written agreement with the Applicant ensuring compliance with the requirements of the HOME Program pursuant to this rule chapter and 24 CFR Part 92.

(7) A representative of the Applicant and the managing agent of the Development must attend a Corporation-sponsored training session on income certification and compliance procedures.

(8) If the Development has 12 or more HOME-Assisted Units to be developed under a single contract, the General Contractor and all available subcontractors shall attend a Corporation-sponsored preconstruction conference regarding federal labor standards provisions.

(9) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance sufficient to meet the standards established in Part V, Section 106 of the Fannie Mae DUS Guide, effective November 3, 2003, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links.

(10) All loans must provide that any violation of the terms and conditions described in this rule chapter or 24 CFR Part 92 constitute a default under the HOME loan documents allowing the Corporation to accelerate its loan and seek foreclosure as well as any other remedies legally available to it.

(11) If a default on a HOME loan occurs, the Corporation will commence legal action to protect the interest of the Corporation. The Corporation shall acquire real and personal property or any interest in the Development if that acquisition is necessary to protect any HOME loan; sell, transfer, and convey any such property to a buyer without regard to the provisions of Chapters 253 and 270, F.S.; and, if that sale, transfer, or conveyance cannot be consummated within a reasonable time, lease the Development for occupancy by Eligible Persons.

(12) The Corporation or its servicer shall monitor the compliance of each Development with all terms and conditions of the HOME loan and shall require that such terms and conditions be recorded in the public records of the county where the Development is located. Violation of any term or condition shall constitute a default during the term of the HOME loan.

(13) The Applicant shall not refinance, increase the principal amount, or alter any terms or conditions of any mortgage superior or inferior to the HOME mortgage without prior approval of the Corporation's Board of Directors. However, an Applicant may reduce the interest rate on any superior or inferior mortgage loan without the Board's permission, provided that no other terms of the loan are changed. The Corporation must be notified of any such change.

(a) The Board shall approve requests for mortgage loan refinancing only if Development cash flow is improved, the Development's economic viability is maintained, the security interest of the Corporation is not adversely affected, and the Credit Underwriter provides a positive recommendation.

(b) Following construction completion, t~~T~~he Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in paragraph 67-48.020(13)(a), F.A.C., are met, the original combined loan to value ratio for the superior mortgage and the HOME mortgage is maintained or improved, and a proportionate amount of the increase in the superior mortgage is used to reduce the outstanding HOME loan balance. To calculate the proportionate amount of the increase in the superior mortgage which must be paid toward

the reduction of the HOME loan balance, the following calculation shall be used: divide the amount of the original HOME mortgage by the combined amount of the original HOME mortgage and the original superior mortgage; then multiply the quotient by the amount of the increase in the superior mortgage after deducting refinancing costs. For example, if the amount of the original HOME mortgage is $2,000,000, the original superior mortgage is $4,000,000, but the current balance is $3,000,000, the proposed new superior mortgage is $5,000,000, and refinancing costs are $200,000, then the amount of the increase in the superior mortgage after deducting refinancing costs would be $1,800,000, and the proportionate amount of the increase in the superior mortgage which must be paid toward the reduction of the HOME loan balance would be $594,000. This $594,000 would be applied first to accrued interest and then to principal.

(c) The Board shall deny requests for mortgage loan refinancing which require extension of the HOME loan term or otherwise adversely affect the security interest of the Corporation unless the criteria outlined in paragraph 67-48.020(13)(a), F.A.C., are met, the Credit Underwriter recommends that the approval of such a request is crucial to the economic survival of the Development or unless the Board determines that public policy will be better served by the extension as a result of the Applicant agreeing to further extend the Compliance Period or provide additional amenities or resident programs suitable for the resident population. Further, the Board shall limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(7),(8),(9) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.020, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05,_____.

67-48.0205 Sale or Transfer of a HOME Development.

(1) The HOME loan shall be assumable upon Development sale, transfer or refinancing if the following conditions are met:

(a) The proposed transferee meets all specific Applicant identity criteria which were required as conditions of the original loan;

(b) The proposed transferee agrees to maintain all set-asides and other requirements of the HOME loan for the period originally specified; and

(c) The proposed transferee and Application receives a favorable recommendation from the Credit Underwriter and approval by the Corporation's Board of Directors.

(2) If the Development is sold and the proposed transferee does not meet the criteria for assumption of the loan, the HOME loan shall be repaid from the proceeds of the sale. If there will be insufficient funds available from the proposed sale of the Development, the HOME loan shall not be satisfied until the Corporation has received:

(a) An appraisal prepared by an appraiser selected by the Corporation indicating that the purchase price for the Development is reasonable and consistent with existing market conditions;

(b) A certification from the Applicant that the purchase price reported is the actual price paid for the Development and that no other consideration passed between the parties and that the income reported to the Corporation during the term of the loan was true and accurate; and

(c) A certification from the Applicant that there are no Development funds available to repay the loan and the Applicant knows of no source from which funds could or would be forthcoming to pay the loan.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(7),(8),(9) FS. History–New 12-23-96, Amended 1-6-98, Formerly 9I-48.0205, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, Repromulgated 3-17-02, 4-6-03, 3-21-04, 2-7-05,_____.

67-48.022 HOME Disbursements Procedures and Loan Servicing.

(1) HOME loan proceeds shall be disbursed during the construction/rehabilitation phase in an amount per Draw on a pro-rata basis with the other financing unless otherwise approved by the Corporation or the Credit Underwriter.

(2) Ten business days prior to each Draw, the Applicant shall supply the Corporation's servicer, as agent for the Corporation, with a written request executed by the Applicant for a Draw in a form and substance acceptable to the Corporation's servicer.

(3) The request shall set forth the amount to be paid and shall be accompanied by documentation as specified by the Corporation's servicer. Such documentation shall include invoices for labor and materials to date of the last inspection.

(4) The Corporation's servicer and the Corporation shall review the request for Draw and the Corporation's servicer shall provide the Corporation with approval of the request or an alternative recommendation of an amount to be paid after the title insurer provides an endorsement to the policy of title insurance updating the policy to the date of the current Draw and increasing the insurance coverage to an amount equal to the sum of all prior Draws and the current Draw, without additional exceptions, except those specifically approved in writing by the Corporation. For all Developments consisting of 12 or more HOME-Assisted Units to be developed under a single contract, the borrower shall submit weekly payrolls of the General Contractor and subcontractors in accordance with Federal Labor Standards as enumerated in 24 CFR § 92.354.

(5) Retainage in the amount of 10% per Draw shall be held by the servicer during construction until the Development is 50% complete. At 50% completion, no additional retainage shall be held from the remaining draws. Release of funds held as retainage shall occur in accordance with the HOME loan documents.

(6) The Corporation or its servicer shall elect to withhold any Draw or portion of any Draw, in addition to the retainage, notwithstanding any documentation submitted by the borrower in connection with a request for a Draw, if:

(a) The Corporation or the servicer determines at any time that the actual cost budget or progress of construction differs from that shown on the loan documents.

(b) The percentage of progress of construction of improvements differs from that shown on the request for a Draw.

(c) Developments subject to and not in compliance with Federal Labor Standards.

(7) To the extent excess HOME funds in the budget remain unused, the Corporation has the right to reduce the HOME loan by that amount.

(8) If 100% of the loan proceeds have not been expended within six months prior to the HUD deadline pursuant to 24 CFR § 92.500, the funds shall be recaptured by the Corporation.

(9) The request for final disbursement of HOME funds, excluding retainage, shall be submitted within 60 days of completion of construction as evidenced by certificates of occupancy.

Specific Authority 420.507(12) FS. Law Implemented 420.5089(1) FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.022, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, 2-7-05, _____.

PART IV HOUSING CREDIT PROGRAM

67-48.023 Housing Credits General Program Procedures and Requirements.

In order for a Development to qualify for Housing Credits it shall, at a minimum, meet or comply with the following:

(1) Each Applicant shall comply with this rule chapter and with Section 42 of the IRC and federal regulations issued pursuant thereto and in effect at the time of the Funding Cycle. Noncompliance, outside of the compliance cure period, by an Applicant, or any Principal, Affiliate or Financial Beneficiary of an Applicant or Developer shall result in disqualification from participation in the current HC Funding Cycle and for a period of not less than one year. The Applicant and its Principals, Affiliates and Financial Beneficiaries will continue to be ineligible to participate in future HC Funding Cycles until such time as all noncompliance issues are cured.

(2) Each Housing Credit Development shall comply with the minimum Housing Credit Set-Aside provisions, as specified in Section 42(g)(1) of the IRC, with respect to the reservation of 20% of the units for occupancy by persons or families whose income does not exceed 50% of the area median income, or the reservation of 40% of the units for occupancy by persons or families whose income does not exceed 60% of the area median income. Further, each Housing Credit Development shall comply with any additional Housing Credit Set-Aside chosen by the Applicant in the Application.

~~(3) The gross monthly rents for the Housing Credit Set-Aside units shall not exceed 30% of the imputed income limitation applicable to such unit. The monthly rents used must correspond to the Housing Credit Set-Aside chosen by the Applicant in the Application as shown on the rent charts provided by the Corporation.~~

(3)~~(4)~~ The Development shall provide safe, sanitary and decent residential rental housing and shall be developed, constructed and operated in accordance with the commitments made and the facilities and services described in the Application at the time of submission to the Corporation. Applications will not be considered approved to receive an allocation of Housing Credits until the Corporation issues a Preliminary Allocation/Preliminary Determination to the Applicant and all contingencies of such documents are satisfied. Allocations are further contingent on the Applicant complying with its Application commitments, Rule Chapter 67-48, F.A.C., and Section 42 of the IRC.

(4)~~(5)~~ All of the dwelling units within a Development shall be rented or available for rent on a continuous basis to members of the general public. The owner of the Development shall not give preference to any particular class or group in renting the dwelling units in the Development, except to the extent that dwelling units are required to be rented to Eligible Persons. All Developments must comply with the Fair Housing Act as implemented by 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35, which are adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~HUD website www.hud.gov~~.

(5)~~(6)~~ Each Competitive Housing Credit Development that receives a Carryover Allocation Agreement and each HC Development financed with tax-exempt bonds shall complete the Final Cost Certification Application within 75 Calendar Days after all the buildings in the Development have been placed in service. All other Developments shall complete the Final Cost Certification Application no later than the date that is 30 Calendar Days before the end of the calendar year for which the Final Housing Credit Allocation is requested. The Corporation may grant extensions for good cause upon written request.

(6)~~(7)~~ The Final Cost Certification Application (Form FCCA) shall be used by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in Rule 67-48.0072, F.A.C. Such form shall be completed, executed and submitted to the Corporation, along with the executed Extended Use Agreement, IRS Forms 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the required certified public accountant opinion letter,

an unqualified audit report prepared by an independent certified public accountant, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the Form FCCA instructions. The Final Housing Credit Allocation will not be issued until such time as all required items are received and processed by the Corporation. The Final Cost Certification Application is adopted and incorporated herein by reference, effective January 2005 ~~November 2004~~, and is available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321. IRS Form 8821, Rev. April 2004 ~~1-2000~~, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links.

(7)~~(8)~~ After the final evaluation and determination of the Housing Credit Allocation amount has been made by the Corporation and the Extended Use Agreement has been executed in accordance with Rule 67-48.029, F.A.C., the Forms 8609 are issued to the Applicant of the Housing Credit Development. IRS Low-Income Housing Credit Allocation Certification Form 8609, Rev. 11-2003, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links ~~can be obtained from the Internal Revenue Service by calling 1(800)829-4477~~. The Corporation will issue only one complete set of Forms 8609 per Development which will be no earlier than total Development completion and the Corporation's acceptance and approval of the Development's Final Cost Certification Application.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.023, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, Amended 3-21-04, 2-7-05, _____.

67-48.025 Qualified Allocation Plan.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, Amended 1-6-98, Formerly 9I-48.025, Amended 11-9-98, 2-24-00, 2-22-01, Repromulgated 3-17-02, 4-6-03, 3-21-04, 2-7-05, Repealed _____.

67-48.027 Tax-Exempt Bond-Financed Developments.

(1) Tax-Exempt Bond-Financed Developments, as defined in Section 42(h)(4)(B) of the IRC, which applied for 4% Housing Credits when applying for tax exempt bonds from the Corporation in calendar year 2000 or later shall:

(a) Have 50% or more of the aggregate basis of any building and the land on which the building is located financed by tax-exempt bonds;

(b) Be subject to the monitoring and credit underwriting fees as stated in Chapter 67-21, F.A.C.;

(c) Be deemed to have met all HC Program scoring threshold requirements upon the closing of the bonds with the Corporation;

(d) Receive a Preliminary Determination upon the Corporation's issuance of a loan commitment in reference to the tax-exempt bonds;

(e) Be subject to the provisions of this rule chapter, specifically the applicable provisions of Part I and Part IV, except for Rules 67-48.026 and 67-48.028, F.A.C.;

(f) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application requirements of Rule 67-48.023, F.A.C.;

(g) Provide an IRS Form 8821 for each Financial Beneficiary of the Development prior to Final Housing Credit Allocation; and

(h) Pay the assigned Credit Underwriter for a comprehensive market study of the housing needs of Low Income individuals in the area to be served by the Development. The market study must be completed by a disinterested third party and a copy of the completed market study must be on file with the Corporation prior to the Final Housing Credit Allocation.

(2) Tax-Exempt Bond-Financed Developments, as defined in Section 42(h)(4)(B) of the IRC, seeking to obtain Housing Credits from the Treasury receiving the bonds from the Corporation prior to calendar year 2000 or receiving bonds from another source other than the Corporation, and not competing for Housing Credits under the state of Florida Allocation Authority shall:

(a) Have 50% or more of the aggregate basis of any building and the land on which the building is located financed by tax-exempt bonds;

(b) Be subject to the Application fee specified in this rule chapter;

(c) Meet the HC Program threshold requirements pursuant to the Qualified Allocation Plan and shall have completed loan closings on all required financing;

(d) Participate in the credit underwriting process pursuant to this rule chapter, unless such Development has received its tax-exempt bond financing through the Corporation, in which case the Development must be underwritten to the extent necessary to determine Development feasibility and Housing Credit need;

(e) Be subject to the credit underwriting fees as set forth in this rule chapter;

(f) Be subject to the administrative fee specified in this rule chapter;

(g) Receive a Preliminary Determination from the Corporation upon satisfying the requirements of paragraphs (a) through (f) above. A Development may receive a Preliminary Determination prior to the bonds being issued and the submission of an Application, if the Corporation receives a

credit underwriting report prepared by one of the Corporation's contracted Credit Underwriters which recommends a Housing Credit Allocation and the issuance of tax-exempt bonds, and receives evidence of a loan commitment in reference to the tax-exempt bonds. The administrative fee must be paid within seven days of the date of the Preliminary Determination;

(h) Be subject to a Developer fee limitation as specified in this rule chapter;

(i) Be subject to the provisions of this rule chapter, specifically the applicable provisions of Part I and Part IV, except for Rule 67-48.028, F.A.C.;

(j) Provide an IRS Form 8821 for each Financial Beneficiary of the Development prior to Final Housing Credit Allocation;

(k) Be subject to the provisions in this rule chapter, pertaining to the required Extended Use Agreement;

(l) Be subject to the monitoring fee specified in this rule chapter, unless such Development has received tax-exempt bond financing through the Corporation;

(m) After bonds are issued to the Development, make Application to the Corporation as required in Rules 67-48.004 and 67-48.026, F.A.C. Applicant shall submit its Application completed in accordance with the Universal Application Package instructions for receipt by the Corporation no later than July 1 of the year the Development is placed in service; and

(n) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application requirements of Rule 67-48.023, F.A.C.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.027, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.028 Carryover Allocation Provisions.

(1) If an Applicant cannot complete its Development by the end of the year in which the Preliminary Allocation is issued, the Applicant must enter into a Carryover Allocation Agreement with the Corporation by December 29th of the year in which the Preliminary Allocation is issued. The Carryover Allocation allows the Applicant up to the end of the second year following the Carryover Allocation to have the Development placed-in-service.

(2) An Applicant shall have tax basis in the Housing Credit Development which is greater than 10% of the reasonably expected basis in the Housing Credit Development within six months of the date of the execution of the Carryover Allocation Agreement or the Housing Credits will be deemed to be returned to the Corporation. Certification that the Applicant has met the greater than 10% basis requirement shall be signed by the Applicant's attorney or certified public accountant.

(3) All supporting Carryover documentation and the signed certification evidencing the required basis must be submitted to the Corporation within six months of the date of the execution of the Carryover Allocation Agreement or the Housing Credits will be deemed to be returned.

(4) The Applicant for each Development for which a Carryover Allocation Agreement has been executed shall submit quarterly progress reports to the Corporation using Progress Report Form Q/M Report, which will be provided by the Corporation. If the Form Q/M Report does not demonstrate continuous and adequate development and construction progress, the Corporation will require monthly submission of Form Q/M Report until satisfactory progress is achieved, until the Development is placed in service, or until a determination is made by the Corporation that the Development cannot be placed in service by the Carryover deadline and the Housing Credits are returned to the Corporation in accordance with the terms of the Carryover Allocation Agreement. Form Q/M Report shall include a written statement describing the current status of the Development; the financing, construction and syndication activity since the last report; the reasons for any changes to the anticipated placed-in-service date; and any other information relating to the status of the Development which the Corporation may request. The first report shall be due to the Corporation by the first Monday in April of the calendar year following Carryover qualification.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, Amended 1-6-98, Formerly 9I-48.028, Amended 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, Repromulgated 3-21-04, Amended 2-7-05, Repromulgated _____.

67-48.029 Extended Use Agreement.

(1) Pursuant to Section 42(h)(6) of the IRC, the Applicant and the Corporation shall enter into an Extended Use Agreement. The purpose of the Extended Use Agreement is to set forth the Housing Credit Extended Use Period, the Compliance Period, and to evidence commitments made by the Applicant in the Application. Such commitments, for example, include the Housing Credit Set-Aside commitment, resident programs, and Development amenities.

(2) The following provisions shall be included in the Extended Use Agreement:

(a) The Applicable Fraction for Housing Credit Set-Aside units for each taxable year in the Housing Credit Extended Use Period shall not be less than the Applicable Fraction;

(b) Eligible Persons occupying set-aside units shall have the right to enforce in any state of Florida court the extended use requirement for set-aside units;

(c) The Extended Use Agreement shall be binding on all successors and assigns of the Applicant; and

(d) The Extended Use Agreement shall be executed prior to the issuance of a Final Housing Credit Allocation to an Applicant. Following execution, the Extended Use Agreement shall be recorded pursuant to Florida law as a restrictive covenant.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.029, Amended 11-9-98, 2-24-00, Repromulgated 2-22-01, 3-17-02, 4-6-03, Amended 3-21-04, 2-7-05, Repromulgated _____.

67-48.030 Sale or Transfer of a Housing Credit Development.

An owner of a Housing Credit Development, its successor or assigns which has been granted a Final Housing Credit Allocation shall not sell the Housing Credit Development without having first notified the Treasury of the impending sale and complying with the Treasury's procedure or procedures for completing the transfer of ownership and utilizing the Housing Credit Allocation. The owner of a Housing Credit Development shall notify the Corporation in writing of an impending sale and of compliance with any requirements by the Treasury for the transfer of the Housing Credit Development. The owner of a Housing Credit Development shall notify the Corporation in writing of the name and address of the party or parties to whom the Housing Credit Development was sold within 14 Calendar Days of the transfer of the Housing Credit Development.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, Amended 1-6-98, Formerly 9I-48.030, Amended 11-9-98, Repromulgated 2-24-00, Amended 2-22-01, Repromulgated 3-17-02, 4-6-03, 3-21-04, 2-7-05, _____.

67-48.031 Termination of Extended Use Agreement and Disposition of Housing Credit Developments.

The Housing Credit Extended Use Period for any building shall terminate upon the date a building is acquired through foreclosure or instrument in lieu of foreclosure or if no buyer can be found who is willing to maintain the Housing Credit Set-Aside of the Development. In the event the aApplicant is unable to locate a buyer willing to maintain the set-aside provisions of the Extended Use Agreement, the following steps shall be taken, as set forth in Section 42(h)(6) of the IRC, before a building is converted to market-rate use:

(1) After the fourteenth year of the Compliance Period, unless otherwise obligated under the Extended Use Agreement, a Land Use Restriction Agreement under another Corporation program, or if aApplicant has already knowingly and voluntarily waived its right to request the Corporation find a buyer to acquire the aApplicant's interest in the Housing Credit Set-Aside portion of the building, an aApplicant may submit a written request to the Corporation to find a buyer to acquire the aApplicant's interest in the Housing Credit Set-Aside portion of the building. When submitting a written request, aApplicants shall utilize the Qualified Contract Package in effect at the time of the written request and shall remit payment of the required Qualified Contract Package fee. The Qualified Contract Package consists of the forms and instructions, obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or on the Corporation's Website under the 2006 Universal Application link labeled Related Information and Links, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to request the Corporation find a buyer to acquire the aApplicant's interest in the Housing Credit Set-Aside portion of the building. The Qualified Contract Package, Rev. 09-05 09-04, is adopted and incorporated herein by reference.

(2) All information contained in a Qualified Contract Package request is subject to independent review, analysis and verification by the Corporation or its agents. The Corporation shall request additional information to document the qualified contract price calculation or other information submitted, if the submitted documentation does not support the price indicated by the certified public accountant (CPA) hired by the owner. The Corporation shall then engage its own CPA to perform a qualified contract price calculation. Cost of such service shall be paid for by the owner. Following the Corporation's receipt and complete review of the completed Qualified Contract Package, Tthe Corporation shall have one year from the receipt of the completed Qualified Contract Package request to present a "qualified contract", as defined in Section 42(h)(6)(F) of the IRC, for the Development. The one year time period shall commence upon the Corporation's receipt and final review of all of the accompanying information required by the Qualified Contract Package and the Corporation and the owner have agreed to the qualified contract price in writing.

(3) At the conclusion of the review process established by Rule 67-48.031, F.A.C., each applicant will be provided with its qualified contract price calculation and notice of rights.

(4) Written arguments to any recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its qualified contract price calculation shall be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. The one year time period the Corporation has to present a "qualified contract" will toll upon the filing of a petition to contest a qualified contract price calculation and will recommence upon the issuance of the Board's final order.

(5)(3) The aApplicant shall cooperate with the Corporation and its agents with respect to the Corporation's efforts to present a "qualified contract" for the purchase of the aApplicant's interest in the Housing Credit Set-Aside portion of the Development and the aApplicant's failure to cooperate will toll the one year time period the Corporation has to present a "qualified contract". The Corporation shall actively seek to obtain a qualified buyer for acquisition of the Housing Credit

Set-Aside portion of the building for an amount not less than the Applicable Fraction as specified in the Extended Use Agreement of:

(a) The sum of the outstanding indebtedness secured by the building;

(b) The adjusted investor equity in the building; and

(c) Other capital contributions not reflected in the amounts above, and reduced by cash distributions from the Development.

(6)~~(4)~~ If the Corporation presents a "qualified contract" and the a~~A~~pplicant fails to enter into a bona fide contract to acquire the Development, as defined in Section 42(h)(6)(F) of the IRC, the a~~A~~pplicant shall irrevocably waive any right to further request that the Corporation present a "qualified contract" for the purchase of the a~~A~~pplicant's interest in the Housing Credit Set-Aside portion of the Development and the Development will remain subject to the requirements of the Extended Use Agreement.

(7)~~(5)~~ In the event no buyer is found to acquire the Housing Credit Set-Aside portion of the building within one year as described herein, the Housing Credit Extended Use Period shall be terminated, and the units converted to market-rate.

(8)~~(6)~~ Pursuant to Section 42(h)(6)(E)(ii) of the IRC, the termination of an Extended Use Agreement shall not be construed to permit the termination of a tenancy, the eviction of any existing resident of any set-aside unit, or any increase in the gross rent with respect to any set-aside unit before the close of the three-year period following such termination. In no case shall any portion of a Housing Credit Development be disposed of prior to the expiration of the Extended Use Agreement.

Specific Authority 420.507(12) FS. Law Implemented 420.5099 FS. History–New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.031, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, Amended 2-7-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephen P. Auger, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Stephen P. Auger, Executive Director, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 14, 2005

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 31, No. 35, September 2, 2005

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Office of Agricultural Water Policy

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
5M-8	Best Management Practices (BMPs) for Florida Vegetable and Agronomic Crops
RULE TITLES:	RULE NOS.:
5M-8.001	Purpose
5M-8.002	Approved BMPS
5M-8.003	Presumption of Compliance
5M-8.004	Notice of Intent to Implement
5M-8.005	Record Keeping

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 31, No. 35, September 2, 2005, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-10.02412	Foreign Language Competence and Equivalence

NOTICE OF CORRECTION

Notice is hereby given the table in subsection (2) of the above proposed rule, which was published in Vol. 31, No. 36, September 9, 2005 issue of the Florida Administrative Weekly, was published incorrectly and should read as follows:

6A-10.02412 Foreign Language Competence and Equivalence.

	Minimum	Minimum
French		
Level 1	50	3
Level 2	62	6
German		
Level 1	50	3
Level 2	63	6
Spanish		
Level 1	50	3
Level 2	66	6
~~Examination~~	~~Minimum Score~~	~~Maximum Credit~~
~~French~~	~~50~~	~~12~~
	~~46~~	~~9~~
	~~42~~	~~6~~