

Jusevitch, Executive Director, Board of Massage Therapy, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

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

Section II Proposed Rules

LAND AND WATER ADJUDICATORY COMMISSION

Circle Square Woods Community Development District

RULE NOS.:	RULE TITLES:
42S-1.001	Creation
42S-1.002	Boundary
42S-1.003	Supervisors

PURPOSE AND EFFECT: The Circle Square Woods Community Development District (District) was originally created by the Commission in 1994 through adoption of Rule Chapter 42S-1, F.A.C. The District was created to provide water and wastewater services to one portion of the On Top of the World (Central) community in Marion County. Upon initial creation, the District consisted of approximately 2,455 acres of land. Through rule amendment in 2002, the District was reduced to 718.75 acres. Pursuant to subsection 190.046(9), F.S., a district with no outstanding financial obligations and no operating or maintenance responsibilities, may petition for dissolution. The District has no outstanding financial obligations and no operating or maintenance responsibilities. Further, there are no current services provided by the District as, pursuant to an interlocal agreement between the District and the Bay Laurel Center Community Development District ("BLCCDD"), utility services have been assigned and transferred to the BLCCDD. The District has filed a petition for dissolution with the Commission.

SUMMARY: The Circle Square Woods Community Development District (District) was originally created by the Commission in 1994 through adoption of Rule Chapter 42S-1, F.A.C. The District was created to provide water and wastewater services to one portion of the On Top of the World (Central) community in Marion County. Upon initial creation, the District consisted of approximately 2,455 acres of land. Through rule amendment in 2002, the District was reduced to 718.75 acres. Pursuant to subsection 190.046(9), F.S., a district with no outstanding financial obligations and no operating or maintenance responsibilities, may petition for dissolution. The District has no outstanding financial obligations and no operating or maintenance responsibilities. Further, there are no current services provided by the District as, pursuant to an interlocal agreement between the District and the Bay Laurel Center Community Development District ("BLCCDD"), utility

services have been assigned and transferred to the BLCCDD. The District has filed a petition for dissolution with the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 190.005 FS.

LAW IMPLEMENTED: 190.005 FS.

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

DATE AND TIME: Thursday, July 28, 2011, 10:00 a.m.

PLACE: Room 2107, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

42S-1.001 Creation.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.005 FS. History--New 8-15-94, Repealed _____.

42S-1.002 Boundary.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.005 FS. History--New 8-15-94, Amended 10-1-02, Repealed _____.

42S-1.003 Supervisors.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.005 FS. History--New 8-15-94, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jerry McDaniel, Secretary, Florida Land and Water
 Adjudicatory Commission

NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Florida Land and Water Adjudicatory
 Commission

DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: June 16, 2011

LAND AND WATER ADJUDICATORY COMMISSION

Coastal Lake Community Development District

RULE NOS.:	RULE TITLES:
42WW-1.001	Establishment
42WW-1.002	Boundary
42WW-1.003	Supervisors

PURPOSE AND EFFECT: The Coastal Lake Community Development District (CDD) was originally established by the Commission in 2004 through adoption of Rule Chapter 42WW-1, F.A.C. The Coastal Lake CDD was established to provide planned community development district services to approximately 1,402 acres of land located within Walton County. Pursuant to subsection 190.046(9), F.S., a district with no outstanding financial obligations and no operating or maintenance responsibilities, may petition for dissolution. The District does not presently have any outstanding financial obligations, and does not have any operating or maintenance responsibilities. Regional Utilities in Walton County provides waste and sewer utilities to the residents within the District. All remaining services are provided by the WaterSound Community Association, Inc., (homeowner association), pursuant to agreement. The District has filed a petition for dissolution with the Commission.

SUMMARY: The Coastal Lake Community Development District (CDD) was originally established by the Commission in 2004 through adoption of Rule Chapter 42WW-1, F.A.C. The Coastal Lake CDD was established to provide planned community development district services to approximately 1,402 acres of land located within Walton County. Pursuant to subsection 190.046(9), F.S., a district with no outstanding financial obligations and no operating or maintenance responsibilities, may petition for dissolution. The District does not presently have any outstanding financial obligations, and does not have any operating or maintenance responsibilities. Regional Utilities in Walton County provides waste and sewer utilities to the residents within the District. All remaining services are provided by the WaterSound Community Association, Inc., (homeowner association), pursuant to agreement. The District has filed a petition for dissolution with the Commission.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of

\$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 190.004, 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 FS.

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

DATE AND TIME: Tuesday, July 26, 2011, 2:00 p.m.

PLACE: Room 2107, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

42WW-1.001 Establishment.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New 10-27-04, Repealed.

42WW-1.002 Boundary.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New 10-27-04, Repealed.

42WW-1.003 Supervisors.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History–New 10-27-04, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Jerry McDaniel, Secretary, Florida Land and Water
 Adjudicatory Commission

NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Florida Land and Water Adjudicatory
 Commission

DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: June 16, 2011

DEPARTMENT OF THE LOTTERY

RULE NO.: 53-16.013
RULE TITLE: Travel

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: The above listed rule is not required by statute and has been determined to be unnecessary.

OTHER RULES INCORPORATING THIS RULE: None.

EFFECT ON THOSE OTHER RULES: N/A

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 24.105(9)(j) FS.

LAW IMPLEMENTED: 24.105(19)(d), 112.061 FS.

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

DATE AND TIME: Monday, July 25, 2011, 9:00 a.m.

PLACE: Florida Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32301, Schmidtd@flalottery.com

THE FULL TEXT OF THE PROPOSED RULE IS:

53-16.013 Travel.

Rulemaking Specific Authority 14.105(9)(j) FS. Law Implemented 24.105(19)(d), 112.061 FS. History--New 2-25-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Glenda Thornton, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia O'Connell, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 20, 2011

DEPARTMENT OF THE LOTTERY

RULE NO.: 53-21.004
RULE TITLE: Work Hours

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal rules identified during the comprehensive rule review required by Executive Order 11-01 as duplicative, unnecessarily burdensome, or no longer necessary.

SUMMARY: The above listed rule is not required by statute and has been determined to be unnecessary.

OTHER RULES INCORPORATING THIS RULE: None.

EFFECT ON THOSE OTHER RULES: N/A

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 24.105(9)(j) FS.

LAW IMPLEMENTED: 24.105(19)(d) FS.

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

DATE AND TIME: Monday, July 25, 2011, 9:00 a.m.

PLACE: Florida Lottery, 250 Marriott Drive, Tallahassee, Florida 32301

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32301, Schmidtd@flalottery.com

THE FULL TEXT OF THE PROPOSED RULE IS:

53-21.004 Work Hours.

Rulemaking Specific Authority 14.105(9)(j). Law Implemented 24.105(19)(d) FS. History--New 2-25-93, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Glenda Thornton, General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia O'Connell, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 20, 2011

DEPARTMENT OF MANAGEMENT SERVICES

Agency for Workforce Innovation

RULE NOS.:	RULE TITLES:
60BB-3.013	Filing Claims and Providing Documentation
60BB-3.015	Continued Claims for Benefits
60BB-3.0254	How to Apply for Emergency Unemployment Compensation
60BB-3.0262	How to Apply for Extended Benefits
60BB-3.0263	Diligent Work Search Requirements
60BB-3.029	Public Use Forms

PURPOSE AND EFFECT: The proposed changes to these rules would require that all initial and continued claims for unemployment compensation be made online, except in situations involving declared disaster or emergency, or the need for special assistance or accommodation on the part of the claimant.

SUMMARY: The proposed amendment prescribes the online FLUID application as the means by which claims for unemployment compensation must be filed, except in cases involving declared disaster or emergency, or in which claimants require special assistance or accommodation. The proposed amendment also repeals Rule 60BB-3.0263, F.A.C., Diligent Work Search Requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 443.1317(1)(b) FS.

LAW IMPLEMENTED: 443.091, 443.101, 443.111, 443.115, 443.116, 443.117, 443.151, 443.171(5), 443.1715, 443.221(3) FS.

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

DATE AND TIME: Friday, July 22, 2011, 4:00 p.m., EDT
PLACE: Agency for Workforce Innovation, Law Library, 107 E. Madison Street, Tallahassee, Florida 32399-4128

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Audrey Gaten, (850)245-7050. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John R. Perry, Assistant General Counsel, Agency for Workforce Innovation, 107 E. Madison Street, MSC 110, Tallahassee, Florida 32399-4128, (850)245-7152

THE FULL TEXT OF THE PROPOSED RULES IS:

60BB-3.013 Filing Claims and Providing Documentation.

(1) Approved Methods and Forms for Filing Florida Claims. Initial, additional, and reopened claims may be filed:

(a) On the Internet at www.fluidnow.com. Select “Internet Unemployment Compensation Claim Application (Initial Claim)”;or

(b) When unemployment results from a declared disaster or emergency and internet filing is impractical, or when the claimant needs special assistance or accommodation, by

~~(b) On the Agency’s Interactive Voice Response System, (Call 1(800)204 2418 toll free to obtain filing information);~~

~~(c) By mailing or faxing a completed claim application, which may be obtained by contacting the Agency toll-free at 1(800)204-2418. These applications are:~~

1. AWI Form UC-310, “Unemployment Compensation Application for Services” (Rev. 10/07), incorporated by reference in Rule 60BB-3.029, F.A.C., is to be used by Florida residents ~~who file by mail or fax;~~

2. Form IB-1, “Initial Interstate Claim” (10/07), incorporated by reference in Rule 60BB-3.029, F.A.C., is to be used by non-Florida residents ~~who file by mail or fax; or~~

~~(d) At a location which may be designated by the Agency when unemployment results from mass separation, labor dispute, declared disaster or emergency, or the claimant needs special assistance or accommodation.~~

(2) through (5) No change.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.036, 443.091, 443.101, 443.116 FS. History–New 8-25-92, Formerly 38B-3.013, Amended 8-14-08,_____.

60BB-3.015 Continued Claims for Benefits.

(1) Method of Filing Continued Claims.

(a) After filing an initial, additional or reopened claim, the claimant will be instructed and required to report bi-weekly for the duration of the unemployment by through agency established systems including Internet at www.fluidnow.com, telephone, mail, or fax.

~~(b) In the event of a mass separation, labor dispute, disaster or emergency, or when special assistance or accommodation is required, claimants may be permitted or required to report in person at locations designated by the Agency or by using the AWI Form UCB-60 “Weekly Claim Certification” (Rev. 02/03), which. Continued claims can be filed on line at www.fluidnow.com, or by calling 1(800)204 2418. The forms accessed by means of the toll free~~

~~number referred to above~~ are incorporated by reference in paragraphs subsection 60BB-3.029(1)(q) and (r), F.A.C., of this chapter.

(2) Time Limit for Filing Continued Claims.

(a) Scheduled Reports. Continued claims for benefits must be filed within 14 calendar days following the scheduled report date as shown on ~~AWI Form UCB-60V (Rev. 06/04), incorporated by reference in Rule 60BB-3.029, F.A.C., the Internet Confirmation Page, or otherwise communicated to the claimant by the Agency. AWI Form UCB-60V will be mailed to the claimant within 14 days after an initial, additional or re-opened claim is filed and upon receipt of each bi-weekly claim thereafter.~~ The Agency will stop providing this notice ~~discontinue mailing AWI Form UCB-60V~~ when the claimant ceases to report, has no additional benefits or weeks to claim, or benefits were denied and no appeal is pending at the end of the appeal period.

(b) Late Reports. If a report is not made within 14 days after the scheduled report date shown on ~~AWI Form UCB-60V~~, the Internet Confirmation Page, or communicated to the claimant by an Agency representative, the claim will be re-opened effective the first day of the week in which a report is filed. Upon request, the claimant will be permitted to file a late report for weeks that were not claimed within the permissible time period and will be granted appeal rights to any resulting determination denying benefits for the weeks in question.

(c) through (e) No change.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091(1), 443.111(1), 443.151(2) FS. History—New 8-25-92, Amended 4-1-96, Formerly 38B-3.015, Amended 8-14-08,_____.

60BB-3.0254 How to Apply for Emergency Unemployment Compensation

(1) Method of Application. Individuals whose regular unemployment compensation benefits are exhausted, whose benefit year expires between July 6, 2008 and May 29, 2010, or who are entitled to an augmentation of their emergency unemployment compensation accounts pursuant to Rule 60BB-3.0253, F.A.C., will receive notice regarding their eligibility or ineligibility for emergency unemployment compensation. Individuals who qualify for augmentation under any of the provisions set forth in subsections 60BB-3.0253(4)-(6), F.A.C., will be deemed eligible to receive these benefits without filing an application as long as they comply with the continued claims reporting requirements set forth in Rule 60BB-3.015, F.A.C. All other individuals who wish to receive emergency unemployment compensation must submit an application for benefits to the Agency for Workforce Innovation. An application may be submitted:-

(a) Online by clicking on the “Internet Unemployment Compensation Claim Application (Initial Claim)” link to the Online Internet Unemployment Compensation Claim

Application (11/07), or by clicking on the “Solicitud de Reclamo de Compensacion por Desempleo en el Internet (Reclamo Inicial)” link to the Online Internet Unemployment Compensation Claim Application (Spanish version) (11/07), which are incorporated by reference in paragraphs 60BB-3.029(1)(yy) and (zz), F.A.C., and which are available at <https://www2.myflorida.com/fluid/>; or

(b) When a declared disaster or emergency makes internet filing impractical, or when the claimant needs special assistance or accommodation, in writing on one of the forms listed in below subsection (2) of this rule, which are hereby incorporated by reference into this rule.

~~(2) Submitting Written Applications. To submit a written application for emergency unemployment compensation, the claimant must complete and submit one of the following forms:~~

~~1.(a)~~ Form AWI-UC310EUC (Rev. 08/10), Application for Emergency Unemployment Compensation, which may be found at http://www.floridajobs.org/unemployment/EUC_09/EUC_app.pdf;

~~2.(b)~~ Form AWI-UC310EUC (S) (Rev. 08/10), Solicitud de compensacion de emergencia por desempleo, which may be found at [http://www.floridajobs.org/unemployment/EUC_09/EUC\(s\)_app.pdf](http://www.floridajobs.org/unemployment/EUC_09/EUC(s)_app.pdf); or

~~3.(c)~~ Form AWI-UC310EUC (C) (Rev 08/10), Aplikasyon pou Aloksyon Chomaj sou Ka Dijans, which may be found at [http://www.floridajobs.org/unemployment/EUC_09/EUC\(c\)_app.pdf](http://www.floridajobs.org/unemployment/EUC_09/EUC(c)_app.pdf).

~~(3) When filing a claim pursuant to paragraph (b), the Submitting Written Applications. The claimant must submit his or her application by mailing the completed form to the address set forth on the form and/or accompanying instructions, or by faxing the form to the Agency for Workforce Innovation, Unemployment Compensation Records Unit, (850)921-3938.~~

~~(2)(4)~~ Notice of Determination.

(a) through (f) No change.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091, 443.101, 443.111, 443.151, 443.221(3) FS. History—New 8-11-10, Amended 12-19-10,_____.

60BB-3.0262 How to Apply for Extended Benefits.

(1) Initiating a Claim for Extended Benefits.

~~(a)~~ The Agency will mail a Form ~~UCB-60 AWI-UC310EB (09/10), Application for Extended Benefits (EB), which is hereby incorporated by reference into this rule,~~ to all individuals who exhaust their available emergency unemployment compensation. This form will advise the recipient that the application for extended benefits may be filed ~~using the form or by applying~~ online at <http://www.floridajobs.org>, using the ~~The~~ online application ~~report~~ (Form AWI-UCB-310EB-ONL (Rev. 09/2010) Extended Benefits Online Application), which is hereby

incorporated by reference into this rule. ~~When the individual is eligible for retroactive payment of extended benefits, the Agency will mail the claimant a Form AWI-UC310EBR (Rev 09/10) Information and Initial Claim Form for Retroactive Claims, which is hereby incorporated by reference into this rule. The Form AWI-UC310EB or Form AWI-UC310EBR may be submitted by:~~

(b) When a declared disaster or emergency makes internet filing impractical, or when the claimant needs special assistance or accommodation, the claimant may file a Form AWI-UC310EB (09/10), Application for Extended Benefits (EB), which is hereby incorporated by reference into this rule, by:

1.(a) Mailing the completed form to the Agency for Workforce Innovation, Unemployment Compensation Records Unit, P. O. Drawer 5700, Tallahassee, Florida 32314-5350.

2.(b) Faxing the form to the Agency for Workforce Innovation, Unemployment Compensation Records Unit, (850)922-0107.

(2) Notice of Determination.

(a) Notice of the Agency's determination of an individual's eligibility or ineligibility for extended benefits will be mailed to the individual on a Form AWI-UCB11 EB (Rev 12/10)(07/10), Monetary Determination/Redetermination for Extended Benefits (EB), which is hereby incorporated by reference into this rule, when the Agency:

1. through 2. No change.

(b) Notice of the Agency's determination of an individual's eligibility or ineligibility for extended benefits will be mailed to the individual on a Form AWI-UCB11-I EB (Rev 12/10)(07/10), Extended Benefits Determination of Eligibility, which is hereby incorporated by reference into this rule, when the individual:

1. through 4. No change.

(c) Any notice mailed pursuant to this rule will be accompanied by an EB BRI (12/10)(09/10), Extended Benefits Benefit Rights Information, which is hereby incorporated by reference into this rule.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091, 443.1115, 443.1117 FS. History--New 11-28-10, Amended _____.

60BB-3.0263 Diligent Work Search Requirements.

~~(1) Claim Certification.~~ Every two weeks, an individual determined to be eligible for extended benefits must report his or her work search activities. The individual may satisfy this requirement by reporting online at <http://www.floridajobs.org/unemployment/EB/index.html>, and clicking on the "Claim Your Weeks" icon. When a declared disaster or emergency makes internet filing impractical, or when the claimant needs special assistance or accommodation, the ~~The~~ individual may also file his or her report on a Form AWI UCB-60EB (6/11)(09/10), Unemployment Compensation Benefit Weekly

~~Claim Certification, or a Form AWI-UCB60EBR (09/10) Retroactive Weekly Claim Certification Extended Benefits (EB); in the manner prescribed in paragraphs 60BB-3.0262(1)(a) and (b), F.A.C. The Agency mails the Form AWI-UCB-60EB and the Form AWI-UCB-60EBR to the claimant for this purpose. The online work search reports (Form AWI UCB-60EB-ONL (Rev 08/10) Weekly Claim Certifications and Form AWI UCB-60EB-ONL (S) (Rev 08/10), Certificaciones para Reclamaciones Semanales), and the Form AWI UCB-60EB (09/10), the Form AWI-UCB-60EB and the Form AWI-UCB-60EBR are hereby incorporated by reference into this rule and may be found at <http://www.floridajobs.org/Unemployment/ucforms.html>.~~

~~(2) Work Search Requirements.~~ Except as provided in subsection (3) of this rule, any eligible individual must conduct at least two work search activities on separate days per week.

~~(3) Good Job Prospects.~~ Individuals who have been determined to have good job prospects, as defined in subsection 60BB-3.0261(1), F.A.C.:

~~(a) Are not required to seek other employment, except as provided by subsection (4) of this rule.~~

~~(b) Must list, in the Work Search Record portion of the report required in subsection (1) of this rule, the name and address of the employer to which the individual expects to report to work, and the date such work is expected to begin.~~

~~(4) Additional Reporting Requirement for Individuals with Good Job Prospects.~~ If, after four weeks of extended benefits, an individual determined to have good job prospects remains unemployed, the Agency will mail him or her an AWI Form UCB231EB (Rev 09/10), Unemployment Compensation Extended Benefits (EB) Eligibility Review Questionnaire, which is hereby incorporated by reference into this rule. The individual shall fill out and return this form within ten days of the mailing date, in the manner prescribed in paragraphs 60BB-3.0262(1)(a) and (b), F.A.C.

~~(5) Failure to Comply.~~ Failure to comply with the requirements of this rule will result in the individual's disqualification from receiving extended benefits until:

~~(a) Four weeks have passed since the noncompliance; and~~

~~(b) The individual has earned wages that equal four times his or her weekly benefit amount.~~

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.091, 443.1115, 443.1117 FS. History--New 11-28-10, Amended _____.

60BB-3.029 Public Use Forms.

(1) The following forms and instructions are used by the Agency for Workforce Innovation in its dealings with the public in the administration of the unemployment compensation program, and are incorporated by reference:

(a) AWI Form ERWC – “Employee’s or Employer’s Authorization and Request for Wage Records” (New 02/06), which is available at the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_emp_forms.html.

(b) AWI Form AWA-01 – “Notarized Authorization for Release of Records” (Rev. 03/05), which is available at the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_emp_forms.html.

(c) IB-1 – “Initial Interstate Claim” (Rev. 10/07), which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the “Florida Unemployment Compensation Claims Services/Claim Book” link.

(d) IB-1(S) – “Initial Interstate Claim” (Spanish version) (Rev. 10/07), which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Haga clic aqui para acceder”.

(e) IB-1(C) – “Initial Interstate Claim” (Creole version) (Rev. 10/07), which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Chwazi sa a pou”.

(f) AWI Form UC-310 – “Unemployment Compensation Application for Services” (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the “Florida Unemployment Compensation Claims Services/ Claim Book” link.

(g) AWI Form UC-310(S) – “Unemployment Compensation Application for Services” (Spanish version) (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Haga clic aqui para acceder”.

(h) AWI Form UC-310(C) – “Unemployment Compensation Application for Services” (Creole version) (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Chwazi sa a pou”.

(i) AWI Form UC-310 Supplement (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the “Florida Unemployment Compensation Claims Services/Claim Book” link.

(j) AWI Form UC-310(S) Supplement (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Haga clic aqui para acceder”.

(k) AWI Form UC-310(C) Supplement (Rev. 10/07) which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase “Chwazi sa a pou”.

(l) AWI Form UCB/STC-3 – “Short Time Compensation Plan Application” (Rev. 11/01).

(m) AWI Form UCB-9 (04/01).

(n) AWI Form UCB-11 – “Wage Transcript and Determination” (Rev. 01/08).

(o) AWI Form UCB-34 (09/01).

(p) AWI Form UCB-45 – “Notice of Determination” (Rev. 02/08).

(q) AWI Form UCB-60 – “Weekly Claim Certification” (Rev. 02/03).

~~(r) AWI Form UCB-60V (Rev. 06/04).~~

~~(r)(s)~~ AWI Form UCB-121E (01/07).

~~(s)(t)~~ Employer Notification Letter (01/07).

~~(t)(u)~~ AWI Form UCB-200 “Unemployment Compensation Fact-Finding Statement” (06/08).

~~(u)(v)~~ AWI Form UCB-200LD “Labor Dispute” (06/08).

~~(v)(w)~~ AWI Form UCB-201 (06/08).

~~(w)(x)~~ AWI Form UCB-202 (06/08).

~~(x)(y)~~ AWI Form UCB-204 (06/08).

~~(y)(z)~~ AWI Form UCB-205 (06/08).

~~(z)(aa)~~ AWI Form UCB-205SIF (06/08).

~~(aa)(bb)~~ AWI Form UCB-206 “Reporting Requirements” (06/08).

~~(bb)(cc)~~ AWI Form UCB-207 “Unemployment Compensation Fact-Finding Statement” (06/08).

~~(cc)(dd)~~ AWI Form UCB-208 “Voluntary Leaving” (06/08).

~~(dd)(ee)~~ AWI Form UCB-209 “Employment Status” (06/08).

~~(ee)(ff)~~ AWI Form UCB-209L (06/08).

~~(ff)(gg)~~ AWI Form UCB-209S “Suspension” (06/08).

~~(gg)(hh)~~ AWI Form UCB-211 “School Attendance/Training” (06/08).

~~(hh)(ii)~~ AWI Form UCB-219 “Reemployment Services Eligibility Issues” (06/08).

~~(ii)(jj)~~ AWI Form UCB-221 “Worker Profiling and Reemployment Services Assessment” (06/01).

~~(jj)(kk)~~ AWI Form UCB-231 “Claimant’s Eligibility Review Questionnaire” (06/08).

~~(kk)(ll)~~ AWI Form UCB-412 – “Determination Notice of Unemployment Claim Filed” (Rev. 07/11)(Rev. 04/07).

~~(ll)(mm)~~ Form AWI-UCW4VT (Rev. 10/07), which may be found by going to the Agency’s Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the “Florida Unemployment Compensation Claims Services/Claim Book” link.

~~(mm)(nn)~~ Form AWI-UCW4VFL (S) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase "Haga clic aqui para acceder".

~~(nn)(oo)~~ Form AWI-UCW4VFL (C) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase "Chwazi sa a pou".

~~(oo)(pp)~~ Form AWI-UC20A (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the "Florida Unemployment Compensation Program/Benefit Rights" link.

~~(pp)(qq)~~ Form AWI-UC20A (S) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the link beginning with the phrase "Oprima aqui para recibir".

~~(qq)(rr)~~ Form AWI-UC20A (C) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the link beginning with the phrase "Pou ou ka itilize".

~~(rr)(ss)~~ UC Bulletin 1E (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the "Florida Unemployment Compensation Program/Benefit Rights" link.

~~(ss)(tt)~~ UC Bulletin 1S (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the link beginning with the phrase "Oprima aqui para recibir".

~~(tt)(uu)~~ UC Bulletin 1C (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_bri.html and clicking on the link beginning with the phrase "Pou ou ka itilize".

~~(uu)(vv)~~ UC100T (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the "Unemployment Compensation Claims Services/Claim Book" link.

~~(vv)(ww)~~ UC100FL(S) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase "Haga clic aqui para acceder".

~~(ww)(xx)~~ UC100FL(C) (Rev. 10/07), which may be found by going to the Agency's Internet site at http://www.floridajobs.org/unemployment/uc_claimbooklet.html and clicking on the link beginning with the phrase "Chwazi sa a pou".

~~(xx)(yy)~~ Online Internet Unemployment Compensation Claim Application (11/07), which is available at www.fluidnow.com.

~~(yy)(zz)~~ Online Internet Unemployment Compensation Claim Application (Spanish version) (11/07), which is available at www.fluidnow.com.

~~(aaa) Continued Claims Detailed System Design, Appendix B: IVR Script (Interactive Voice Response Script) (January 23, 2008).~~

~~(bbb) Detail System Design, Appendix C (Interactive Voice Response Script) (January 23, 2008).~~

~~(zz)(eee)~~ AWI Form UCS-6061 "Independent Contractor Analysis" (Rev. 11/05).

(2) These forms may be obtained by:

(a) Writing to the Agency for Workforce Innovation, Unemployment Compensation Records Unit, P. O. Drawer 5750, Tallahassee, FL 32314-5750.

(b) Faxing a request to the Agency's UC Records Unit at (850)921-3912.

(c) Calling the UC Records Unit at (850)921-3470.

Rulemaking Authority 443.1317(1)(b) FS. Law Implemented 443.171(5), 443.1715(1), (2)(b)1. FS. History—New 6-4-06, Amended 8-14-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: John R. Perry, Assistant General Counsel, Agency for Workforce Innovation, Office of General Counsel, 107 East Madison Street, MSC 110, Tallahassee, Florida 32399-4128, (850)245-7152

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Cynthia R. Lorenzo, Director, Agency for Workforce Innovation, 107 East Madison Street, Tallahassee, Florida 32399-4128

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 22, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 3, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE NO.: RULE TITLE:

61G6-7.001

Specialty Electrical Contractors

PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify language concerning the scope of work for the limited energy systems specialty; to clarify that certified and registered licensees in Unlimited Electrical Contractor,

Alarm System Contractor I, Alarm System Contractor II, and Residential Electrical Contractor may perform the scope of work of a limited energy systems specialty certification.

SUMMARY: Language concerning the scope of work for the limited energy systems specialty will be provided; and to clarify that certified and registered licensees in Unlimited Electrical Contractor, Alarm System Contractor I, Alarm System Contractor II, and Residential Electrical Contractor may perform the scope of work of a limited energy systems specialty certification.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule will not have an adverse impact on small business, nor will the proposed rule likely increase directly or indirectly regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years after implementation of the rule. Therefore, it has been determined that the rule does not meet the threshold for ratification by the Legislature.

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.

RULEMAKING AUTHORITY: 489.511(5) FS.

LAW IMPLEMENTED: 489.503(14), 489.505(19), 489.511(5) 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: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-7.001 Specialty Electrical Contractors.

The following types of specialty electrical contractors may apply to be certified under the provisions of Part II, Chapter 489, F.S., and Chapter 61G6-5, F.A.C., above. In order to be admitted to a specialty contractor examination, the person must show 6 years of comprehensive training, technical education, or broad experience on the type of electrical or alarm system work for which certification is desired.

(1) through (3) No change.

(4) Limited Energy Systems Specialty. The scope of certification of a limited energy systems specialty contractor includes the installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, and fiber optics (transmission of light over stranded glass) or any part thereof not to exceed 98 volts (RMS). The scope of work

of this license does not include installation, repair, fabrication, erection, alteration, addition to, or design of electrical wiring, fixtures, appliances, thermostats, apparatus, raceways, conduit, that are part of an alarm system, when those items are for the purpose of transmitting data, proprietary video (satellite systems which are not part of a community antenna television, cable television, or radio distribution system), radio frequency, central vacuum, or electric locks, data distribution networks, home theater systems, surround sound systems, public address systems or telephone systems.

(a) The scope of certification is limited to electrical circuits and equipment as set forth in Section 489.505(7), F.S. governed by the applicable provisions of Articles 725 (Class 2 and 3 circuits only), 770, 800, 810, and 820 of the National Electrical Code, 1984 Edition, or 47 C.F.R. Part 68.

(b) No change.

(c) The scope of work of this license may also be performed by the following certified and registered license categories: Unlimited Electrical Contractor, Alarm System Contractor I, Alarm System Contractor II, and Residential Electrical Contractor.

(5) No change.

Rulemaking Specific Authority 489.511(5) FS. Law Implemented 489.503(14), 489.505(19), 489.511(5) FS. History—New 1-2-80, Amended 7-29-84, 10-14-84, Formerly 21GG-7.01, Amended 2-23-86, 12-24-87, 6-21-89, 3-3-92, Formerly 21GG-7.001, Amended 1-28-96, 12-25-96, 6-11-97, 12-24-97, 7-19-98, 10-7-99, 2-17-00, 4-30-01, 4-30-03, 9-16-07, 12-2-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 18, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 27, 2011

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Electrical Contractors' Licensing Board

RULE NO.: 61G6-10.0065
 RULE TITLE: Reinstatement of Null and Void License

PURPOSE AND EFFECT: The Board proposes the rule promulgation in order to provide instruction for reinstatement of a null and void license pursuant to Section 455.271(6)(b), F.S., and to provide instruction for the application form.

SUMMARY: Instruction for the application form and reinstatement of a null and void license will be provided.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that

the proposed rule will not have an adverse impact on small business, nor will the proposed rule likely increase directly or indirectly regulatory costs, including transactional costs, in excess of \$200,000 in the aggregate within one year or \$1 million in the aggregate within 5 years after implementation of the rule. Therefore, it has been determined that the rule does not meet the threshold for ratification by the Legislature.

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.

RULEMAKING AUTHORITY: 455.271(6)(b) FS.

LAW IMPLEMENTED: 455.271(6)(b) 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: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-10.0065 Reinstatement of Null and Void License.

(1) An individual applying to have his or her null and void electrical contractor's certification or registration reinstated pursuant to Section 455.271(6)(b), Florida Statutes, shall submit an application on a form provided by the Department.

(2) Any license reinstated pursuant to this rule shall be reinstated to inactive status.

Rulemaking Authority 455.271(6)(b) FS. Law Implemented 455.271(6)(b). FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 18, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 27, 2011

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-21.002	Definitions
67-21.003	Application and Selection Process for Developments
67-21.0035	Applicant Administrative Appeal Procedures

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

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 2011 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 420.507, 420.508, 420.509 FS.

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

DATE AND TIME: July 26, 2011, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301. The hearing will be accessible via phone at 1(888)808-6959, Conference Code #1374197.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Wayne Conner, Director of Multifamily Bonds, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wayne Conner, Director of Multifamily Bonds, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

THE FULL TEXT OF THE PROPOSED RULES IS:

67-21.002 Definitions.

(1) (ACC) or (Annual Contribution Contract) means a contract between HUD and a Public Housing Authority containing the terms and conditions under which HUD assists in providing for development of housing units, modernization of housing units, operation of housing units, or a combination of the foregoing.

(2) (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.

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

(4) (Address) means the address assigned by the United States Postal Service and must include address number, street name and city. For Developments for which the If the address has not yet been assigned, include, at a minimum, street name, and closest designated intersection, and whether or not the Development is located within a and city or in the unincorporated area of the county. If located within a city, include the name of the city.

(5) (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 or Developer, (ii) serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer, (iii) directly or indirectly receives or will receive a

financial benefit from a Development, or (iv) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i), (ii) or (iii) above.

(6) (ALF) or (Assisted Living Facility) means a Florida licensed living facility that complies with Sections 429.01 through 429.54, F.S., and Rule Chapter 58A-5, F.A.C.

(7) (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.

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

(9) (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.

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

(11) (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 21 Calendar Days from the beginning of the Application Period.

(12) (Board) or (Board of Directors) means the Board of Directors of the Corporation.

(13) (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.

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

(15) (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.

(16) (Calendar Days) means the seven (7) days of the week.

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

(19) (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.

~~(20)~~~~(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.

~~(21)~~~~(20)~~ “Corporation” means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

~~(22)~~~~(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.

~~(23)~~~~(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.

~~(24)~~~~(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.

~~(25)~~~~(24)~~ “Credit Underwriter” means the independent contractor under contract with the Corporation having the responsibility for providing Credit Underwriting services.

~~(26)~~~~(25)~~ “Credit Underwriting” means an in-depth analysis by the Credit Underwriter of all documents submitted in connection with an Application.

~~(27)~~~~(26)~~ “Credit Underwriting Report” means the report that is a product of Credit Underwriting.

~~(28)~~~~(27)~~ “Cross-collateralization” means the pledging of the security of one Development to the obligations of another Development.

~~(29)~~~~(28)~~ “DDA” or “Difficult Development Area” means ~~(i) any~~ 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)(B) of the Internal Revenue Code, and ~~(ii) Developments designated by the Corporation in accordance with the 2012 QAP.~~

~~(30)~~~~(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.

~~(31)~~~~(30)~~ “Developer Fee” means the fee earned by the Developer.

~~(32)~~~~(31)~~ “Development” means Project as defined in Section 420.503, F.S.

~~(33)~~~~(32)~~ “Development Cost” means the total of all costs incurred in the completion of a Development excluding Developer Fee and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

~~(34)~~ “Development Location 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 the site with the most units that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development.

~~(35)~~~~(34)~~ “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.

~~(36)~~~~(35)~~ “Elderly” means Elderly as defined in Section 420.503, F.S.

~~(37)~~~~(36)~~ “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.

~~(38)~~~~(37)~~ “Family” describes a household composed of one or more persons.

~~(39)~~~~(38)~~ “Farmworker” means Farmworker as defined in Section 420.503, F.S.

~~(40)~~~~(39)~~ “Farmworker Development” means a Development:

(a) Of not greater than 80 units, at least 40 percent of the total residential units of which are occupied or reserved for Farmworker Households; and

(b) For which independent market analysis demonstrates a local need for such housing.

~~(41)~~~~(40)~~ “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.

~~(42)~~~~(41)~~ “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.

~~(43)~~~~(42)~~ “Financial Beneficiary” means any Principal of the Developer or Applicant entity who receives or will receive any direct or indirect financial benefit from a Development.

~~(44)~~(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.

~~(45)~~(43) “Funding Cycle” means the period of time commencing with the Notice of Funding Availability pursuant to this rule chapter and concluding with the issuance of allocations to Applicants who applied during a given Application Period.

~~(46)~~(44) “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.

~~(47)~~(45) “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.

~~(48)~~(46) “HC” or “Housing Credit Program” means the rental housing program administered by the Corporation in accordance with section 42 of the Internal Revenue Code 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 Internal Revenue Code, and Rule Chapter 67-48, F.A.C.

~~(49)~~(47) “Homeless” means Homeless as defined in Section 420.621, F.S. 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.~~

~~(50)~~(48) “HUD” means the United States Department of Housing and Urban Development.

~~(51)~~(49) “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.

~~(52)~~(50) “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.

~~(51) “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 2009 Universal Application link labeled Related References and Links.~~

~~(53)~~(52) “Issuer” means the Florida Housing Finance Corporation.

~~(54)~~(53) “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.

~~(55)~~(54) “Local Government” means Local government as defined in Section 420.503, F.S.

~~(56)~~(55) “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.

~~(57)~~(56) “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.

~~(58)~~(57) “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 Internal Revenue Code or if the residents do not comply with the provisions of the Internal Revenue Code defining Lower Income Residents. (See section 142 of the Internal Revenue Code.)

~~(59)~~(58) “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.

~~(60)(59)~~ “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.

~~(61)(60)~~ “MMRB Loan” means the loan made by the Corporation to the Applicant from the proceeds of the Bonds issued by the Corporation.

~~(62)(61)~~ “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.

~~(63)(62)~~ “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.

~~(64)(63)~~ “MMRB Program” means the Corporation’s Multifamily Mortgage Revenue Bond Program.

~~(65)(64)~~ “MMRB Rehabilitation Development” means a Development, the Rehabilitation Expenditures with respect to which equal or exceed 15 percent of the portion of the cost of acquiring such Development to be financed with Bond proceeds.

~~(66)(65)~~ “Mortgage” means Mortgage as defined in Section 420.503, F.S.

~~(67)(66)~~ “Mortgage Loan” means Mortgage loan as defined in Section 420.503, F.S.

~~(68)(67)~~ “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 Internal Revenue Code 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 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer fee and which entity is acceptable to federal and state agencies and financial institutions as a Sponsor for affordable housing.

~~(69)(68)~~ “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.

~~(70)~~ “PBRA” or “Project-Based Rental Assistance” means a rental subsidy through a contract with HUD or RD for a property.

~~(71)~~ “PHA” or “Public Housing Authority” means a housing authority under Chapter 421, F.S.

~~(72)~~ “Preservation” means Rehabilitation of existing developments that were originally built in 1992 or earlier and were originally financed through one or more of the following HUD or RD programs: Sections 202, 236, 514, 515, 516, PBRA, and public housing assisted through ACC. Such developments must not have closed on funding from HUD or RD after 1992 where the budget was at least \$10,000 per unit for substantial rehabilitation or moderate rehabilitation.

~~(73)(69)~~ “Principal” means (i) any general partner of an Applicant or Developer, any limited partner of an Applicant or Developer, any manager or member of an Applicant or Developer, any officer, director or shareholder of an Applicant or Developer, (ii) any officer, director, shareholder, manager, member, general partner or limited partner of any general partner or ~~and~~ limited partner of an Applicant or Developer, (iii) any officer, director, shareholder, manager, member, general partner or limited partner of any manager or member of an Applicant or Developer, and (iv) any officer, director, shareholder, manager, member, general partner or limited partner of any shareholder of an Applicant or Developer.

~~(74)(70)~~ “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.

~~(75)(71)~~ “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.

~~(76)(72)~~ “QCT” or “Qualified Census Tract” means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50 percent or more of the households at an income which is less than 60 percent 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 Internal Revenue Code.

~~(77)(73)~~ “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 of 1933, 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 section 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 Internal Revenue Code, corporation (except a bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities and Exchange Act of 1933, 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 of 1934, 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 of 1934, 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 of 1933, 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.

~~(78)(74)~~ "Qualified Lending Institution" means any lending institution designated by the Corporation.

~~(79)(75)~~ "Qualified Project Period" means Qualified Project Period as defined in Section 142(d) of the Internal Revenue Code.

~~(80)(76)~~ "Received" as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, United States 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.

~~(81)~~ "Redevelopment" means (i) with regard to proposed Developments that involve demolition of existing structures that were originally built in 1982 or earlier and originally received financing through one or more of the following HUD or RD programs: Sections 202, 236, 514, 515, 516, PBRA; and new construction of replacement structures on the same site maintaining at least the same number of PBRA units; or (ii) with regard to proposed Developments that involve a PHA, demolition of existing public housing structures on a site with a Declaration of Trust that were originally built in 1982 or earlier and that are assisted through ACC; and new construction on the same site, providing at least 25 percent of the total new units with PBRA, ACC, or both, after Redevelopment.

~~(82)(77)~~ "Rehabilitation Expenditures" has the meaning set forth in section 147(d)(3) of the Internal Revenue Code.

~~(83)(78)~~ "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.

~~(84)(79)~~ "Scattered Sites," as applied to ~~for~~ a single Development, means a Development site that, when taken as a whole, is comprised consisting of real property that in the same county (i) any part of which is not contiguous (each such "non-contiguous parts") site within a Scattered Site Development, a "Scattered Site") or (ii) any part of which is 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, chain of title, or other information available to the Corporation that the non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development. For purposes of this definition "contiguous" means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement provided the easement is not a roadway or street.

~~(85)(80)~~ “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.

~~(86)(81)~~ “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.

~~(87)(82)~~ “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.

~~(88)(83)~~ “State Office on Homelessness” means the office created within the Department of Children and Family Services under Section 420.622, F.S.

~~(89)(84)~~ “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 Internal Revenue Code.

~~(90)(85)~~ “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 Internal Revenue Code.

~~(91)(86)~~ “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 Internal Revenue Code.

~~(92)(87)~~ “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 the site with the most units ~~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 four (4) units.~~

~~(93)(88)~~ “TEFRA Hearing” means a public hearing held pursuant to the requirements of the Internal Revenue Code and in accordance with the Tax Equity and Fiscal Responsibility Act (TEFRA), section 147(f) of the Internal Revenue Code, 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.

~~(94)(89)~~ “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.

~~(95)(90)~~ “Universal Cycle” means any funding cycle provided for in this or previous versions of this rule chapter.

~~(96)(91)~~ “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.

~~(97)(92)~~ “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) of which is www.floridahousing.org.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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. ~~2-11 5-09~~) 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 2011 2009 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.

(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 will be provided a time period for filing a written Notice of Possible Scoring Error (NOPSE). Such time period will be no fewer than three (3) Calendar Days from the date the preliminary scores are sent by overnight delivery by the Corporation. The deadline for filing a NOPSE will be provided at the time the preliminary scores are issued. Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question 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 Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOPSE. The Corporation will not consider any NOPSE submitted via facsimile or other electronic transmission.

(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, which may include financial obligations for which the Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate ("cures") to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. The time period for submitting the "cures" will be no fewer than three (3) Calendar Days from the date the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation. Such notice will provide the deadline for submitting the "cures." A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or

exhibit was previously submitted in the Applicant's Application. 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. To be considered by the Corporation, the Applicant must submit one (1) original hard copy and three (3) photocopies of all additional documentation and revisions and such revisions, changes and other information must be Received by the deadline set forth herein. 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) All Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. The time period for submitting each NOAD will be no fewer than three (3) Calendar Days from the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above. The notice set forth in subsection (5) above will provide the deadline for submitting the NOAD. 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 of the Applicant submitting the NOAD, the assigned Application number of the Application in question, 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 Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOAD. The Corporation will not consider any NOAD submitted via facsimile or other electronic transmission.

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

(9) Following the receipt and review by the Corporation of the documentation described in subsections (5), (6) and (7) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall fail threshold 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 of the Application, threshold failure, 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 percent 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 ~~Local Government-issued Tax-Exempt Bond-Financed~~ Developments that have non-Corporation-issued tax-exempt bonds that 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 the same Financial Beneficiaries 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 contiguous with any part of any of the other property sites, or (ii) any of the property sites are divided by a street or easement, or (iii) it is readily apparent from the 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 considered to be submissions for the same Development, the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application(s) with the lowest lottery number(s) will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number. 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 Application or Development;
- (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;

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 (2) 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) The Applicant fails to satisfy any arrearages described in subsection (5) above.

(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 entity; notwithstanding the foregoing, the name of the Applicant entity may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(b) Identity of each Developer, including all co-Developers; notwithstanding the foregoing, the identity of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(c) Program(s) applied for;

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

(e) Site for the Development; notwithstanding the foregoing, after the Applicant has been invited to enter credit underwriting and subject to written request of an Applicant to Corporation staff and approval of the Corporation, the site for the Development may be increased or decreased, provided the Development Location Point Tie Breaker Measurement Point is on the site ~~and the total proximity points awarded during scoring are not reduced~~;

(f) Development Category;

(g) Development Type;

(h) Demographic Commitment Designation selection;

(i) Total number of units; notwithstanding the foregoing, the total number of units may be increased after the Applicant has been invited to enter credit underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation;

(j) 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);

(k) 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;

(l) Submission of the Application online and submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;

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

(n) The Application labeled "Original Hard Copy" must include a properly completed Applicant Certification and Acknowledgement form reflecting original signatures.

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

With regard to paragraphs (a) and (b) above, the Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested change.

(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 Developer 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 Internal Revenue Code, Title 67, F.A.C., 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 or Developer will not be able to produce quality affordable housing, be denied and the Applicant or Developer 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 or been awarded funding from 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. The Corporation shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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 Calendar Days after the date the Applicant receives its notice of rights. 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 (5) pages, excluding the caption and certificate of service. 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, no later than five (5) Calendar Days from the date of issuance of 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 in response to recommended 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 Calendar Day after the receipt of the notice of rights 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 (5) pages, excluding the caption and certificate of service. 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, no later than five (5) Calendar Days from the date of issuance of 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.

(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.

Rulemaking 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, 1-29-06, 4-1-07, Repromulgated 3-30-08, 8-6-09, _____.

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).

Rulemaking 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, Amended 2-7-05, 1-29-06, Repromulgated 4-1-07, 3-30-08, 8-6-09, _____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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 two or more dwelling units and functionally related facilities, in accordance with section 142(d) of the Internal Revenue Code.

(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 Internal Revenue Code 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 Internal Revenue Code, if the Development is financed with the proceeds of Tax-exempt Bonds, or as required by the Act, if the Development is financed with the proceeds of Taxable Bonds, or held available for rental if previously rented to and occupied by a Lower Income 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 Internal Revenue Code, Florida Statutes, 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 151 ~~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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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, 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 as outlined in the fees section of the Universal Application instructions ~~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 Development Cost excluding land. Consulting fees, if any, must be paid out of the Developer Fee. If the required Home Energy Rating System (HERS) Index is not achieved for all eligible new construction units, the Developer fee shall be reduced as outlined in the Application instructions. If the green certification program committed to by the Applicant during credit underwriting is not achieved, the Developer fee shall be reduced as outlined in the Application instructions. 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. The General Contractor must meet the following conditions:

(a) Employ a Development superintendent and charge the costs of such employment 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 to the general requirements line item of the General Contractor's budget;

(c) Secure building permits, issued in the name of the General Contractor;

(d) Secure a payment and performance bond (or approved alternate security for General Contractor's performance, such as a letter of credit), issued in the name of the General Contractor, from a company rated at least "A-" by AMBest & Co.;

(e) Ensure that none of the General Contractor duties to manage and control the construction of the Development are subcontracted; and

(f) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

Rulemaking 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, 1-29-06, Repromulgated 4-1-07, Amended 3-30-08, Repromulgated 8-6-09, Amended _____.

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 no later than the 37th month after closing 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) Unless and until a guarantor's obligations for a MMRB Loan are terminated as approved in writing by the Corporation or its servicer, each guarantor shall furnish to the Corporation or its servicer financial statements as provided in paragraphs (a) through (c) below as the Corporation or its servicer may reasonably request.

(a) The audited financial statements are to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended 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 guarantor(s) as to the accuracy of such financial statements; or

(b) If an audited financial statement has not been prepared, a federal income tax return filed for the most recently completed year; or

(c) For individual guarantors, if an audited financial statement is not available a financial statement certified as true and complete without qualification by such guarantor and a copy of the most recently filed individual federal income tax return.

(i) 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 Internal Revenue Code 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.

(16) Annually, within 151 Calendar Days following the Applicant's fiscal year end, the Applicant shall provide the Corporation with an audited financial statement and an executed Financial Reporting Form SR-1, Rev. 01-11, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links. The audited financial statement and a copy of the signed Form SR-1, with Parts 1, 2 and 5 completed, shall be submitted in both PDF format and in electronic form as a Microsoft Excel spreadsheet to the Corporation at the following web address: financial.reporting@floridahousing.org. The initial submission will be due following the fiscal year within which the first unit is occupied. In the case where the Development contained occupied units at the time of acquisition, the initial submission will be due following the fiscal year within which the 12 month anniversary of the MMRB loan closing is observed. The audited financial statement is to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended and shall include:

(a) Comparative Balance Sheet with prior year and current year balances;

(b) Statement of revenue and expenses;

(c) Statement of changes in fund balances or equity;

(d) Statement of cash flows; and

(e) 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 above documents by the stated deadline.

Rulemaking 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 1-29-06, 4-1-07, Amended 3-30-08, Repromulgated 8-6-09, Amended _____.

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.

Rulemaking 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, 2-7-05, Repromulgated 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

67-21.014 Credit Underwriting Procedures.

Credit underwriting is a de novo review of all information supplied, received or discovered during or after any application cycle scoring and ranking process, prior to the closing on funding. The success of an Applicant in being selected for funding is not an indication that the Applicant will receive a positive recommendation from the Credit Underwriter or that the Development team's experience, past performance or financial capacity is satisfactory.

(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 review ~~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. The Credit Underwriter shall also request and review such other information as it deems appropriate to determine whether or not to provide a positive recommendation in connection with a proposed Development. In making that determination the Credit Underwriter will consider the prior and recent performance history of the Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor in connection with any other affordable housing development. The performance history shall consider instances involving a foreclosure, deed in lieu of foreclosure, financial arrearage, or other event of material default in connection with any affordable housing development or the documents governing financing or operation of any such development. Unless the Credit Underwriter determines that mitigating factors exist, or that underwriting conditions can be imposed, sufficient to mitigate or offset the risk, the existence of the following shall result in a negative recommendation of the proposed Development by the Credit Underwriter: Considering all affordable housing developments in which any party named above has been involved, if (i) during the period prior to August 1, 2010, five (5) percent or more of that party's developments have been the subject of a foreclosure or deed in lieu of foreclosure, or in financial arrearage or other material default and such arrearage or material default remained uncured for a period of 60 days or more, or (ii) during the period beginning on or after August 1, 2010, any of that party's developments have been the subject of a foreclosure or deed in lieu of foreclosure, or in financial arrearage or other material default and such arrearage or material default is uncured at the present or, if cured, remained uncured for a period of 60 days or more. Mitigating factors to be considered by the Credit Underwriter, to the extent such information is reasonably available and verifiable, shall include the extent to which the party funded the operations of the development from that party's own funds in an attempt to keep the development afloat, the election by a party to forego financial participation in a development in an attempt to keep the development afloat,

the party's satisfactory performance history over the last 10 years in connection with that party's affordable housing developments, and any other extenuating circumstances deemed relevant by the Credit Underwriter in connection with the party's involvement in a development. A negative recommendation may also result from the review of (a) an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor in connection with any other affordable housing development, (b) financial capacity of an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor, or (c) any other relevant matters relating to an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor if, in the Credit Underwriter's opinion, one or more members of the Development team do not possess the ability to proceed.

(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 \$300 ~~\$250~~ per unit per annum must be deposited annually in the replacement reserve account for all Developments. The initial replacement reserve will have limitations on the ability to be drawn upon during the following time periods: (i) new construction or Redevelopment Developments shall not be allowed to draw during the first five (5) years or until the establishment of a minimum balance equal to the accumulation of five (5) years of replacement reserves per unit, or (ii) Preservation or Rehabilitation Developments (with or without acquisition) shall not be allowed to draw until the start of the scheduled replacement activities as outlined in the pre-construction capital needs assessment report ('CNA') subject to the activities completed in the scope of rehabilitation, but not sooner than the third (3rd) year. The amount established as a replacement reserve shall be adjusted based on a CNA to be received by the Corporation or its servicers, prepared by an independent third party and acceptable to the Corporation and its servicers at the time the CNA is required, beginning no later than the 10th year after the first residential building in the development receives a certificate of occupancy, a temporary certificate of occupancy, or is placed in service, whichever is earlier ('Initial Replacement Reserve Date'). A subsequent CNA is required no later than the 15th year after the Initial Replacement Reserve Date and subsequently every five (5) years thereafter. If the Applicant does not provide a copy of a CNA to the Corporation or its servicers, prepared by an independent third party and acceptable to the Corporation and its servicers within the stated time frames, then one shall be ordered by the Corporation or its servicers at the Applicant's expense. The only events allowed to drop the balance below the minimum are items related to life safety, structural and systems as approved by the Corporation and its servicers. In the event the first mortgage lender or a Housing Credit Syndicator requires replacement reserves with replacement reserve deposit

requirements that include the same or higher deposits, the Corporation's rights to hold replacement reserves and to disburse such funds shall be subject to the first mortgage lender or the Housing Credit Syndicator, as applicable. The replacement reserve funds are not to be used by the Applicant for normal maintenance and repairs but shall be used for structural building repairs, major building systems replacements and other items included on the Eligible Reserve for Replacement Items list, effective October 15, 2010, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links. 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. The Credit Underwriter must review and determine whether there will be a negative impact to Guarantee Fund Developments within the primary market area or five (5) miles of the proposed Development, whichever is greater.

(g) Any Development that has rehabilitation with or without acquisition, a capital needs assessment prepared in accordance with generally accepted industry investment grade standards shall be ordered by the Credit Underwriter, and its findings shall be used to determine rehabilitation that will be carried out, including energy, green, universal design and visitability features, and to set replacement reserves.

~~(h)(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.

~~(i)(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 by an independent licensed Certified Public Accountant 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 2011 2009 Universal Application link labeled Related References 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 percent 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.

~~(j)(4)~~ The Credit Underwriter shall require an operating deficit guarantee. The operating deficit guarantee will be released when the Development achieves an average 1.15 debt service coverage ratio on the MMRB Loan and 90 percent occupancy and 90 percent of the gross potential rental income, all for twelve (12) consecutive months as certified by an independent Certified Public Accountant, and verified by the Credit Underwriter. The calculation of the debt service coverage ratio shall be made by the Corporation or its agent. Notwithstanding the above, the operating deficit guarantee shall not terminate earlier than three (3) years following the final certificate of occupancy.

~~(k)(4)~~ The Credit Underwriter shall also require environmental indemnity and recourse obligation guarantees.

~~(l)(4)~~ Required appraisals, market studies, pre-construction analyses, physical needs assessments, capital 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.

~~(m)(4)~~ 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.

~~(n)(4)~~ 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.

~~(o)(4)~~ 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. For the Credit Underwriter to make a favorable recommendation, the submarket of the proposed Development must have (i) an average physical occupancy rate of 92 90% or greater, and (ii) an average market rental rate, based on unit mix and annualized rent concessions, of 110% or greater of the applicable maximum Housing Credit rental rate.

(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 percent retainage will be held by the Trustee or the servicer administering the construction loan funds until the Development is 50 percent complete. At 50 percent 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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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.

Rulemaking 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, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

67-21.019 Issuance of Bonds for Section 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 Internal Revenue Code.

(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 Internal Revenue Code, 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 percent of all points (excluding tie-breaker points) available in the Application.

Rulemaking 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, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, 8-6-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Conner, Director of Multifamily Bonds, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Len Tylka, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 36, No. 14, April 9, 2010

FLORIDA HOUSING FINANCE CORPORATION

RULE NOS.:	RULE TITLES:
67-48.001	Purpose and Intent
67-48.002	Definitions
67-48.004	Application and Selection Procedures for Developments
67-48.005	Applicant Administrative Appeal Procedures
67-48.007	Fees
67-48.0072	Credit Underwriting and Loan Procedures
67-48.0075	Miscellaneous Criteria
67-48.009	SAIL General Program Procedures and Restrictions
67-48.0095	Additional SAIL Application Ranking and Selection Procedures
67-48.010	Terms and Conditions of SAIL Loans
67-48.0105	Sale, Transfer or Refinancing of a SAIL Development
67-48.013	SAIL Construction Disbursements and Permanent Loan Servicing
67-48.014	HOME General Program Procedures and Restrictions
67-48.015	Match Contribution Requirement for HOME Allocation
67-48.017	Eligible HOME Activities
67-48.018	Eligible HOME Applicants
67-48.019	Eligible and Ineligible HOME Development Costs
67-48.020	Terms and Conditions of Loans for HOME Rental Developments
67-48.0205	Sale, Transfer or Refinancing of a HOME Development
67-48.022	HOME Disbursements Procedures and Loan Servicing
67-48.023	Housing Credits General Program Procedures and Requirements
67-48.027	Tax-Exempt Bond-Financed Developments
67-48.028	Carryover Allocation Provisions
67-48.029	Extended Use Agreement
67-48.030	Sale or Transfer of a Housing Credit Development
67-48.031	Termination of Extended Use Agreement and Disposition of Housing Credit Developments

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, Florida Statutes; and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, Florida Statutes; 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, Florida Statutes.

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 2011 Application Cycle.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: July 26, 2011, 10:00 a.m.

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301. The hearing will be accessible via phone at 1(888)808-6959, Conference Code #1374197.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Jean Salmonsens, (850)488-4197. If you are hearing

or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kevin Tatreau, Director of Multifamily Development Programs, 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/~~Moderate Rehabilitation/~~Substantial 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.

Rulemaking 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 1-29-06, 4-1-07, Amended 3-30-08, Repromulgated 8-6-09, Amended _____.

67-48.002 Definitions.

(1) “ACC” or “Annual Contributions Contract” means a contract between HUD and a Public Housing Authority containing the terms and conditions under which HUD assists in providing for development of housing units, modernization of housing units, operation of housing units, or a combination of the foregoing.

(2)(+) “Act” means the Florida Housing Finance Corporation Act as found in 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 and city. For Developments for which the If address has not yet been assigned, include, at a minimum, street name, and closest designated intersection, and whether or not the Development is located within a and city or in the unincorporated area of the county. If located within a city, include the name of the city.

(4)(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 2011 2009 Universal Application link labeled Related References and Links.

(5)(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 or Developer, (ii) serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer, (iii) directly or indirectly receives or will receive a financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C., or (iv) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i), (ii) or (iii) above.

(6)(5) “ALF” or “Assisted Living Facility” means a Florida licensed living facility that complies with Sections 429.01 through 429.54, F.S., and Chapter 58A-5, F.A.C.

(7)(6) “Allocation Authority” means the total dollar volume of Competitive Housing Credits available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

(8)(7) “Applicable Fraction” means Applicable Fraction as defined in Section 42(c)(1)(B) of the IRC.

(9)(8) “Applicant” means any person or legally formed entity that is seeking a loan or funding from the Corporation by submitting an Application or responding to a request for proposal for one or more of the Corporation’s programs. For purposes of Rules 67-48.0105, 67-48.0205 and 67-48.031, F.A.C., Applicant also includes any assigns or successors in interest of the Applicant.

(10)(9) “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.

(11)(40) “Application Deadline” means 5:00 p.m., Eastern Time, on the final day of the Application Period.

(12)(44) “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 21 Calendar Days from the beginning of the Application Period.

(13)(42) “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.

(14)(43) “Board of Directors” or “Board” means the Board of Directors of the Corporation.

~~(15)~~(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 2011 ~~2009~~ Universal Application link labeled Related References and Links.

~~(16)~~(15) “Calendar Days” means, the seven (7) days of the week.

~~(17)~~(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.

~~(18)~~(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.

~~(19)~~(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.

~~(20)~~(19) “Commercial Fishing Worker” means Commercial fishing worker as defined in Section 420.503, F.S.

~~(21)~~(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.

~~(22)~~(21) “Competitive Housing Credits” or “Competitive HC” means those Housing Credits which come from the Corporation’s annual Allocation Authority.

~~(23)~~(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.

~~(24)~~(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 2011 ~~2009~~ Universal Application link labeled Related References and Links, and which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs, including the HOME Program.

~~(25)~~(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.

~~(26)~~(25) “Corporation” means the Florida Housing Finance Corporation as defined in Section 420.503, F.S.

~~(27)~~(26) “Credit Underwriter” means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting services.

~~(28)~~(27) “DDA” or “Difficult Development Area” means (i) 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)(B), of the IRC, and (ii) Developments designated by the Corporation in accordance with the 2012 QAP.

~~(29)~~(28) “Department” means the Department of Economic Opportunity Community Affairs as defined in Section 420.503, F.S.

~~(30)~~(29) “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.

~~(31)~~(30) “Development” means Project as defined in Section 420.503, F.S.

~~(32)~~(31) “Development Cash Flow” means, with respect to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.), cash flow of the 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 Applicant or Developer, Principal(s) of the Applicant or Developer or any Affiliate of the Principal(s) of the Applicant or Developer, 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.

~~(33)~~(32) “Development Cost” means the total of all costs incurred in the completion of a Development excluding developer fee and total land cost as shown in the Development Cost line item on the development cost pro forma within the Application.

~~(34)~~(33) “Development Expenses” means, with respect to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.), 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 as well as HOME Developments when the HOME Development is also at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.) and to the application of Development Cash Flow described in subsections 67-48.010(5) and (6), F.A.C., as it relates to SAIL Developments or in paragraph 67-48.020(3)(b), F.A.C., as it relates to HOME Developments,

the term includes only those expenses disclosed in the operating pro forma included in the final credit underwriting report, as approved by the Board.

(35) “Development Location Point” means, with respect to a non-competitive Housing Credit Development, 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 the site with the most units that is located within 100 feet of a residential building existing or to be constructed as part of the proposed Development.

(36)~~(34)~~ “Document” means 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.

(37)~~(35)~~ “Domestic Violence” means Domestic violence as defined in Section 741.28, F.S.

(38)~~(36)~~ “Draw” means the disbursement of funds to a Development.

(39)~~(37)~~ “Elderly” means Elderly as defined in Section 420.503, F.S.

(40)~~(38)~~ “ELI Household” or “Extremely Low Income Household” means a household of one or more persons wherein the annual adjusted gross income for the Family is equal to or below the percentage of area median income for ELI Persons.

(41)~~(39)~~ “ELI Persons” or “Extremely Low Income Persons” means Extremely low income persons as defined in Section 420.0004(8), F.S., and for the Universal Cycle, will be as outlined in the ELI County Chart included in the Set-Aside Commitments section of the Universal Application instructions.

(42)~~(40)~~ “ELI Set-Aside” or “Extremely Low Income Set-Aside” means the number of units designated to serve ELI Households.

(43)~~(41)~~ “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.

(44)~~(42)~~ “EUA” or “Extended Use Agreement” means, with respect to the HC Program, an agreement which sets forth the set-aside requirements and other Development requirements under the HC Program.

(45)~~(43)~~ “Executive Director” means the Executive Director of the Corporation.

(46)~~(44)~~ “Family” describes a household composed of one or more persons.

(47)~~(45)~~ “Farmworker” means Farmworker as defined in Section 420.503, F.S.

(48)~~(46)~~ “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.

(49)~~(47)~~ “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.

(50)~~(48)~~ “Financial Beneficiary” means any Principal of the Developer or Applicant entity who receives or will receive any direct or indirect financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C.

(51)~~(49)~~ “Financial Institution” means Lending institution as defined in Section 420.503, F.S.

(52)~~(50)~~ “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.

(53)~~(51)~~ “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.

(54)~~(52)~~ “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.

(55)~~(53)~~ “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.

(56)~~(54)~~ “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 state of Florida within the meaning of Section 42(h)(7)(A) of the IRC and Rule Chapter 67-48, F.A.C.

(57)~~(55)~~ “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 2011 ~~2009~~ Universal Application link labeled Related References and Links, and Section 420.5089, F.S.

~~(58)~~(56) “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.

~~(59)~~(57) “HOME Development” means any Development which receives financial assistance from the Corporation under the HOME Program.

~~(60)~~(58) “HOME Rental Development” means a Development proposed to be constructed or rehabilitated with HOME funds.

~~(61)~~(59) “HOME Rent-Restricted Unit” means the maximum allowable rents designed to ensure affordability on the HOME-Assisted Units.

~~(62)~~(60) “Homeless” means Homeless as defined in Section 420.621, F.S. ~~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.~~

~~(63)~~(61) “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.

~~(64)~~(62) “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.

~~(65)~~(63) “Housing Credit Development” means the proposed or existing rental housing Development(s) for which Housing Credits have been applied or received.

~~(66)~~(64) “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.

~~(67)~~(65) “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.

~~(68)~~(66) “Housing Credit Rent-Restricted Unit” means, with respect to a Housing Credit Development, a unit for which the gross rent does not exceed 30 percent 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.

~~(69)~~(67) “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 percent of the Area Median Income (AMI) or less as chosen by the Applicant in the Application.

~~(70)~~(68) “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, in accordance with the Application instructions.~~

~~(71)~~(69) “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.

~~(72)~~(70) “HUD” means the United States Department of Housing and Urban Development.

~~(73)~~(71) “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 2011 ~~2009~~ Universal Application link labeled Related References and Links.

~~(72) “Joint Venture Application” means an Application in which the Applicant is either a Joint Venture Non-Profit Applicant or a Joint Venture Public Housing Authority Applicant.~~

~~(73) “Joint Venture Non-Profit Applicant” means an Applicant that (i) states in its Application that it is applying as a Non-Profit and (ii) is a legal entity which is owned by two or more separate and distinct legal entities which share no common ownership between or among them, at least one of which is a Non-Profit entity, as defined in Rule 67-48.002, F.A.C., provided such Non-Profit is receiving at least 25 percent of the total Developer fee.~~

~~(74)~~ “~~Joint Venture Public Housing Authority Applicant~~” means an Applicant that is a legal entity which is owned by two or more separate and distinct legal entities which share no common ownership between or among them, at least one of which is a Public Housing Authority or an entity created under Section 421.08(8), F.S.

~~(74)~~~~(75)~~ “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.

~~(75)~~~~(76)~~ “Local Government” means Local government as defined in Section 420.503, F.S.

~~(76)~~~~(77)~~ “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.

~~(77)~~~~(78)~~ “Low Income” means the Adjusted Income for a Family which does not exceed 80 percent of the area median income.

~~(78)~~~~(79)~~ “LURA” or “Land Use Restriction Agreement” means an agreement which sets forth the set-aside requirements and other Development requirements under a Corporation program.

~~(79)~~~~(80)~~ “Match” means non-federal contributions to a HOME Development eligible pursuant to 24 CFR Part 92.

~~(80)~~ “Moderate Rehabilitation” means, with respect to the SAIL Program, Moderate rehabilitation as defined in Section 420.503, F.S.

~~(81)~~~~(81)~~ “Mortgage” means Mortgage as defined in Section 420.503, F.S.

~~(82)~~ “~~Non Joint Venture Application~~” means an ~~Application other than a Joint Venture Application.~~

~~(82)~~~~(83)~~ “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 percent of the ownership interest in the Development held by the general partner or managing member entity, which shall receive at least 25 percent of the Developer fee, 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.

~~(83)~~~~(84)~~ “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.

~~(84)~~~~(85)~~ “PBRA” or “Project-Based Rental Assistance” means a rental subsidy through a contract with HUD or RD for in a property that is 20 or more years of age.

~~(85)~~~~(86)~~ “Person with a Disability” means, pursuant to Section 3 of the Americans with Disabilities Act of 1990, which is incorporated by reference and available on the Corporation’s Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links, an individual to which both of the following applies: (i) the individual has a physical or mental impairment that substantially limits one or more of the major life activities of such individual, and (ii) the individual is currently or was formerly regarded as having an existing record of such an impairment.

~~(86)~~ “PHA” or “Public Housing Authority” means a housing authority under Chapter 421, F.S.

~~(87)~~ “~~Pool of Related Applications~~” means a ~~group of Related Applications comprised of all Related Applications submitted in the same Funding Cycle that share among such Related Applications one or more Principals or Affiliates of an Applicant or Developer common to any or all such Related Applications.~~

~~(87)~~~~(88)~~ “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.

~~(88)~~~~(89)~~ “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.

~~(89)~~~~(90)~~ “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.

~~(90)~~~~(91)~~ “Preservation” means, ~~with respect to a Competitive HC Development,~~ Rehabilitation of existing developments that were originally built in 1992 or earlier and were originally financed through one or more of the following HUD or RD programs: Sections 202, 236, 514, 515, 516, PBRA, and public housing assisted through ACC receiving PBRA. Such developments must not have closed on funding from HUD or RD after 1992 where the budget was at least \$10,000 per unit for substantial rehabilitation or moderate rehabilitation.

~~(91)~~~~(92)~~ “Principal” means (i) any general partner of an Applicant or Developer, any limited partner of an Applicant or Developer, any manager or member of an Applicant or Developer, any officer, director or shareholder of an Applicant or Developer, (ii) any officer, director, shareholder, manager, member, general partner or limited partner of any general partner or ~~and~~ limited partner of an Applicant or Developer,

(iii) any officer, director, shareholder, manager, member, general partner or limited partner of any manager or member of an Applicant or Developer, and (iv) any officer, director, shareholder, manager, member, general partner or limited partner of any shareholder of an Applicant or Developer.

~~(92)(93)~~ “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 2007. A copy of such form is available on the Corporation’s Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

~~(93)(94)~~ “Project” or “Property” means Project as defined in Section 420.503, F.S.

~~(94)(95)~~ “QAP” or “Qualified Allocation Plan” means, with respect to the HC Program, the 2012 ~~2009~~ 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 2011 ~~2009~~ Universal Application link labeled Related References and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

~~(95)(96)~~ “QCT” or “Qualified Census Tract” means any census tract which is designated by the Secretary of Housing and Urban Development as having either 50 percent or more of the households at an income which is less than 60 percent of the area median gross income, or a poverty rate of at least 25 percent, in accordance with Section 42(d)(5)(~~B~~)(C) of the IRC.

~~(96)(97)~~ “RD” or “Rural Development” means Rural Development Services (formerly the “Farmer’s Home Administration” or “FmHA”) of the United States Department of Agriculture.

~~(97)(98)~~ “Received” as it relates to delivery of a document by a specified deadline means, unless otherwise indicated, delivery by hand, United States 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.

(98) “Redevelopment” means (i) with regard to proposed Developments that involve demolition of existing structures that were originally built in 1982 or earlier and originally received financing through one or more of the following HUD or RD programs: Sections 202, 236, 514, 515, 516, PBRA; and new construction of replacement structures on the same site maintaining at least the same number of PBRA units; or (ii) with regard to proposed Developments that involve a PHA, demolition of existing public housing structures on a site with a

Declaration of Trust that were originally built in 1982 or earlier and that are assisted through ACC; and new construction on the same site, providing at least 25 percent of the total new units with PBRA, ACC, or both, after Redevelopment.

(99) “Rehabilitation” means, with respect to the HOME and Housing Credit Program(s), the alteration, improvement or modification of an existing structure where less than 50 percent of the proposed construction work consists of new construction, as further described in Rule 67-48.0075, F.A.C.

~~(100) “Related Application” means an Application submitted in the same Funding Cycle that shares one or more Principals or Affiliates of an Applicant or Developer common to any or all of the Principals or Affiliates of an Applicant or Developer in another Application in the same Funding Cycle. Notwithstanding the foregoing, an Application shall not be deemed to be related to another Application if the only Principal or Affiliate of an Applicant or Developer that it shares with such other Application is (i) a Public Housing Authority or an entity created under Section 421.08(8), F.S., or (ii) a Non-Profit as defined in Rule 67-48.002, F.A.C., that is receiving at least 25 percent of the total Developer fee.~~

~~(100)(101)~~ “Review Committee” means a committee established pursuant to Sections 420.5087 and 420.5089, F.S.

~~(101)(102)~~ “RRLP” or “RRLP Program” means the Rental Recovery Loan Program which was created pursuant to Section 3, Chapter 2005-92, and Section 31, Chapter 2006-69, L.O.F., to facilitate the allocation of RRLP loans.

~~(102)(103)~~ “SAIL” or “SAIL Program” means the State Apartment Incentive Loan Program created pursuant to Sections 420.507(22) and 420.5087, F.S.

~~(103)(104)~~ “SAIL Development” means a residential development comprised of one (1) or more residential buildings, each containing five (5) or more dwelling units and functionally related facilities, proposed to be constructed or substantially rehabilitated with SAIL funds for Eligible Persons.

~~(104)(105)~~ “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.

~~(105)(106)~~ “Scattered Sites,” as applied to for a single Development, means a Development site that, when taken as a whole, is comprised consisting of real property that in the same county (i) any part of which is not contiguous (each such “non-contiguous parts”) site within a Scattered Site Development, a “Scattered Site”) or (ii) any part of which is 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, chain of title, or other information available to the Corporation that the

~~non-contiguous parts or the divided parts of the real property are part of a common or related scheme of development. For purposes of this definition “contiguous” means touching at a point or along a boundary. Real property is contiguous if the only intervening real property interest is an easement, provided the easement is not a roadway or street.~~

~~(106)(407)~~ “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 2011 ~~2009~~ Universal Application link labeled Related References and Links.

~~(107)(408)~~ “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.

~~(108)(409)~~ “Special Needs Household” means a household consisting of a Family that is considered to be Homeless, a survivor of Domestic Violence, a Person with a Disability, or Youth Aging Out of Foster Care. These households require initial, intermittent or on-going supportive services from one or more community based service providers to obtain and retain stable, adequate and safe housing in their communities.

~~(109)(410)~~ “Special Needs Household Referral Agency” means a participating organization that is included on the Special Needs Household Referral Agency Participation List, effective 1-12-09, incorporated by reference and available on the Corporation’s Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links.

~~(110)(411)~~ “Sponsor” means Sponsor as defined in Section 420.503, F.S.

~~(111)(412)~~ “State Office on Homelessness” means the office created within the Department of Children and Family Services under Section 420.622, F.S.

~~(112)(413)~~ “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 percent of the appraised as is value (excluding land) of such Development before repair and less than 50 percent of the proposed construction work consists of new construction. 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.

~~(113)(414)~~ “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.

~~(114)(415)~~ “Tie-Breaker Measurement Point” means, with respect to a Competitive Housing Credit Development, 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 the site with the most units ~~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 four (4) units.~~

~~(115)(416)~~ “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.

~~(116)(417)~~ “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.

~~(117)(418)~~ “Universal Cycle” means any Funding Cycle provided for in this or previous versions of this rule chapter.

~~(118)(419)~~ “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.

~~(119)(420)~~ “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 percent of the median income adjusted for family size, or 50 percent 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 percent 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 percent 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.

~~(120)(424)~~ “Website” means the Florida Housing Finance Corporation’s website, the Universal Resource Locator (URL) for which is www.floridahousing.org.

~~(121)(422)~~ “Youth Aging Out of Foster Care” means youth or young adults participating in independent living transition services pursuant to Section 409.1451, F.S., and meeting the eligibility requirements pursuant to Section 409.1451(2)(b), F.S.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 5-31-09, 8-6-09, _____.

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. ~~2-11-09~~) 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 2011 ~~2009~~ 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 HOME and HC Program(s).~~

(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 will be provided a time period for filing a written Notice of Possible Scoring Error (NOPSE). Such time period will be no fewer than three (3) Calendar Days from the date the preliminary scores are sent by overnight delivery by the Corporation. The deadline for filing a NOPSE will be provided at the time the preliminary scores are issued. Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question 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 Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOPSE. The Corporation will not consider any NOPSE submitted via facsimile or other electronic transmission.

(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, which may include financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate (“cures”) to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. The time period for submitting the “cures” will be no fewer than three (3) Calendar Days from the date the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation. Such notice will provide the deadline for submitting the “cures.” A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant’s Application. 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. To be considered by the Corporation, the Applicant must submit one (1) original hard copy and three (3) photocopies of all additional documentation and revisions, and such revisions, changes and other information must be Received by the deadline set forth herein. 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) All Applicants may submit to the Corporation a Notice of Alleged Deficiencies (NOAD) in any other Application. The time period for submitting each NOAD will be no fewer than three (3) Calendar Days from the deadline for receipt by the Corporation of the documentation set forth in subsection (6) above. The notice set forth in subsection (5) above will provide the deadline for submitting the NOAD. 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 of the Applicant submitting the NOAD, the assigned Application number of the Application in question, 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 Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOAD. The Corporation will not consider any NOAD submitted via facsimile or other electronic transmission.

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

(9) Following the receipt and review by the Corporation of the documentation described in subsections (5), (6) and (7) above, the Corporation shall then prepare final scores. In determining such final scores, no Application shall fail threshold 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 of the Application, threshold failure, 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 ~~Local Government-issued Tax-Exempt Bond-Financed~~ Developments that have non-Corporation-issued tax-exempt bonds that 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 the same Financial Beneficiaries, 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 contiguous with any part of any of the other property sites, or (ii) any of the property sites are divided by a street or easement, or (iii) it is readily apparent from the 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 considered to be submissions for the same Development, the Corporation will reject all such Applications except the Application with the highest (worst) lottery number. The Application(s) with the lowest lottery number(s) will still be rejected even if the Applicant withdraws the Application with the highest (worst) lottery number.

(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 Application or Development;
- (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;

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 (2) 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) The Applicant fails to satisfy any arrearages described in subsection (5) above. 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 entity; notwithstanding the foregoing, the name of the Applicant entity may be changed only by written request of an Applicant to Corporation staff and approval of the Board as follows: (i) after the Applicant has been invited to enter credit underwriting for the SAIL and HOME Programs and for Developments requesting non-competitive HC to be used with non-Corporation-issued tax-exempt bonds, and (ii) after the Carryover Allocation Agreement is in effect for the Competitive HC Program;

(b) Identity of each Developer, including all co-Developers; notwithstanding the foregoing, the identity of the Developer(s) may be changed only by written request of an Applicant to Corporation staff and approval of the Board after the Applicant has been invited to enter credit underwriting;

(c) Program(s) applied for;

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

(e) Site for the Development; notwithstanding the foregoing, after the Applicant has been invited to enter credit underwriting and subject to written request of an Applicant to Corporation staff and approval of the Corporation, the site for the Development may be increased or decreased, as follows: (i) for the Competitive HC, SAIL and HOME Programs provided the Tie Breaker Measurement Point is on the site and the total

proximity points awarded during scoring are not reduced, and (ii) for Developments requesting non-competitive HC provided the Development Location Point is on the site;

(f) Development Category;

(g) Development Type;

(h) Demographic Commitment Designation selection;

(i) Total number of units; notwithstanding the foregoing, for the SAIL and HC Programs the total number of units may be increased after the Applicant has been invited to enter credit underwriting, subject to written request of an Applicant to Corporation staff and approval of the Corporation;

~~(j) With regard to the SAIL and HC Programs, the ELI Set-Aside commitment on the total set-aside breakdown chart for the program(s) applied for in the Set-Aside Commitment section of the Application;~~

~~(j)(4) 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 paragraph (l)(m) below;~~

~~(k)(4) CHDO election for the HOME Program;~~

~~(l)(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 by HUD 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 percent, rounded to whole dollars, of the remainder of the Applicant's initial request amount provided the total request amount does not exceed the maximum Competitive HC request amount for the applicable county, 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. If any Development elects to recognize any newly designated DDA status, then the Development must meet any minimum Competitive HC requests that are applicable.

~~(m)(n) Submission of the Application online and submission of one original hard copy with the required number of photocopies of the Application by the Application Deadline;~~

~~(n)(6)~~ Payment of the required Application fee by the Application Deadline;

~~(o)(8)~~ The Application labeled "Original Hard Copy" must include a properly completed Applicant Certification and Acknowledgement form reflecting an original signature.

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

With regard to paragraphs (a) and (b) above, the Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested change.

(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 Developer 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, Title 67, F.A.C., 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 or Developer will not be able to produce quality affordable housing, be denied and the Applicant or Developer 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 or been awarded funding from 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. The Corporation shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(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 (2) 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.

Rulemaking 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 91-48.004, 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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 Calendar Days after the date the Applicant receives its notice of rights. 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 (5) pages, excluding the caption and certificate of service. 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, no later than five (5) Calendar Days from the date of issuance of 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.

(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. For HC, if the final order is executed on or before the Corporation issues the current year's final scores, the allocation will come from the current year or if the final order is executed after the Corporation issues the current year's final scores, the allocation 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 Calendar Day after the receipt of the notice of rights 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 (5) pages, excluding the caption and certificate of service. 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, no later than five (5)

Calendar Days from the date of issuance of 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.

(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. For HC, if the final order is executed on or before the Corporation issues the current year's final scores, the allocation will come from the current year or if the final order is executed after the Corporation issues the current year's final scores, the allocation 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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, Repromulgated

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 HC Programs, as outlined in the Universal Application instructions, the Carryover Allocation Agreement, or this rule chapter, as applicable:

- (1)(2) Universal Application Package fee, if applicable.
- (1)(2) Application fee.
- (2)(3) Credit Underwriting fees.
- (3)(4) Administrative fees.
- (4)(5) Commitment fees.
- (5)(6) Compliance monitoring fees.
- (6)(7) Loan servicing fees.
- (7)(8) Construction inspection fees.
- (8)(9) Financial monitoring fees.
- (9)(10) Tax-exempt mortgage financing fees.
- (10)(11) HUD environmental fees.
- (11)(12) Qualified Contract Package fees.
- (12)(13) Assumption/Renegotiation fees.
- (13)(14) Loan closing extension fees.
- (14)(15) Processing 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.

Rulemaking 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, 1-29-06, 4-1-07, Repromulgated 3-30-08, Amended 8-6-09, _____.

67-48.0072 Credit Underwriting and Loan Procedures.

Credit underwriting is a de novo review of all information supplied, received or discovered during or after any application cycle scoring and ranking process, prior to the closing on funding, including the issuance of IRS Forms 8609 for Housing Credits. The success of an Applicant in being selected for funding is not an indication that the Applicant will receive a positive recommendation from the Credit Underwriter or that the Development team's experience, past performance or financial capacity is satisfactory. 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; and for any Development that has rehabilitation with or without acquisition, a capital needs assessment prepared in accordance with generally accepted industry investment grade standards shall be ordered by the Credit Underwriter, and its findings shall be used to determine rehabilitation that will be carried out, including energy, green, universal design and visitability features, and to set replacement reserves. Corporation funding will be based on appraisals of comparable developments, cost benefit analysis, and other documents evidencing justification of costs. As part of the credit underwriting review, the Credit Underwriter will consider the applicable provisions of Rule Chapter 67-48, F.A.C.

(1) Within 10 business days 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) ~~All The~~ Applicants shall submit the credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the letter of invitation. In addition, (i) within seven (7) Calendar Days of the date of the letter of invitation Competitive HC Applicants shall submit the Preliminary Recommendation Letter (PRL) fee to the Credit Underwriter and SAIL Applicants shall submit the administrative fee to the Corporation, and (ii) within 14 Calendar Days of the date of the letter of invitation, Competitive HC, SAIL and HOME Applicants shall submit IRS Form 8821 for all Financial Beneficiaries to the Corporation. IRS Form 8821, Rev. August 2008, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links within seven (7) Calendar Days of the date of the letter of invitation.

(b) For Competitive HC, SAIL and HOME Applicants, fFailure to submit the required credit underwriting fee, the HC PRL fee, or the SAIL administrative fee, as if applicable, 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) For SAIL and HOME Applicants, the loan must close within 12 months of the date of the letter of invitation to enter credit underwriting on or before October 15, 2010. Applicants may request one (1) extension of up to 12 months. 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. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. The Corporation shall charge a non-refundable extension fee of 1 percent of each loan amount if the Board approves the request to extend the commitment beyond the initial 12 month closing deadline October 15, 2010. In the event the loan does not close by the end of the 12 month extension period October 15, 2011, the preliminary commitment or firm commitment, as applicable, will be deemed void and the funds will be de-obligated.

(5) The Credit Underwriter shall review verify all information in the Application, including information relative to the Applicant, Developer, Housing Credit Syndicator,

General Contractor, and, if an ALF, the service provider(s), as well as other members of the Development team. The Credit Underwriter shall also request and review such other information as it deems appropriate to determine whether or not to provide a positive recommendation in connection with a proposed Development.

(6) In determining whether or not to provide a positive recommendation in connection with a proposed Development, the Credit Underwriter will consider the prior and recent performance history of the Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor in connection with any other affordable housing development. The performance history shall consider instances involving a foreclosure, deed in lieu of foreclosure, financial arrearage, or other event of material default in connection with any affordable housing development or the documents governing financing or operation of any such development. Unless the Credit Underwriter determines that mitigating factors exist, or that underwriting conditions can be imposed, sufficient to mitigate or offset the risk, the existence of the following shall result in a negative recommendation of the proposed Development by the Credit Underwriter: Considering all affordable housing developments in which any party named above has been involved, if (i) during the period prior to August 1, 2010, 5 percent or more of that party's developments have been the subject of a foreclosure or deed in lieu of foreclosure, or in financial arrearage or other material default and such arrearage or material default remained uncured for a period of 60 days or more, or (ii) during the period beginning on or after August 1, 2010, any of that party's developments have been the subject of a foreclosure or deed in lieu of foreclosure, or in financial arrearage or other material default and such arrearage or material default is uncured at the present or, if cured, remained uncured for a period of 60 days or more. Mitigating factors to be considered by the Credit Underwriter, to the extent such information is reasonably available and verifiable, shall include the extent to which the party funded the operations of the development from that party's own funds in an attempt to keep the development afloat, the election by a party to forego financial participation in a development in an attempt to keep the development afloat, the party's satisfactory performance history over the last 10 years in connection with that party's affordable housing developments, and any other extenuating circumstances deemed relevant by the Credit Underwriter in connection with the party's involvement in a development. A negative recommendation may also result from the review of (a) an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor in connection with any other affordable housing development, (b) financial capacity of an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the General Contractor, or (c) any other relevant matters relating to an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, and the

~~General Contractor if, in the Credit Underwriter's opinion, one or more members of the Development team do not possess the ability to proceed. If an Applicant or Developer or Housing Credit Syndicator or any Financial Beneficiary of an Applicant or Developer has been a party of any Development which has been or is in the process of being foreclosed upon or is in arrears to the Corporation or any agent or assignee of the Corporation, the Credit Underwriter will consider this and other past performance issues in determining whether or not to provide a positive recommendation.~~

(7) The Credit Underwriter shall report any inconsistencies or discrepancies or changes made to the Applicant's Application during credit underwriting.

(8) The Applicant will be responsible for all fees in connection with the documentation submitted to the Credit Underwriter.

(9) 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.

(10) 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 Housing Credit 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 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 or Housing Credit Allocation and HOME loan. The Credit Underwriter must review and determine whether there will be a negative impact to Guarantee Fund Developments within the primary market area or five (5) miles of the proposed Development, whichever is greater. 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. For the Credit Underwriter to make a favorable recommendation, the submarket of the proposed Development must have (i) an average physical occupancy rate of ~~92~~ 90 percent or greater, and (ii) an average market rental

rate, based on unit mix and annualized rent concessions, of 110 percent or greater of the applicable maximum Housing Credit rental rate.

(11) 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 Housing Credits. For HOME Applications, the minimum debt service coverage shall be 1.10 for the HOME loan, including all superior 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 percent of its developer fee for at least six (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. 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.

(12) 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, and review a pre-construction analysis for all new construction or a physical needs assessment for Rehabilitation, Moderate Rehabilitation or Substantial Rehabilitation and review the Development's costs.

(13) 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 \$300 ~~\$250~~ per unit per annum must be used for all Developments. The initial replacement reserve will have limitations on the ability to be drawn upon during the following time periods: (i) new construction or Redevelopment Developments shall not be allowed to draw during the first five (5) years or until the establishment of a minimum balance equal to the accumulation of five (5) years of replacement reserves per unit, or (ii) Preservation or Rehabilitation Developments (with or without acquisition) shall not be allowed to draw until the start of the scheduled replacement activities as outlined in the pre-construction capital needs

assessment report ('CNA') subject to the activities completed in the scope of rehabilitation, but not sooner than the 3rd year. The amount established as a replacement reserve shall be adjusted based on a CNA to be received by the Corporation or its servicers, prepared by an independent third party and acceptable to the Corporation and its servicers at the time the CNA is required, beginning no later than the 10th year after the first residential building in the development receives a certificate of occupancy, a temporary certificate of occupancy, or is placed in service, whichever is earlier ('Initial Replacement Reserve Date'). A subsequent CNA is required no later than the 15th year after the Initial Replacement Reserve Date and subsequently every five (5) years thereafter. If the Applicant does not provide a copy of a CNA to the Corporation or its servicers, prepared by an independent third party and acceptable to the Corporation and its servicers within the stated time frames, then one shall be ordered by the Corporation or its servicers at the Applicant's expense. The only events allowed to drop the balance below the minimum are items related to life safety, structural and systems as approved by the Corporation and its servicers. In the event the first mortgage lender or a Housing Credit Syndicator requires replacement reserves with replacement reserve deposit requirements that include the same or higher deposits, the Corporation's rights to hold replacement reserves and to disburse such funds shall be subject to the first mortgage lender or the Housing Credit Syndicator, as applicable. The replacement reserve funds are not to be used by the Applicant for normal maintenance and repairs, but shall be used for structural building repairs, major building systems replacements and other items included on the Eligible Reserve for Replacement Items list, effective October 15, 2010, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links. 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 percent of the required replacement reserves for two (2) years and must be placed in escrow at closing.

(14) For SAIL, HOME, and HC Applications, the Credit 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 ~~2011~~ ~~2009~~ Universal Application link labeled Related References 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.

(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 percent of the total construction cost whose terms do not adversely affect the Corporation's interest, and is issued in the name of the General Contractor by a company rated at least "A-" by AMBest & Co.

(15) 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 whose terms do not adversely affect the Corporation's interest will be required if the Credit Underwriter determines after evaluation of paragraphs (a)-(d) in this subsection 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.

(16) For all Developments, the Developer fee and General Contractor's fee shall be limited to:

(a) The Developer fee shall be limited to 16 percent of Development Cost, with the following exceptions:

1. A Developer fee of 18 percent 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; and

2. A Developer fee of 21 percent of Development Cost shall be allowed if the proposed Development is qualified for Competitive Housing Credits with a demographic commitment of Homeless; however, an amount equal to the difference between the Developer fee and an amount equal to 16 percent of Development Cost must be placed in an operating subsidy reserve account to be held by the Corporation or its servicer. Any disbursements from said operating subsidy reserve account shall be reviewed and approved by the Corporation or its servicer. Upon the expiration of the Compliance Period, any remaining balance may be drawn to pay down any outstanding SAIL or HOME debt on the proposed Development or such other Corporation loan debt on the proposed Development. If there is no Corporation loan debt on the proposed Development at the end of the Compliance Period, then any remaining balance in said operating subsidy reserve account shall be placed in a replacement reserve account for the proposed Development. In no event shall the remaining balance in said operating subsidy reserve account be paid to the Developer.

(b) The General Contractor's fee shall be limited to a maximum of 14 percent of the actual construction cost.

(17) The General Contractor must meet the following conditions:

(a) Employ a Development superintendent and charge the costs of such employment 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 to the general requirements line item of the General Contractor's budget;

(c) Secure building permits, issued in the name of the General Contractor;

(d) Secure a payment and performance bond whose terms do not adversely affect the Corporation's interest (or approved alternate security for General Contractor's performance, such as a letter of credit), issued in the name of the General Contractor, from a company rated at least "A-" by AMBest & Co.;

(e) Ensure that none of the General Contractor duties to manage and control the construction of the Development are subcontracted; and

(f) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity unless otherwise approved by the Board for a specific Development.

(18) For SAIL and HOME Applications, the Credit Underwriter shall require an operating deficit guarantee, to be released upon achievement of an average 1.15 debt service coverage ~~for a minimum of 12 consecutive months~~ for the combined permanent first mortgage and SAIL or HOME loan,

as determined by the Corporation or its agent, and 90 percent occupancy, and 90 percent of the gross potential rental income, net of utility allowances, if applicable, for a period equal to 12 consecutive months, all as certified by an independent Certified Public Accountant. The calculation of the debt service coverage ratio shall be made by the Corporation or its agent. Notwithstanding the above, the operating deficit guarantee shall not terminate earlier than three (3) years following the final certificate of occupancy. 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 SAIL or 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 SAIL or HOME loan and all superior mortgages.

(19) Contingency reserves which total no more than 5 percent of total actual construction costs (hard costs) and total general development costs (soft costs) for Redevelopment and Developments where 50 percent or more of the units are new construction may be included within the Total Development Cost for Application and underwriting purposes. Contingency reserves which total and no more than 15 percent of total actual construction costs (hard costs) and total general development costs (soft costs) for Rehabilitation, Moderate Rehabilitation, ~~or~~ Substantial Rehabilitation, and Preservation may be included within the Total Development Cost for Application and underwriting purposes. Contingency reserves shall not be paid from SAIL or HOME funds.

(20) 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.

(21) Information required by the Credit Underwriter shall be provided as follows:

(a) SAIL and HOME All Applicants must provide the items required by the Credit Underwriter within 10 months of the Applicant's acceptance to enter credit underwriting. ~~For HC Developments, all preliminary items required for the Credit Underwriter's preliminary HC allocation recommendation must be provided to the Credit Underwriter within 21 Calendar Days of the date of the invitation to enter credit underwriting.~~ Unless an extension is approved by the Corporation in writing, failure to submit the required credit underwriting information by the specified deadline(s) shall result in withdrawal of the preliminary commitment ~~or, the HC invitation to enter credit underwriting, or both, as applicable,~~ and the funds will be distributed as outlined in the Universal Application instructions. The Board shall consider the facts

and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension.

(b) For Competitive HC Developments, all preliminary items required for the Credit Underwriter's preliminary HC allocation recommendation must be provided to the Credit Underwriter within 21 Calendar Days of the date of the invitation to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to submit the required credit underwriting information by the specified deadline shall result in withdrawal of the HC invitation to enter credit underwriting and the funds will be distributed as outlined in the Universal Application instructions. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension.

(22) 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 withdrawal of the preliminary commitment or the HC invitation to enter credit underwriting, or both, as applicable, and the funds will be distributed as outlined in the Universal Application instructions. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension.

(23) 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.

(24) For SAIL and HOME Applications, the Credit Underwriter's loan recommendations will be sent to the Board for approval.

(25) For SAIL and HOME Applications, the Corporation shall issue a firm loan commitment within seven (7) Calendar Days aAfter approval of the Credit Underwriter's recommendation for funding by the Board, the Corporation shall issue a firm loan commitment.

(26) For SAIL and HOME Applications, these loans and other mortgage loans related to the construction of the Development must close within 120 60 Calendar Days of the date of the firm loan commitment(s), unless the Development is a Tax-Exempt Bond-Financed Development which then the closing must occur within 180 Calendar Days (subject to the closing deadlines established by the invitation to credit underwriting). A request for an extension of the firm loan commitment(s) may be considered by the Board for an extension term of up to 90 Calendar Days (subject to the closing deadlines established by the invitation to credit underwriting) 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 Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant the requested extension. The Corporation shall charge an extension fee of one-half of one percent of the loan amount if the Board approves the request to extend the commitment beyond the period outlined in this rule chapter.

(27) At least five (5) Calendar Days prior to any 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.

(28) 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 9 percent for 9 percent 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 4 percent for 4 percent credits for acquisition and federally subsidized Developments. A percentage of 15 basis points over the percentage as of the date of invitation to final credit underwriting up to 4 percent 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 must be paid out of the Developer fee. Consulting fees cannot cause the Developer fee to exceed the maximum allowable fee as set forth in subsection 67-48.0072(16), F.A.C.

(c) All contracts for hard or soft Development Costs must be itemized for each cost component.

(d) The allocation amount for acquisition Housing Credits shall be limited to the lesser of the sale price or the appraised value of the building(s).

(e) 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.

(29) 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 an RD (formerly FmHA) Development which competed for Housing Credits within the RD set aside and has not received an Obligation of Funding (Form RD 3560 51, Rev. 02 05), an Assumption Agreement (Form RD 3560 21, Rev. 02 05), a Reamortization Agreement (Form RD 3560 16, Rev. 02 05), or a combination of these RD forms by November 1st of the year the Applicant is invited into credit underwriting. The RD Forms 3560 51, 3560 21 and 3560 16 are adopted and incorporated herein by reference and available on the Corporation's Website under the 2009 Universal Application link labeled Related References and Links.~~ 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.

(30) For Competitive HC, the credit underwriting report must be finalized no later than commencement of construction, unless extended as provided in the Carryover Allocation Agreement, or the Housing Credits will be deemed to be returned to the Corporation.

Rulemaking Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History--New 2-7-05, Amended 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

67-48.0075 Miscellaneous Criteria.

(1) In addition to the alteration, improvement or modification of an existing structure, Rehabilitation with respect to the HOME Program and Rehabilitation or Preservation with respect to the Housing Credit Program 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 fail threshold.

(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 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/Moderate 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 and Affiliate, as defined in Rule 67-48.002, F.A.C., do not include third party lenders, third party management agents or companies, third party service providers, Housing Credit Syndicators, credit enhancers regulated by a state or federal agency, or contractors whose total fees are within the limit described in Rule 67-48.0072, F.A.C., provided such parties do not share in the profits of the Development.

(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.

(7) For purposes of this rule chapter, rent controls for ELI Households shall consist of the Gross Rent Floor, as defined in Section 42(g)(2)(A) of the IRC and in accordance with IRS Revenue Procedure 94-57, minus the lesser of (i) the utility allowance in effect by the applicable local Public Housing Authority (PHA) at the date the last building in the Development is placed-in-service or (ii) the current utility allowance applicable to the building (as outlined in 26 CFR 1.42-10, this may include either the local utility company estimate or the applicable PHA utility allowance). Notwithstanding the preceding sentence, the rent charged to any ELI Household may not exceed the maximum rent level permitted under Section 42(g)(2)(A) IRC for the applicable unit occupied by such household. IRS Revenue Procedure 94-57 and 26 CFR 1.42-10 are incorporated by reference and are available on the Corporation's Website under the 2011 2009 Universal Application link labeled Related References and Links.

Rulemaking Authority 420.507 FS. Law Implemented 420.5087, 420.5089, 420.5099 FS. History--New 2-7-05, Amended 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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 percent of the Total Development Cost except as described in subsections (2) and (3) 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 percent 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 percent of Total Development Cost; and

(b) Sponsors that set aside at least 80 percent of their total units for residents qualifying as Farmworkers as defined in Section 420.503(~~48~~), 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) The following types of Sponsors are eligible to apply for loans that do not exceed 35 percent of Total Development Cost:

(a) Applicants requesting both SAIL and Competitive HC that commit to set aside more than 10 percent of the total units for ELI Households; and

(b) Applicants requesting SAIL without Competitive HC that commit to set aside at least 5 percent of the total units for ELI Households.

(4) 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.

(5) Unless the Board approves a competitive allocation process outside the Universal Cycle, 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, Moderate Rehabilitation or Substantial Rehabilitation of the Development, including tax-exempt bonds or conventional financing with conversion clauses, has closed as of January 1, 2009 2007.

(b) The proposed Development has received an allocation of Housing Credits or a Competitive Housing Credit commitment, unless (i) the Applicant is also applying for Corporation-issued tax exempt bonds in the current Application cycle or provides evidence of a non-Corporation-Local Government-issued tax exempt bond commitment as stated in the Universal Application Instructions, or (ii) written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing acceptance of such allocation or commitment and returning the HC funding from the prior cycle.

(c) A preliminary commitment of funding for the proposed Development through the SAIL Program has already been accepted, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing such acceptance and returning the prior SAIL funding.

(d) A preliminary commitment of funding for the proposed Development through the 2005 or 2006 RRLP Program has already been accepted, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing such acceptance and returning the RRLP funding.

(e) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing intended to foster the development or maintenance of affordable housing, with the following exceptions. Those exceptions being (i) a LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, and (ii) a LURA recorded in conjunction with a Multifamily Mortgage Revenue Bond Program loan closed after January 1,

2009 2007, and (iii) a LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the Application Deadline for the current Funding Cycle, where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation/Substantial Rehabilitation, ~~or~~ Acquisition and Rehabilitation/Substantial Rehabilitation, Preservation, or Acquisition and Preservation.

(6) The SAIL Minimum Set-Aside Requirement is:

(a) 20 percent of the SAIL Development's units set-aside for residents with annual household incomes at or below 50 percent of the area, metropolitan statistical area ("MSA") or state or county median income, whichever is higher, adjusted for family size, or

(b) 40 percent of the SAIL Development's units set-aside for residents with annual household incomes at or below 60 percent 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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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 percent 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 percent 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.

Rulemaking 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, 1-29-06, 4-1-07, Repromulgated 3-30-08, 8-6-09, _____.

67-48.010 Terms and Conditions of SAIL Loans.

(1) The proceeds of all SAIL loans shall be used for new construction, Moderate Rehabilitation, or Substantial Rehabilitation which creates or preserves ~~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) Zero ~~0~~ percent simple interest per annum on loans to Developments that set aside at least 80 percent of their total units for residents qualifying as Farmworkers, Commercial Fishing Workers or Homeless, over the life of the loan;

(b) Zero ~~0~~ percent simple interest per annum on loans based on the pro rata share of units set aside for Homeless residents if the total of such units is less than 80 percent of the units and 1 percent simple interest per annum on the remaining units;

(c) One ~~4~~ percent simple interest per annum on loans to Developments other than those identified in paragraphs (a) and (b) above;

(4) 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.

(5) Payment on the loans shall be based upon the Development Cash Flow, as determined pursuant to the Financial Reporting Form SR-1, or shall be due annually as determined by the Corporation's Board of Directors. Such determination by the Board shall be based upon a written recommendation by the Credit Underwriter which has considered the economic and financial viability of the Development as well as the protection of the Corporation's repayment of principal and interest. Any distribution or payment to the Principal(s) of the Applicant or Developer or any Affiliate of the Principal of the Applicant or Developer or any Affiliate of the Applicant or 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 Financial Reporting Form SR-1, for the purpose of determining interest due. Interest may be deferred as set forth in subsection 67-48.010(8), F.A.C., without constituting a default on the loan.

(6) The loans described in subsection 67-48.010(3), 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 67-48.010(8), F.A.C., 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 percent of total Developer fees per year;

(c) Interest payment on SAIL loan balance equal to 1 percent as stated in paragraphs 67-48.010(3)(b) and (c), F.A.C., 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.

(7) If the SAIL loan is secured by a first mortgage lien, each year, subject to the provisions of subsection 67-48.010(8), F.A.C., below, Development Cash Flow shall be applied to pay the following items in order of priority:

(a) First mortgage fees and interest payment on the SAIL loan balance equal to the percentages stated in subsection paragraph 67-48.010(3), F.A.C., above over the life of the SAIL loan;

(b) Development Expenses on the SAIL loan including up to 20 percent 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.

(8) 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 percent of any required payment shall be assessed.

(a) By the date that is 151 Calendar Days after the Applicant's fiscal year end ~~May 31~~ of each year of the SAIL loan term, the Applicant shall provide the Corporation's servicer 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 151 Calendar Days after the Applicant's fiscal year end ~~May 31~~ following the fiscal calendar year within which the first unit is occupied. In the case where the SAIL Development contained occupied units at the time of acquisition, the initial submission will be due following the fiscal year within which the 12 month anniversary of the SAIL loan closing is observed. The certification shall require submission of audited financial statements and the fully completed and executed annual reporting form, Financial Reporting Form SR-1. The SR-1 form, Rev. 01-11, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links, shall be submitted to the Corporation's servicer in both PDF format and in electronic form as a Microsoft Excel spreadsheet in Rule Chapter 67-53, F.A.C. The audited financial statements are to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 months fiscal year period just 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 151

Calendar Days after the Applicant's fiscal year end ~~May 31~~ of each year of the SAIL loan term. If the Applicant has not submitted the required audited financial statements, the Corporation servicer shall deem the Development Cash Flow sufficient and issue a billing for interest due on the SAIL loan for the Applicant's immediately preceding fiscal calendar year by 212 Calendar Days after the Applicant's fiscal year end ~~July 31~~. After receipt of the audited financial statements, the Corporation servicer shall issue revised billing, if necessary. Failure to submit the required audited financial statements and certification by 151 Calendar Days after the Applicant's fiscal year end ~~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(8), 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 Applicant's immediately preceding fiscal calendar year by 212 Calendar Days after the Applicant's fiscal year end ~~July 31~~ of each calendar year of the SAIL loan term.

(c) The Applicant shall remit the interest due to the Corporation servicer no later than 243 Calendar Days after the Applicant's fiscal year end ~~August 31~~ of each year of the SAIL loan term. The first payment of SAIL interest will be due no later than 243 Calendar Days after the Applicant's fiscal year end ~~August 31~~ following the fiscal 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 the date of the Applicant's fiscal year end ~~December 31~~ of the fiscal calendar year during which the first unit is occupied.

(9) 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 percent of any required payment that is not received by the Corporation within 15 days of the due date.

(10) 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 percent 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.

(11) The SAIL loans shall be serviced either directly by the Corporation or by the servicer on behalf of the Corporation.

(12) 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. Violation of any material 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 appropriate legal action to effect compliance if a violation of any material 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.

(13) 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 August 16, 2007, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links.

(14) The SAIL loan term 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 term of the loan may also exceed 15 years if the lien of the Corporation's

encumbrance is subordinate to the lien of another mortgagee, in which case the term may be made coterminous with the longest term of the superior loan.

(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 in writing of any such change.

Following construction completion, the Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.0105(5), 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 from the current balance 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, with a current balance of \$3,000,000, a proposed new superior mortgage of \$5,000,000, and refinancing costs of \$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.

(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 2011 ~~2009~~ Universal Application link labeled Related References and Links. 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 (i) as required in conjunction with the issuance of tax-exempt bonds or federal Housing Credits and

(ii) when the Sponsor has committed to set aside units for ELI Persons, in which case rents for such units shall be restricted at the level applicable for federal Housing Credits.

(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 0 percent loans, as described in paragraphs 67-48.010(3)(a) and (b), F.A.C., to modify loan documents to conform to the terms and conditions of 1 percent loans, as described in paragraphs 67-48.010(3)(b) and (c), 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 Form SR-1 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 percent 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(8)(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 that contain occupied units at the time of closing, the Compliance Period shall begin not later than the termination of the last lease executed prior to closing of the SAIL loan.

(25) Unless and until a guarantor's obligations for a SAIL loan are terminated as approved in writing by the Corporation or its servicer, each guarantor shall furnish to the Corporation or its servicer financial statements as provided in paragraphs (a) through (c) below as the Corporation or its servicer may reasonably request.

(a) The audited financial statements are to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended 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 guarantor(s) as to the accuracy of such financial statements; or

(b) If an audited financial statement has not been prepared, a federal income tax return filed for the most recently completed year; or

(c) For individual guarantors, if an audited financial statement is not available a financial statement certified as true and complete without qualification by such guarantor and a copy of the most recently filed individual federal income tax return.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

67-48.0105 Sale, Transfer or Refinancing of a SAIL Development.

(1) 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. The Board shall consider the facts and circumstances of each Applicant's request and any credit underwriting report, if available, prior to determining whether to grant such request.

(2) The SAIL loan shall be assumable upon sale or transfer 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.

All assumption requests must be submitted in writing to the Director of Special Assets and contain the specific details of the transfer and assumption. In addition to any related professional fees, the Corporation shall charge a non-refundable assumption fee as outlined in the Universal Application instructions.

(3) 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 percent 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 (3)(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.

(4) The Corporation may renegotiate and extend the loan in order to extend or retain the availability of housing for the target population. Such renegotiations 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;

(e) Assurance that the security interest of the Corporation will not be jeopardized by the new term(s); and

(f) Industry standard terms which may include amortizing loans requiring regularly scheduled payments of principal and interest.

All loan renegotiation requests, including requests for extension, must be submitted in writing to the Director of Special Assets and contain the specific details of the renegotiation. In addition to any related professional fees, the Corporation shall charge a non-refundable renegotiation fee as outlined in the Universal Application instructions.

(5) 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.

(6) 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 subsection 67-48.0105(5), 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.

The Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.010(15), 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.

Rulemaking 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 1-29-06, 4-1-07, Repromulgated 3-30-08, Amended 8-6-09, Repromulgated.

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 (10) 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 shall 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) Based on the Applicant’s progress of construction, 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 percent per Draw shall be held by the servicer during construction until the Development is 50 percent complete. At 50 percent 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.

Rulemaking 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, 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, 8-6-09, _____.

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 percent of the HOME allocation for administrative costs pursuant to 24 CFR Part 92.

(2) The Corporation shall utilize at least 15 percent of the HOME allocation for CHDOs pursuant to 24 CFR Part 92. In order to apply under the CHDO set-aside, the CHDO must have at least 51 percent ownership interest in the Development held by the General Partner entity and meet all other CHDO requirements as defined by HUD in 24 CFR Part 92 and other Corporation requirements identified in the CHDO Checklist. The CHDO Checklist is adopted and incorporated herein by reference, effective 10-17-06, and is available on the Corporation’s Website under the 2011 ~~2009~~ Universal Application link labeled Related References 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 HOME Rental FHFC Subsidy Limits chart, which is adopted and incorporated by reference, effective 7-9-09. A copy of such chart is available on the Corporation's Website under the ~~2011~~ 2009 Universal Application link labeled Related References 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 percent of the HOME-Assisted Units are occupied by families whose annual income does not exceed 60 percent of the median family income for the area, as determined by HUD, with adjustments for family size, and

(b) 20 percent of the HOME-Assisted Units are occupied by families whose annual income does not exceed 50 percent of the median family income for the area, as determined by HUD, with adjustments for family size.

(c) When the income of a resident increases above 80 percent 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 percent of the adjusted monthly income for rent and utilities.

(d) High HOME rent means 80 percent 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 percent for a Family at 65 percent of median income limit, minus resident-paid utilities. Low HOME rent means 20 percent 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 percent of the gross income of a Family at 50 percent of the area median income, minus resident-paid utilities. With respect to rent limits, the HOME Rent Chart at 65 percent or 50 percent, 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. However, if a HOME Rent-Restricted Unit receives federal or state project-based rental subsidy and the Family's contribution toward rent does not exceed 30 percent of the Family's adjusted income, then the maximum rent (i.e., tenant contribution plus project-based rental subsidy) is the rent allowable under the federal or state project-based rental subsidy program.

(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 the earlier of (i) the termination of the last lease executed prior to closing of the HOME loan or (ii) at project completion as defined in 24 CFR § 92.2. 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), 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), 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), which is adopted and incorporated herein by reference, the Copeland Act (Anti-Kickback Act), 40 U.S.C. § 3145 (2002), 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 2011 ~~2009~~ Universal Application link labeled Related References and Links.

(10) All HOME Developments must conform to the following federal requirements which are available on the Corporation's Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links:

(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-~~3619~~ 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 for Low- and Very Low-Income Persons 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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

67-48.018 Eligible HOME Applicants.

(1) Unless the Board approves a competitive allocation process outside the Universal Cycle, an Applicant is not eligible to apply for HOME Program funding if any of the following pertain to the proposed Development:

(a) The proposed Development has received an allocation of Housing Credits or a Competitive Housing Credit commitment, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing acceptance of such allocation or commitment and returning the HC funding from a prior cycle;

(b) A preliminary commitment of funding for the proposed Development through the HOME Program, the SAIL Program, or the RRLP Program has already been accepted, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing such acceptance and returning the prior HOME Program, SAIL Program, or RRLP Program funding.

(c) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing intended to foster the development or maintenance of affordable housing, with the following exceptions. Those exceptions being (i) a LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program and (ii) a LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the Application Deadline for the current Funding Cycle, where, in the current Application, the Applicant has selected and

qualified for the Homeless demographic commitment with a Development category of Rehabilitation, ~~or~~ Acquisition and Rehabilitation.

(2) Applicants for HOME loans may include CHDOs, ~~P~~ublic ~~H~~ousing ~~A~~uthorities, ~~L~~ocal ~~G~~overnments, 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.

(3) For tenant based rental assistance, eligible ~~P~~ublic ~~H~~ousing ~~A~~uthorities shall be limited to those ~~P~~ublic ~~H~~ousing ~~A~~uthorities 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 2011 ~~2009~~ Universal Application link labeled Related References and Links.

(a) Eligible ~~P~~ublic ~~H~~ousing ~~A~~uthorities shall use the HOME Investment Partnership Program, state of Florida, TBRA Agreement (Rev. 09/06), which is incorporated herein by reference and available on the Corporation's Website under the 2011 ~~2009~~ Universal Application link labeled Related References and Links.

(b) An eligible ~~P~~ublic ~~H~~ousing ~~A~~uthority's request for funding shall be based upon demonstration of recipient need.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

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 percent of the ownership interest in the Development held by the general partner or managing member entity will receive a 1.5 percent per annum interest rate loan.

(b) All qualified non-profit Applicants that own 100 percent of the ownership interest in the Development held by the general partner or managing member entity will receive a 0 percent interest rate loan. For purposes of determining the annual HOME interest rate, the definition of Non-Profit found at Rules 67-48.002 and 67-48.0075, 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) If the Applicant is a Public Housing Authority, or if the Applicant is an entity created by a Public Housing Authority under Section 421.08, F.S., and such Public Housing Authority owns 100 percent of the ownership interest in the Development held by the general partner or managing member of such Applicant entity, the loans funded after February 20, 2011 will receive a 0 percent interest rate.

(d)(e) An AH Applicants owned in part by a qualified consisting of a non-profit or a Public Housing Authority, but which does not meet the requirements of paragraph (b) or (c) above, and for-profit partnership will, for loans funded after February 20, 2011, receive a 0 percent interest rate loan on the portion of the loan amount equal to the qualified non-profit's or Public Housing Authority's ownership interest in the Development held by the general partner or managing member of such Applicant entity. A 1.5 percent interest rate shall be charged on the balance for loans on the portion of the loan amount equal to the for-profit's interest in the Development held by the general partner or managing member entity. The interest rate charged on the total loan amount shall be determined by blending the rates proportionately. 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.

(e) Notwithstanding the provisions of paragraphs (a) through (d) above, the annual interest rate for those HOME loans closed after February 20, 2011 where the HOME Developments are at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.) shall be as determined by the Corporation's Board of Directors.

(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.

(a) For HOME Developments that are not at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.), interest payments on the loan shall be paid to the Corporation's servicer annually on the date specified in the Note.

(b) For HOME Developments that are at least partially financed with a MMRB Loan (as defined in Rule Chapter 67-21, F.A.C.) where the HOME loan closed after February 20, 2011:

1. Payment on the loans shall be based upon the Development Cash Flow as determined pursuant to the Financial Reporting Form SR-1, or shall be due annually as determined by the Corporation's Board of Directors. Such determination by the Board shall be based upon a written recommendation by the Credit Underwriter which has considered the economic and financial viability of the Development as well as the protection of the Corporation's repayment of principal and interest. Any distribution or payment to the Principal(s) of the Applicant or Developer or any Affiliate of the Principal of the Applicant or Developer or any Affiliate of the Applicant or 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 HOME loan interest payment, as calculated in the Financial Reporting Form SR-1, for the purpose of determining interest due. Interest may be deferred as set forth in subparagraph 3. below, without constituting a default on the loan.

2. The HOME loans shall be repaid from all Development Cash Flow, and 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 HOME loan, including up to 20 percent of total Developer fees per year;

c. Interest payment on HOME loan balance as stated in paragraph 67-48.020(2)(e), F.A.C., over the life of the HOME loan;

d. Interest payments on the HOME loan deferred from previous years;

e. Mandatory payment on subordinate mortgages.

After the full HOME loan interest has been paid, the Applicant shall retain all remaining monies, unless the Applicant chooses to prepay a portion of the loan balance.

3. The determination of Development Cash Flow, determination of payment priorities, and payment of interest on HOME loans shall occur annually. Any payments of accrued and unpaid interest due annually on HOME 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 HOME interest, such under-reporting shall constitute an event of default on the HOME loan. A penalty of 5 percent of any required payment shall be assessed.

(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 August 16, 2007, which is adopted and incorporated herein by reference and available on the Corporation's Website under the 2011 2009 Universal Application link labeled Related References 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. Following construction completion, the Board shall deny requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.0205(3), 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 from the current balance 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, with a current balance of \$3,000,000, a proposed new superior mortgage of \$5,000,000, and refinancing costs of \$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.

(14) Annually, within 151 Calendar Days following the Applicant's fiscal year end, the Applicant shall provide the Corporation with an audited financial statement and an executed Financial Reporting Form SR-1, Rev. 01-11, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links. The audited financial statement and a copy of the signed Form SR-1, with Parts 1, 2, and 5 completed, shall be submitted in both PDF format and in electronic form as a Microsoft Excel spreadsheet to the Corporation at the following web address: financial.reporting@floridahousing.org. The initial submission will be due following the fiscal year within which the first unit is occupied. In the case where the HOME Development contained occupied units at the time of acquisition, the initial submission will be due following the fiscal year within which the 12 month anniversary of the HOME loan closing is

observed. The audited financial statement is to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended and shall include:

- (a) Comparative Balance Sheet with prior year and current year balances;
- (b) Statement of revenue and expenses;
- (c) Statement of changes in fund balances or equity;
- (d) Statement of cash flows; and
- (e) 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 above documents by the stated deadline.

(15) Unless and until a guarantor's obligations for a HOME loan are terminated as approved in writing by the Corporation or its servicer, each guarantor shall furnish to the Corporation or its servicer financial statements as provided in paragraphs (a) through (c) below as the Corporation or its servicer may reasonably request.

(a) The audited financial statements are to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended 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 guarantor(s) as to the accuracy of such financial statements; or

(b) If an audited financial statement has not been prepared, a federal income tax return filed for the most recently completed year; or

(c) For individual guarantors, if an audited financial statement is not available a financial statement certified as true and complete without qualification by such guarantor and a copy of the most recently filed individual federal income tax return.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

67-48.0205 Sale, Transfer or Refinancing 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.

All assumption requests must be submitted in writing to the Director of Special Assets and contain the specific details of the transfer and assumption. In addition to any related professional fees, the Corporation shall charge a non-refundable assumption fee as outlined in the Universal Application instructions.

(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.

(3) 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.

(4) 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 subsection 67-48.0205(3), 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.

Rulemaking 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, 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, 8-6-09.

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 (10) 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 percent per Draw shall be held by the servicer during construction until the Development is 50 percent complete. At 50 percent 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 percent of the loan proceeds have not been expended within six (6) 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.

Rulemaking 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, 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, 8-6-09,_____.

PART IV HOUSING CREDIT PROGRAM

67-48.023 Housing Credits General Program Procedures and Requirements.

(1) Unless the Board approves a competitive allocation process outside the Universal Cycle, an Applicant is not eligible to apply for Competitive Housing Credits if any of the following pertain to the proposed Development:

(a) The proposed Development has received an allocation of Housing Credits or a Competitive Housing Credit commitment, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing acceptance of such allocation or commitment and returning the HC funding from a prior cycle;

(b) A preliminary commitment of funding for the proposed Development through the SAIL Program, the HOME Program, or the RRLP Program has already been accepted, unless written notice has been provided to the Corporation prior to the Application Deadline for the current cycle withdrawing such acceptance and returning the prior SAIL Program, HOME Program, or RRLP Program funding.

(c) The proposed Development site or any part thereof is subject to any Land Use Restriction Agreement or Extended Use Agreement, or both, in conjunction with any Corporation affordable housing financing intended to foster the development or maintenance of affordable housing, with the following exceptions. Those exceptions being (i) a LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program and (ii) a LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the Application Deadline for the current Funding Cycle, where, in

the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation, ~~or~~ Acquisition and Rehabilitation, Preservation, or Acquisition and Preservation.

(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 percent of the units for occupancy by persons or families whose income does not exceed 50 percent of the area median income, or the reservation of 40 percent of the units for occupancy by persons or families whose income does not exceed 60 percent 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 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) 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 2011 2009 Universal Application link labeled Related References and Links.

(5) 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 by the earlier of the following two dates:

(a) The date that is within 75 Calendar Days after all the buildings in the Development have been placed in service; or

~~(b) 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) Prior to execution of the limited partnership agreement or limited liability company operating agreement between the Applicant and the limited partners/members, the Applicant must receive written approval from the Corporation or its Credit Underwriter that the Housing Credit Syndicator is in good standing with the Corporation. Proceeding with execution of a partnership agreement or operating agreement with a Housing Credit Syndicator that is not in good standing shall result in withdrawal of the Housing Credit Allocation.

(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. For Competitive Housing Credits and non-competitive Housing Credits to be used with tax-exempt bonds issued (i) by the Corporation, or (ii) by an entity other than the Corporation or a County Housing Finance Authority, if the required Home Energy Rating System (HERS) Index is not achieved for all eligible new construction units, the Developer fee shall be reduced as outlined in the Application instructions. If the green building certification program committed to by the Applicant during credit underwriting is not achieved, the Developer fee shall be reduced as outlined in the Application instructions. The Final Cost Certification Application is adopted and incorporated herein by reference, effective January 2007, and is available on the Corporation's Website under the 2011 2009 Universal Application link labeled Related References and Links or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321. IRS Form 8821, Rev. August 2008, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2011 2009 Universal Application link labeled Related References and Links.

(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, as provided below. IRS Low-Income Housing Credit Allocation Certification Form 8609, Rev. December 2008, is adopted and incorporated herein by reference and available on the Corporation's Website under the 2011 2009 Universal Application link labeled Related References and Links. The Corporation will issue only one complete set of Forms 8609 per Development which will be no earlier than total Development completion, the Corporation's acceptance and approval of the Development's Final Cost Certification Application, and determination by the Corporation that all financial obligations for which an Applicant or Developer, or Principal, Affiliate or Financial Beneficiary of an Applicant or Developer is in arrears to the Corporation or any agent or assignee of the Corporation have been satisfied. At the time the Applicant's first tax return with which Form 8609-A is filed with the Internal Revenue Service, the Applicant must submit to the Corporation a copy of IRS Form 8609 with a completed Part II.

(9) Annually, within 151 Calendar Days following the Applicant's fiscal year end, the Applicant shall provide the Corporation with an audited financial statement and a fully completed and executed Financial Reporting Form SR-1, Rev. 01-11, which is incorporated by reference and available on the Corporation's Website under the 2011 Universal Application link labeled Related References and Links. The audited financial statement and a copy of the signed Form SR-1, with Parts 1, 2, and 5 completed, shall be submitted in both PDF format and in electronic form as a Microsoft Excel spreadsheet to the Corporation at the following web address: financial.reporting@floridahousing.org. The initial submission will be due following the fiscal year within which the first unit is occupied. The initial submission for Housing Credit Developments that contain occupied units at the time of acquisition will be due following the fiscal year within which the 12 month anniversary of the closing is observed of either (i) the Housing Credit equity partnership agreement, or (ii) the acquisition of the development site, whichever comes first. The audited financial statement is to be prepared in accordance with accounting principles generally accepted in the United States of America and audited in accordance with auditing standards generally accepted in the United States of America for the 12 month fiscal year period just ended and shall include:

(a) Comparative Balance Sheet with prior year and current year balances;

(b) Statement of revenue and expenses;

(c) Statement of changes in fund balances or equity;

(d) Statement of cash flows; and

(e) 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 above documents by the stated deadline.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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 percent Housing Credits when applying for tax exempt bonds from the Corporation ~~in calendar year 2000 or later~~ shall:

(a) Have 50 percent 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.; however, when the regulatory period for the tax-exempt bonds terminates prior to the expiration of the Housing Credit Extended Use Period, a separate compliance monitoring fee is required for the remainder of the Housing Credit Extended Use Period;

(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 67-48.0072 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 issued by a County Housing Finance Authority established~~

~~pursuant to Section 159.604, F.S., from another source other than the Corporation, and not competing for Housing Credits under the state of Florida Allocation Authority shall:~~

~~(a) Have 50 percent 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 participate in the credit underwriting process, as outlined in the 2011 Universal Application Package, by a Credit Underwriter under contract with the Corporation shall have completed loan closings on all required financing;~~

~~(d) The credit underwriting review is a de novo review of all information and 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 Housing Credit allocation amount. Corporation funding will be based on appraisals of comparable developments, cost benefit analysis and other documents evidencing justification of costs. As part of the credit underwriting review, the Development shall be subject to the following provisions of Rule 67-48.0072, F.A.C.: subsections (3), (5) through (9), (12), (13), (16), (20), (23), (28), and (29). The Application will be subject to the following provisions of subsection (10): 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 Housing Credit 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 is approved by the Credit Underwriter. In addition, the Application will be subject to the following provision of subsection (22): 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. 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. Failure to submit the required credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the letter of invitation shall result in withdrawal of the invitation;

(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, as applicable; 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 additional provisions of this rule chapter, specifically: Rules 67-48.001 and 67-48.002, paragraph 67-48.004(1)(a), subsections 67-48.004(12), (13) except for the reference to subsection 67-48.004(6), (14) except for the reference to subsection 67-48.004(6) and submission online, (15), (16) and (20), Rule 67-48.007, subsections 67-48.0075(1) through (6), subsections 67-48.023(2) through (9), and Rules 67-48.029 through 67-48.031 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; however, when the regulatory period for Corporation-issued tax-exempt bond financing terminates prior to the expiration of the Housing Credit Extended Use Period, a separate compliance monitoring fee is required for the remainder of the Housing Credit Extended Use Period;

(m) After bonds are issued to the Development, Make Application to the Corporation utilizing the 4 Percent HC County HFA Bonds Application Form as required in Rules 67-48.004 and 67-48.0072, F.A.C. Applicant shall submit its Application completed in accordance with the requirements outlined in the Universal Application Package instructions,

The Application Form and all required exhibits may be submitted to for receipt by the Corporation once the Applicant enters credit underwriting for the tax-exempt bonds, but in no event may the Application be submitted later than the last Corporation business day of December 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.

(3) Tax-Exempt Bond-Financed Developments receiving bonds from another source other than the Corporation or a County Housing Finance Authority and not competing for Housing Credits under the state of Florida's Allocation Authority shall:

(a) Make Application to the Corporation as required in Rules 67-48.004 and 67-48.0072, F.A.C. The Applicant shall submit its Application completed in accordance with the Universal Application Package instructions for receipt by the Corporation once the Applicant has received affirmation that the tax-exempt multifamily bond allocation has been reserved or that the entity issuing the bonds has agreed to award the necessary allocation when available, but in no event may the Application be submitted later than the last Corporation business day of December of the year the Development is placed in service;

(b) Be subject to the Application fee specified in this rule chapter;

(c) Meet the HC Program threshold requirements and shall have secured a commitment for the tax-exempt bonds;

(d) Be subject to the credit underwriting fees as set forth in this rule chapter. Failure to submit the required credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the letter of invitation shall result in withdrawal of the invitation;

(e) Participate in the credit underwriting process pursuant to this rule chapter;

(f) Have 50 percent or more of the aggregate basis of any building and the land on which the building is located financed by tax-exempt multifamily bonds;

(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, after satisfying the requirements of paragraphs (a) through (d) above, if the Corporation receives a credit underwriting report prepared by one of the Corporation's contracted Credit Underwriters which meets the criteria required pursuant to this rule chapter and 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 where the

amount of the bonds is at least 50 percent or more of the aggregate basis of any building and the land on which the building is located;

(h) Be subject to the administrative fee specified in this rule chapter. The administrative fee must be paid within seven (7) days of the date of the Preliminary Determination;

(i) Be subject to a Developer fee limitation as specified in this rule chapter;

(j) 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.;

(k) Provide an IRS Form 8821 for each Financial Beneficiary of the Development prior to Final Housing Credit Allocation;

(l) Be subject to the provisions in this rule chapter, pertaining to the required Extended Use Agreement;

(m) Be subject to the monitoring fee specified in this rule chapter;

(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.

Rulemaking 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 1-29-06, Amended 4-1-07, 3-30-08, 8-6-09,_____.

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 31st 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 percent of the reasonably expected basis in the Housing Credit Development within six (6) months of the date ~~the Corporation issues of the execution of~~ the Carryover Allocation Agreement, unless extended as provided in 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 percent 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 (6) months of the date ~~the Corporation issues of the execution of~~ the Carryover

Allocation Agreement, unless extended as provided in 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 due date for the first report shall be as stated in the Carryover Allocation Agreement due to the Corporation by the first Monday in April of the calendar year following Carryover qualification.~~

Rulemaking 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 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, Amended 8-6-09,_____.

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.

Rulemaking 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 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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 Applicant 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 Applicant has already knowingly and voluntarily waived its right to request the Corporation find a buyer to acquire the Applicant's interest in the Housing Credit Set-Aside portion of the building, an Applicant may submit a written request to the Corporation to find a buyer to acquire the Applicant's interest in the Housing Credit Set-Aside portion of

the building. When submitting a written request, Applicants 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 2011 ~~2009~~ Universal Application link labeled Related References 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 Applicant's interest in the Housing Credit Set-Aside portion of the building. The Qualified Contract Package, Rev. 09-07, 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, the Corporation shall have one year 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) The Corporation shall not agree to the qualified contract price in writing until the Applicant or Developer has satisfied any financial obligations for which the Applicant or Developer, or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation.

(4) The Applicant is responsible for all real estate broker fees incurred from the sale of the Development.

(5) 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.

(6) 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 (5) pages, excluding the caption and certificate of service. 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, no later than five (5) Calendar Days from the date of issuance of 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.

(7) The Applicant 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 Applicant’s interest in the Housing Credit Set-Aside portion of the Development and the Applicant’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.

(8) If the Corporation presents a “qualified contract” and the Applicant fails to enter into a bona fide contract to acquire the Development, as defined in Section 42(h)(6)(F) of the IRC, the Applicant shall irrevocably waive any right to further request that the Corporation present a “qualified contract” for the purchase of the Applicant’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.

(9) 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.

(10) 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.

Rulemaking 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, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Len Tylka, Chairman of the Board, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 10, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 36, No. 14, April 9, 2010

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-13.006

RULE TITLE: Licenses, Endorsements, and Permits

PURPOSE AND EFFECT: The purpose of this rule amendment is to increase the enforceability of the Commission’s stone crab rule when the state of Florida assumes management of stone crab in adjacent federal waters as the Gulf of Mexico Fishery Management Council repeals its federal Fishery Management Plan.

SUMMARY: Rule 68B-13.006, F.A.C., (Licenses, Endorsements, and Permits) would be amended to state that a stone crab endorsement is required to possess stone crabs for commercial purposes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: The ADA Coordinator, (850)488-6411. If you are

hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-13.006 Licenses, Endorsements, and Permits.

(1)(a) Except as provided in subsection 68B-13.010(5), F.A.C., in addition to a saltwater products license, a stone crab endorsement is required in order to harvest and possess stone crabs for commercial purposes. This endorsement shall only be issued to a person, firm or corporation that possess a valid restricted species endorsement on their saltwater products license issued pursuant to Section 379.361, F.S.

(b) No change.

(2) No change.

PROPOSED EFFECTIVE DATE: August 31, 2011

Rulemaking Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art IV, Sec. 9, Fla. Const. History–New 7-1-00, Amended 8-5-01, 3-1-05, 8-31-11.

BE ADVISED THAT THESE PROPOSED RULES MAY BE FILED FOR ADOPTION AS SOON AS POSSIBLE FOLLOWING THE COMMISSION MEETING AT WHICH THEY ARE CONSIDERED IF THE RULES ARE NOT CHANGED. IF CHANGED, THE RULES MAY BE FILED AS SOON AS POSSIBLE AFTER PUBLICATION OF A NOTICE OF CHANGE IN THE F.A.W.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mark Robson, Director, Division of Marine Fisheries Management, 2590 Executive Center Circle East, Suite 201, Tallahassee, Florida 32301, (850)487-0554

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Fish and Wildlife Conservation Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 29, 2011

FISH AND WILDLIFE CONSERVATION COMMISSION

Marine Fisheries

RULE NO.: 68B-14.0038
RULE TITLE: Recreational Snapper Seasons

PURPOSE, EFFECT AND SUMMARY: The purpose of this draft rule amendment is to achieve consistency between the Commission's Reef Fish Rule on the recreational season for

red snapper in the Gulf of Mexico and rules that are planned to be implemented by NOAA Fisheries Service on or before June 1, 2011. Reef fish (including red snapper) are managed in Gulf federal waters adjacent to Florida by the Gulf of Mexico Fisheries Management Council, of which Florida is a voting member. The effect of this rule amendment is to allow a 48-day open season for the recreational harvest of red snapper in Gulf state waters that would contribute to the federal rebuilding plan and reduce the likelihood of exceeding the federal recreational quota for red snapper. With this rule amendment, federal and state regulations will be consistently applied. This minimizes public confusion, aids enforceability, and contributes to the overall health and status of red snapper in the Gulf of Mexico. Rule 68B-14.0038, F.A.C., (Recreational Snapper Seasons) would be modified to allow the harvest of red snapper in state waters of the Gulf of Mexico from June 1 through July 18 each year. Additionally, outdated language providing for a supplemental recreational red snapper season in 2010 would be removed.

SUMMARY: Rule 68B-14.0038, F.A.C., (Recreational Snapper Seasons) would be modified to allow a 48-day open season for the recreational harvest of red snapper in state waters of the Gulf of Mexico from June 1 through July 18 each year. Outdated language providing for a supplemental recreational red snapper season in 2010 would be removed.

RULEMAKING AUTHORITY: Article IV, Section 9, Florida Constitution.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Bud Vielhauer, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-14.0038 Recreational Snapper Seasons.

(1) Recreational Red Snapper Season. In all state waters of the Gulf of Mexico, the season for the recreational harvest and possession of red snapper shall be from June 1 through July ~~18~~ ~~23~~, each year (consistent with the Federal Standard established in vol. ~~76~~ ~~75~~ of the Fed. Reg. page ~~23911~~ ~~23486~~). Except for persons harvesting red snapper for commercial purposes pursuant to Rule 68B-14.0045, F.A.C., from July ~~19~~ ~~24~~

through May 31, no person shall harvest in or from state waters of the Gulf of Mexico, nor possess while in or on state waters of the Gulf of Mexico, any red snapper.

(2) No change.

~~(3) SPECIAL RECREATIONAL RED SNAPPER SEASON FOR 2010. Notwithstanding subsection (1) and due to the Deepwater Horizon Oil Disaster in all state waters of the Gulf of Mexico there shall be a supplemental recreational red snapper season from October 1 until November 22, 2010. During this supplemental season the harvest and possession of red snapper shall be allowed from 12:01 A.M. each Friday until 12:01 A.M. the following Monday.~~

Rulemaking Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 10-20-98, Formerly 46-14.0038, Amended 12-30-99, 3-12-09, 8-7-09, 10-16-09, 6-4-10, 10-8-10.

DEPARTMENT OF FINANCIAL SERVICES

Division of Treasury

RULE NOS.:	RULE TITLES:
69C-4.001	Purpose
69C-4.002	Scope
69C-4.003	Definitions
69C-4.0035	Procedures for Requesting Approval to Accept Electronic Payments through the Use of Credit Cards, Charge Cards, Debit Cards, and Electronic Checks
69C-4.004	Standard Contracts with Electronic Payment Service Providers
69C-4.0045	Convenience Fees
69C-4.009	Annual Reporting to the Chief Financial Officer

PURPOSE AND EFFECT: PURPOSE AND EFFECT: Chapter 2010-151, Laws of Florida, amended Section 215.322, F.S., to allow state agencies, the judicial branch, and local government units to also accept electronic funds transfers and also required the Chief Financial Officer (CFO) to adopt rules for acceptance of electronic funds transfers.

SUMMARY: The proposed rule amendments implement the CFO’s duties under Section 215.322, F.S., by updating the rules to include the acceptance of electronic funds transfers by state agencies and the judicial branch and to incorporate the two standard electronic payment service provider contracts by reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has been prepared by the agency.

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.

RULEMAKING AUTHORITY: 215.322(3) FS.

LAW IMPLEMENTED: 215.322 FS.

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

DATE AND TIME: July 26, 2011, 2:00 p.m.

PLACE: 1801 Hermitage Blvd., Room 440-C, Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Miriam Gray at (850)413-2783 or Miriam.Gray@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Miriam Gray, Financial Administrator, Bureau of Funds Management, 1801 Hermitage Blvd., Tallahassee, FL 32308, (850)413-2783

THE FULL TEXT OF THE PROPOSED RULES IS:

69C-4.001 Purpose.

The purpose of this rule chapter is to specify procedures for the establishment of an electronic payment ~~a credit card, charge card, and debit card~~ operation, and acceptance of electronic payments ~~credit card, charge card, and debit card payments~~ by state agencies and the judicial branch for goods, services, and information and to provide for the availability of the standard contract for use by local governments.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(4) FS. History—New 12-22-83, Formerly 4C-4.01, Amended 12-26-88, 1-27-99, 9-9-01, Formerly 4C-4.001, Amended _____.

69C-4.002 Scope.

These rules govern the acceptance of electronic payments ~~credit cards, charge cards, and debit cards~~ by state agencies and the judicial branch, and establish procedures for the following functions:

(1) Providing a process for state agencies and the judicial branch to request approval from the Chief Financial Officer for electronic payment ~~credit card, charge card, and debit card~~ acceptance, and procedures for obtaining a recommendation from the Agency for Enterprise Information Technology when the Internet or other related collection media are used;

(2) through (3) No change.

(4) Permitting an agency or officer accepting electronic payments payment by credit card, charge card, or debit card to impose a convenience fee upon the person making the payment;

(5) Submitting information to the Chief Financial Officer concerning the acceptance of electronic payments ~~credit cards, charge cards, or debit cards~~ by all state agencies or the judicial branch.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (2), (3) FS. History—New 12-22-83, Formerly 4C-4.02, Amended 12-26-88, 1-27-99, 9-9-01, Formerly 4C-4.002, Amended

69C-4.003 Definitions.

As used in this rule chapter, the following terms are defined:

(1) Card. A credit card, charge card, or debit card that is accepted by a state agency or the judicial branch for payment to purchase goods, services, or information ~~Financial Institution~~. A “financial institution” shall mean a qualified public depository as defined in Section 280.02, F.S.

(2) Convenience Fees. A convenience fee is a fixed rate or variable rate charge assessed by a state agency or the judicial branch to a credit card, debit card or charge card payment to help defray the cost of a unique transaction. ~~Merchant~~. Any state agency or the judicial branch that accepts credit cards, charge cards, or debit cards.

(3) Electronic Check. A form of payment made over the Internet that is designed to perform the same function as a conventional paper check. ~~Card~~. A credit card, charge card, or debit card that is accepted by a merchant for payment to purchase goods, services, or information.

(4) Electronic Funds Transfer. Refers to both Automated Clearing House (ACH) and Wire Transfer funds. ~~Convenience Fees~~. A convenience fee is a fixed rate or variable rate charge assessed by a state agency or the judicial branch to a credit card, debit card or charge card payment to help defray the cost of a unique transaction.

(5) Electronic Payments. Payments received through the acceptance of credit cards, charge cards, debit cards, electronic checks, or other electronic funds transfer. ~~Other Appropriate Intermediaries~~. Any entity that is contracted to facilitate the processing of credit cards, charge cards, and debit cards payments on behalf of a state agency, the judicial branch, or a unit of local government.

(6) Financial Institution. A financial institution shall mean a qualified public depository as defined in Section 280.02, F.S.

(7) Other Appropriate Intermediaries. Any entity that is contracted to facilitate the processing of electronic payments on behalf of a state agency, the judicial branch, or a unit of local government.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (2), (3) FS. History—New 12-22-83, Formerly 4C-4.03, Amended 12-26-88, 1-27-99, 9-9-01, Formerly 4C-4.003, Amended

69C-4.0035 Procedures for Requesting Approval to Accept Electronic Payments through the Use of Credit Cards, Charge Cards, and Debit Cards, and Electronic Checks.

(1) A state agency or the judicial branch desiring to accept electronic payments through the use of by credit cards, charge cards, ~~or debit cards, or electronic checks~~ shall submit a written request proposal to the State Chief Financial Officer. ~~In addition to submission of a written request to accept cards, it is recommended that the requester consult with the Chief Financial Officer to discuss arrangement of an oral presentation.~~ Each written request shall include:

(a) The type of fees being collected.

(b) The locations where the payments card will be accepted.

(c) The method of acceptance, such as card reader/swipe, ~~e~~Electronic ~~c~~Cash ~~r~~Register/PC, mail, telephone, automated response unit, self service terminal, the Internet, or other.

(d) through (e) No change.

(2) No change.

(3) When the Internet or other related electronic methods are to be used as the collection medium, the Chief Financial Officer will obtain the recommendation of the Agency for Enterprise Information Technology as to whether to approve the request with regard to the process or procedure to be used.

(4) The application package, Form DFS-J2-1475, Request for Approval to Accept Electronic Payments and Cost Benefit Summary Credit Cards, Charge Cards, and Debit Cards, Revised 2/11 Effective 9/1/01, which is hereby incorporated by reference, may be obtained by contacting the Bureau of Funds Management, Division of Treasury, 200 E. Gaines Street, Tallahassee, Florida 32399, or make a request directly from the Treasury website at: <http://www.fltreasury.org/>. ~~Requests may be made by electronic mail.~~

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (2), (3) FS. History—New 1-27-99, Amended 9-9-01, Formerly 4C-4.0035, Amended

69C-4.004 Standard Contracts with Electronic Payment Credit Card Service Providers.

(1) Contractual arrangements in any form between a state agency or the judicial branch and a financial institution or other appropriate intermediaries to process electronic ~~credit, charge, or debit card~~ payments require the approval of the Chief Financial Officer.

(2)(a) The Chief Financial Officer has developed standard contracts for electronic payment services with the following service providers:

1. Bank of America, N.A., for Visa and Master Card (Electronic Payments Receipt System Provider Contract), current contract period of December 31, 2010 through December 30, 2012; and for Discover Financial Services, LLC (Electronic Payments Receipt System Provider Contract), current contract period of June 1, 2011 through December 30, 2012.

2. American Express Travel Related Services Company, Inc. (Agreement for American Express® Card Acceptance), current contract period of June 30, 2010 through June 29, 2015.

~~(b) Each of the standard contracts for electronic payment services, which are hereby adopted and incorporated by reference, established by the Chief Financial Officer with a service provider, specifies requirements for operation of an electronic payment credit card, charge card, and debit card processing system. The mechanisms and systems enable state agencies, the judicial branch, and local governments to accept and process electronic merchant transactions through credit cards, charge cards, debit cards and electronic checks, provide prompt authorizations, and deliver collected funds to the designated bank account of a financial institution.~~

~~(b) Contractual arrangements with the standard contract service provider(s) are made by completing Form DFS J2-1506, Subscription Agreement, Effective 9/1/01, and Form DFS J2-1505, Internet Information Profile Form, Effective 9/1/01, both of which are hereby incorporated by reference, and are available from Bureau of Funds Management, Division of Treasury, Tallahassee, Florida. Requests may be made by electronic mail.~~

(3) A state agency or the judicial branch must use the standard contract established by the Chief Financial Officer for acceptance of electronic payments by credit card, charge card, or debit card, and electronic check or obtain authorization from the Chief Financial Officer to use another contractor. If an alternative contractor is desired, the state agency or judicial branch ~~shall~~ should present justification to the Chief Financial Officer as to why the standard contract is not acceptable and receive approval from the Chief Financial Officer before seeking an alternative contractor. ~~Or, the requesting agency may complete the procurement process contingent upon approval of the Chief Financial Officer to use an alternative service provider and terms of another agreement. An alternate agreement~~ A substitute agreement must meet the terms, conditions, and specifications provided for in the standard contract relative to pricing, reporting, reconciliation, settlement, and funds availability. The Chief Financial Officer will consider unique requirements of a state agency or the judicial branch that are not provided for in the standard contract in making a determination whether to approve an alternative contractor.

(4) Contracts must specify that proceeds of credit cards, charge cards, ~~and~~ debit cards, and electronic checks (settlement) shall be delivered to the designated state bank account within 48 hours after completion of the transaction.

(5) A copy of the standard contract may be obtained by contacting the Bureau of Funds Management, Division of Treasury, 200 East Gaines Street, Tallahassee, Florida 32399, or make a request directly from the Treasury website at: http://www.fltreasury.org/.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (3) FS. History--New 12-22-83, Formerly 4C-4.04, Amended 1-26-88, 1-27-99, 9-9-01, Formerly 4C-4.004, Amended _____.

69C-4.0045 Convenience Fees.

(1) A convenience fee may not be imposed if prohibited by state law or the regulations of the specific card company(s) being used by the state agency or the judicial branch card company regulations.

(2) through (3) No change.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (3) FS. History--New 1-27-99, Amended 9-9-01, Formerly 4C-4.0045, Amended _____.

69C-4.009 Annual Reporting to the Chief Financial Officer.

State agencies shall submit the following information to the Chief Financial Officer: Within 30 days of the end of the state fiscal year, state agencies or the judicial branch with an established electronic payment credit card, charge card, or debit card operation shall file an annual report with the Chief Financial Officer containing the following information for each type of transaction related to the fiscal year just ended.

(1) through (7) No change.

Rulemaking Specific Authority 215.322(3) FS. Law Implemented 215.322(1), (2), (3) FS. History--New 12-26-88, Amended 1-27-99, 9-9-01, Formerly 4C-4.009, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam Gray, Financial Administrator, Division of Treasury, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jeff Atwater, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 14, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 15, 2011

FINANCIAL SERVICES COMMISSION**OIR – Insurance Regulation**

RULE NO.: 69O-138.047
 RULE TITLE: Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary

PURPOSE AND EFFECT: To adopt changes to the NAIC Model Regulation by adding an additional requirement to the Regulatory Asset Adequacy Issues Summary as a result of changes to Rules 69O-162.203 and 69O-164.020, F.A.C.

SUMMARY: This rule calls for adopting changes to the NAIC Model Regulation. To take advantage of changes in Rules 69O-162.203 and 69O-164.020, F.A.C., the rule requires disclosure of significant interim results, such as the impact of the insufficiency of assets to support payment of benefits and expenses and the establishment of statutory reserves.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 625.121(3)(a) FS.

LAW IMPLEMENTED: 625.121(3) FS.

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

DATE AND TIME: July 26, 2011, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-138.047 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.

(1) General.

(a)1. In accordance with subsection (3) of the Standard Valuation Law, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves.

2. The memorandum shall be made available for examination by the Office upon its request. Any memorandum in support of the opinion, and any other material provided by the company to the Office in connection therewith, is confidential and exempt from the provisions of Section 119.07(1), F.S., as provided in Section 625.121(3)(a)10., Florida Statutes.

(b) In preparing the memorandum, the appointed actuary may include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of subsection 69O-138.043(2), F.A.C., with respect to the areas covered in the memoranda, and shall so state in their memoranda.

(c) If the Office requests a memorandum and no such memorandum exists, or if the Office finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this part, the Office may designate a qualified actuary to review the opinion and prepare for review the required supporting memorandum. The reasonable and necessary expense of the independent review shall be paid by the company but shall be directed and controlled by the Office.

(d)1. The reviewing actuary shall have the same status as an examiner for purposes of obtaining data from the company.

2. The work papers and documentation of the reviewing actuary shall be retained by the Office.

3. Any information provided by the company to the reviewing actuary and included in the work papers shall be considered as material provided by the company to the Office and kept confidential to the same extent prescribed by law with respect to other material provided by the company to the Office pursuant to the statute governing this part.

4. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this part for the current year or any one of the preceding 3 years.

(e) In accordance with Section 625.121(3), Florida Statutes, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in subsection 69O-138.047(3), F.A.C.

1. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required.

2. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Details of the Memorandum Section Documenting Asset Adequacy Analysis. When an actuarial opinion is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in subsection 690-138.043(3), F.A.C., and any additional standards under this part. It shall specify:

(a) For reserves:

1. Product descriptions, including market description, underwriting, and other aspects of a risk profile, and the specific risks the appointed actuary deems significant;

2. Source of liability in force;

3. Reserve method and basis;

4. Investment reserves;

5. Reinsurance arrangements.

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis.

7.a. Documentation of assumptions to test reserves for the following:

(I) Lapse rates (both base and excess);

(II) Interest crediting rate strategy;

(III) Mortality;

(IV) Policyholder dividend strategy;

(V) Competitor or market interest rate;

(VI) Annuitization rates;

(VII) Commissions and expenses; and

(VIII) Morbidity.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(b) For assets:

1. Portfolio descriptions, including a risk profile disclosing the quality, distribution, and types of assets;

2. Investment and disinvestment assumptions;

3. Source of asset data;

4. Asset valuation bases; and

5.a. Documentation of assumptions made for:

(I) Default costs;

(II) Bond call function;

(III) Mortgage prepayment function;

(IV) Determining market value for assets sold due to disinvestment strategy; and

(V) Determining yield on assets acquired through the investment strategy.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(c) For the analysis basis:

1. Methodology;

2. Rationale for inclusion/exclusion of different blocks of business, and how pertinent risks were analyzed;

3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business);

4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); and

5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis.

(d) Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis;

(e) Summary of Results; and

(f) Conclusion(s).

(3) Details of the Regulatory Asset Adequacy Issues Summary.

(a) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios.

a. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values.

b. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

5. The methods used by the actuary to recognize the impact of reinsurance on the company’s cash flows, including both assets and liabilities, under each of the scenarios tested; and

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(4) Conformity to Standards of Practice. The memorandum shall include a statement:

“Actuarial methods, considerations, and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board which form the basis for this memorandum.”

(5) Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

(a) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis.

1. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy.

2. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

(b)1. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum.

2. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(6) Documentation. The appointed actuary shall retain on file for at least seven (7) years sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Rulemaking Specific Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS. History—New 5-18-93, Amended 1-23-03, Formerly 4-138.047, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: THE FINANCIAL SERVICES COMMISSION

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NO.:	RULE TITLE:
690-162.203	Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance

PURPOSE AND EFFECT: To adopt changes to the NAIC Model Regulation and explain the conditions for use of the preferred class structure mortality tables and to permit use of the mortality tables for policies issued prior to the adoption date of the original rule.

SUMMARY: This rule calls for adopting changes to the NAIC Model Regulation. The rule allows for use of the 2001 CSO Preferred Class Structure Mortality Table for policies issued prior January 1, 2007, but only with the consent of the commissioner and subject to conditions on reserve credits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 624.308(1), 625.121 FS.

LAW IMPLEMENTED: 624.307 (1), 625.121 FS.

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

DATE AND TIME: July 26, 2011, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by

contacting: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@floir.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@floir.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69O-162.203 Adoption of 2001 Commissioners Standard Ordinary (CSO) Preferred Mortality Tables for Determining Reserve Liabilities for Ordinary Life Insurance.

(1) Scope. This rule shall govern mortality tables for use in reserves as set forth in Section 625.121, F.S.

(2) Purpose. The purpose of this rule is to recognize, permit and prescribe the use of mortality tables that reflect differences in mortality between Preferred and Standard lives in determining minimum reserve liabilities in accordance with Section 625.121(5)(a)3., F.S., and subsection 69O-164.020(5), F.A.C.

(3) Definitions.

(a) "2001 CSO Mortality Table" means that mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the Proceedings of the NAIC (2nd Quarter 2002) and supplemented by the 2001 CSO Preferred Class Structure Mortality Table defined below in Subsection (b). Unless the context indicates otherwise, the "2001 CSO Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables. Mortality tables in the 2001 CSO Mortality Table include the following:

1. "2001 CSO Mortality Table (F)" means that mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

2. "2001 CSO Mortality Table (M)" means that mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

3. "Composite mortality tables" means mortality tables with rates of mortality that do not distinguish between smokers and nonsmokers.

4. "Smoker and nonsmoker mortality tables" means mortality tables with separate rates of mortality for smokers and nonsmokers.

(b) "2001 CSO Preferred Class Structure Mortality Table" means mortality tables with separate rates of mortality for Super Preferred Nonsmokers, Preferred Nonsmokers, Residual Standard Nonsmokers, Preferred Smokers, and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker tables as adopted by the NAIC September 10, 2006, which is available in the NAIC Proceedings (3rd Quarter 2006) which is adopted herein and incorporated by reference. Unless the context indicates otherwise, the "2001 CSO Preferred Class Structure Mortality Table" includes both the ultimate form of that table and the select and ultimate form of that table. It includes both the smoker and nonsmoker mortality tables. It includes both the male and female mortality tables and the gender composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

(c) "Statistical agent" means an entity with proven systems for protecting the confidentiality of individual insured and insurer information; demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurers, which are its members or subscribers; and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

(4) 2001 CSO Preferred Class Structure Table.

(a) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this rule, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007.

1. On valuation dates beginning with December 31, 2010, for policies issued on or after January 1, 2005 for policies not issued in this state, and on or after June 8, 2005, for policies issued in this state, and prior to January 1, 2007 wherever issued, these tables may be substituted with the consent of the commissioner and subject to the conditions of subsection (5).

2. In determining such consent, the commissioner may rely on the consent of the commissioner of the company's state of domicile.

(b) No such election shall be made until the company demonstrates at least 20% of the business to be valued on this table is in one or more of the preferred classes.

(c) A table from the 2001 CSO Preferred Class Structure Mortality Table used in place of a 2001 CSO Mortality Table, pursuant to the requirements of this rule, will be treated as part of the 2001 CSO Mortality Table only for purposes of reserve valuation pursuant to the requirements of Rule 69O-162.201, F.A.C., Adoption of 2001 Commissioners Standard Ordinary (CSO) Mortality Tables.

(5) Conditions.

(a) For each plan of insurance with separate rates for Preferred and Standard Nonsmoker lives, an insurer may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker tables to substitute for the Nonsmoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, except for business valued under the Residual Standard Nonsmoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the valuation basic table corresponding to the valuation table being used for that class.

(b) For each plan of insurance with separate rates for Preferred and Standard Smoker lives, an insurer may use the Preferred Smoker and Residual Standard Smoker tables to substitute for the Smoker mortality table found in the 2001 CSO Mortality Table to determine minimum reserves. At the time of election and annually thereafter, for business valued under the Preferred Smoker Table, the appointed actuary shall certify that:

1. The present value of death benefits over the next ten years after the valuation date, using the anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table corresponding to the valuation table being used for that class.

2. The present value of death benefits over the future life of the contracts, using anticipated mortality experience without recognition of mortality improvement beyond the valuation date for each class, is less than the present value of death benefits using the Preferred Smoker valuation basic table.

(c) The use of the 2001 CSO Preferred Class Structure Table for the valuation of policies issued prior to January 1, 2007 shall not be permitted in any statutory financial statement in which a company reports, with respect to any policy or portion of a policy coinsured, either of the following:

1. In cases where the mode of payment of the reinsurance premium is less frequent than the mode of payment of the policy premium, a reserve credit that exceeds, by more than the amount specified in this paragraph as Y, the gross reserve calculated before reinsurance. Y is the amount of the gross reinsurance premium that (a) provides coverage for the period from the next policy premium due date to the earlier of the end

of the policy year and the next reinsurance premium due date, and (b) would be refunded to the ceding entity upon the termination of the policy.

2.a. In cases where the mode of payment of the reinsurance premium is more frequent than the mode of payment of the policy premium, a reserve credit that is less than the gross reserve, calculated before reinsurance, by an amount that is less than the amount specified in this paragraph as Z. Z is the amount of the gross reinsurance premium that the ceding entity would need to pay the assuming company to provide reinsurance coverage from the period of the next reinsurance premium due date to the next policy premium due date minus any liability established for the proportionate amount not remitted to the reinsurer.

b. For purposes of this condition, the reserve (i) for the mean reserve method shall be defined as the mean reserve minus the deferred premium asset, and (ii) for the midterminal reserve method shall include the unearned premium reserve. A company may estimate and adjust its accounting on an aggregate basis in order to meet the conditions to use the 2001 CSO Preferred Class Structure Table.

(6) Effective Date. This rule shall be effective for policies issued on or after January 1, 2007, for valuation dates on or after the date this rule becomes effective.

Rulemaking Specific Authority 624.308(1), 625.121 FS. Law Implemented 624.307(1), 625.121 FS. History—New 1-16-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: THE FINANCIAL SERVICES COMMISSION

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

DEPARTMENT OF FINANCIAL SERVICES

OIR – Insurance Regulation

RULE NO.: 69O-164.020 RULE TITLE: Valuation of Life Insurance Policies

PURPOSE AND EFFECT: To adopt changes to the NAIC Model Regulation reducing the minimum premium deficiency reserve requirement, subject to certain conditions to ensure adequacy of reserves.

SUMMARY: This rule calls for adopting changes to the NAIC Model Regulation. The rule reduces the minimum premium deficiency reserve requirements, subject to conditions to ensure the adequacy of reserves. The rule eliminates the

reserve requirements placed on the X factor percentage that it not (1) be less than a minimum 20% and (2) decrease in successive policy years.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. An SERC has not been prepared by the agency.

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.

RULEMAKING AUTHORITY: 624.308(1), 625.121(5) FS.

LAW IMPLEMENTED: 624.307(1), 625.121(5) FS.

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

DATE AND TIME: July 26, 2011, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com

THE FULL TEXT OF THE PROPOSED RULE IS:

690-164.020 Valuation of Life Insurance Policies.

(1) Purpose.

(a) The purpose of this rule is to provide:

1. Tables of select mortality factors, identified as Appendix to Rule 690-164.020, F.A.C., which is hereby adopted and incorporated by reference, and rules for their use;

2. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and

3. Rules concerning a minimum standard for the valuation of plans with secondary guarantees.

(b) The method for calculating basic reserves defined in this rule will constitute the Commissioners' Reserve Valuation Method for policies to which this rule is applicable.

(2)(a) This rule is consistent with Appendix A-830 of the NAIC Accounting Practices and Procedures Manual as adopted in Rule 690-137.001, F.A.C.

(b) This rule applies to policies issued during calendar year 2000 in addition to those issued on or after January 1, 2001.

(3) Applicability. This rule shall apply to all life insurance policies, with or without nonforfeiture values, issued on or after January 1, 2000, subject to the following exceptions and conditions:

(a) Exceptions.

1. This rule shall not apply to any individual life insurance policy issued on or after the effective date of this rule if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before January 1, 2000, that guarantees the premium rates of the new policy. This rule also shall not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy.

2. This rule shall not apply to any universal life policy that meets all the following requirements:

a. Secondary guarantee period, if any, is 5 years or less;

b. Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in paragraph (4)(f), or the ultimate mortality tables specified in subsection 690-162.201(6), F.A.C., and the applicable valuation interest rate; and

c. The initial surrender charge is not less than 100 percent of the first year annualized specified premium for the secondary guarantee period.

3. This rule shall not apply to any variable life insurance policy that provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts.

4. This rule shall not apply to any variable universal life insurance policy that provides for life insurance the amount or duration of which varies according to the investment experience of any separate account or accounts.

5. This rule shall not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums required in order to continue coverage in force for a period in excess of one year.

(b) Conditions.

1. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits (other than universal life policies), or both, shall be in accordance with the provisions of subsection (6).

2. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period shall be in accordance with the provisions of subsection (7).

(4) Definitions. For purposes of this rule:

(a) “Basic reserves” means reserves calculated in accordance with Section 625.121(7), Florida Statutes.

(b)1. “Contract segmentation method” means the method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in paragraph (f), or the mortality tables specified in subsection 690-162.201(6), F.A.C., and, if elected, the optional minimum mortality standard for deficiency reserves stipulated in paragraph (5)(b) of this rule.

2. The length of a particular contract segment shall be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

$t = 1, 2, \dots$; t is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$ = Guaranteed gross premium per thousand of face amount for year t of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$$R_t = \frac{q_{x+k+t}}{R_t}; \text{ however, } R_t \text{ may be increased or decreased by one}$$

$q_{x+k+t-1}$ percent in any policy year, at the company’s option, but R_t shall not be less than one;

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$ = valuation mortality rate for deficiency reserves in policy year $k+t$ but using the mortality of Section 5B(2) if Section 5B(3) is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t shall be deemed to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t shall be deemed to be 0.

(c) “Deficiency reserves” means the excess, if greater than zero, of

1. Minimum reserves calculated in accordance with Section 625.121(11), Florida Statutes, over

2. Basic reserves.

(d) “Guaranteed gross premiums” means the premiums under a policy of life insurance that are guaranteed and determined at issue.

(e) “Maximum valuation interest rates” means the interest rates defined in Section 625.121(6), Florida Statutes, (Computation of Minimum Standard by Calendar Year of Issue) that are to be used in determining the minimum standard for the valuation of life insurance policies.

(f) “1980 CSO valuation tables” means the Commissioners’ 1980 Standard Ordinary Mortality Table (1980 CSO Table) without 10-year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983.

(g) “Scheduled gross premium” means the smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in subparagraph (7)(a)3., if any, or else the minimum premium described in subparagraph (7)(a)4.

(h)1. “Segmented reserves” means reserves, calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals:

- a. The present value of the death benefits within the segment, plus
- b. The present value of any unusual guaranteed cash value (see paragraph (6)(d)) occurring at the end of the segment, less
- c. Any unusual guaranteed cash value occurring at the start of the segment, plus
- d. For the first segment only, the excess of the Item (I) over Item (II), as follows:

(I) A net level annual premium equal to the present value at the date of issue of the benefits provided for in the first segment after the first policy year; divided by the present value at the date of issue of an annuity of 1 per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one year higher than the age at issue of the policy.

(II) A net 1 year term premium for the benefits provided for in the first policy year.

2. The length of each segment is determined by the “contract segmentation method,” as defined in this rule.

3. The interest rates used in the present value calculations for any policy shall not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy.

4. For both basic reserves and deficiency reserves computed by the segmented method, present values shall include future benefits and net premiums in the current segment and in all subsequent segments.

a. The segmentation requirement shall not be limited to plans with no cash surrender values; otherwise companies could avoid segmentation entirely by designing policies with minimal (positive) cash values.

b. Segmentation for plans with cash surrender values shall be based solely upon gross premium levels.

c. Basing segmentation upon the level of cash surrender values introduces complications because of the inter-relationship between minimum cash surrender values and gross premium patterns.

d. The requirements of this rule relating to reserves for plans with unusual cash values and to reserves if cash values exceed calculated reserves serve to link required reserves and cash surrender values.

e. The calculation of segmented reserves shall not be linked to the occurrence of a positive unitary terminal reserve at the end of a segment.

f. The requirement of this rule to hold the greater of the segmented reserve or the unitary reserve eliminates the need for any linkage.

(i) "Tabular cost of insurance" means the net single premium at the beginning of a policy year for 1 year term insurance in the amount of the guaranteed death benefit in that policy year.

(j) "Ten-year select factors" means the select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law.

(k)1. "Unitary reserves" means the present value of all future guaranteed benefits less the present value of all future modified net premiums, where:

a. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and

b. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that at issue the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item (I) over Item (II), as follows:

(I) A net level annual premium equal to the present value at the date of issue of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole

life plan of insurance of the same renewal year equivalent level amount at an age 1 year higher than the age at issue of the policy.

(II) A net 1 year term premium for the benefits provided for in the first policy year.

2. The interest rates used in the present value calculations for any policy shall not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy.

(I) "Universal life insurance policy" means any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy.

(5) General Calculation Requirements for Basic Reserves and Premium Deficiency Reserves.

(a) At the election of the insurer for any one or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

1. The 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; or

2. The select mortality factors in the Appendix.

(b) Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero, of the quantity A over the basic reserve.

1. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums.

2. At the election of the insurer for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors or the mortality tables specified in subsection 690-162.201(6), F.A.C. If select mortality factors are elected for use with the 1980 CSO valuation tables, they may be:

a. The 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law;

b. The select mortality factors in the Appendix of this rule;

c. For durations in the first segment, X percent of the select mortality factors in the Appendix, subject to the following:

(I) X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience;

~~(II) X shall not be less than 20 percent;~~

~~(III)~~ X shall not decrease in any successive policy years;

~~(II)(IV)~~ X is such that, when using the valuation interest rate used for basic reserves, item (A) is greater than or equal to Item (B);

(A) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X;

(B) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date;

~~(III)(V)~~ X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first 5 years after the valuation date;

~~(IV)(VI)~~ The appointed actuary shall increase X at any valuation date where it is necessary to continue to meet all the requirements of subparagraph (b)3.;

~~(V)(VII)~~ The appointed actuary may decrease X at any valuation date as long as X ~~does not decrease in any successive policy years and as long as it~~ continues to meet all the requirements of subparagraph (b)3.;

~~(VI)(VIII)~~ The appointed actuary shall specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums.

~~(VII)(IX)~~ If X is less than 100 percent at any duration for any policy, the following requirements shall be met:

(A) The appointed actuary shall annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of Rule Chapter 690-138, F.A.C.; and

(B) The appointed actuary shall annually opine for all policies subject to this rule as to whether the mortality rates resulting from the application of X meet the requirements of subparagraph (b)2.c.

I. The opinion shall be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries.

II. The X factors shall reflect anticipated future mortality without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience.

(C) The appointed actuary shall disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods;

(c) This subsection applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is

less than 10 years, the appropriate 10 year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue.

(d) In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium, but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums even if not included in the actual calculation of basic reserves.

(e) Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than 1 year after the date of the change shall be the greatest of the following:

1. Reserves calculated ignoring the guarantee;
2. Reserves assuming the guarantee was made at issue; and
3. Reserves assuming that the policy was issued on the date of the guarantee.

(f) The company shall document the extent of the adequacy of reserves for material blocks, including policies issued prior to the effective date of this rule. The documentation shall include:

1. A demonstration of the extent to which aggregation with immaterial blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of Chapter 690-138, F.A.C.; and
2. A definition of material.

(6) Calculation of Minimum Valuation Standard for Policies with Guaranteed Nonlevel Gross Premiums or Guaranteed Nonlevel Benefits (Other than Universal Life Policies).

(a) Basic Reserves. Basic reserves shall be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy shall use the same valuation mortality table and selection factors. At the option of the insurer in calculating segmented reserves and net premiums either of the adjustments described in subparagraph 1. or 2. below may be made:

1. Treat the unitary reserve, if greater than zero, applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

2. Treat the guaranteed cash surrender value, if greater than zero, applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value,

if greater than zero, applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment.

(b) Deficiency Reserves.

1. The deficiency reserve at any duration shall be calculated:

a. On a unitary basis if the corresponding basic reserve determined by paragraph (a) is unitary;

b. On a segmented basis if the corresponding basic reserve determined by paragraph (a) is segmented; or

c. On the segmented basis if the corresponding basic reserve determined by paragraph (a) is equal to both the segmented reserve and the unitary reserve.

2. This subsection shall apply to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards in paragraph (5)(b) and rate of interest.

3. Deficiency reserves, if any, shall be calculated for each policy as the excess if greater than zero, for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in paragraph (5)(b).

4. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves.

(c) Minimum Value.

1. Basic reserves shall not be less than the tabular cost of insurance for the balance of the policy year if mean reserves are used.

2. Basic reserves shall not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used.

3. The tabular cost of insurance shall use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves.

4. Mortality tables specified in subsection 69O-162.201(6), F.A.C., may be used.

5. However, if select mortality factors are used with the 1980 CSO valuation tables, they shall be the 10 year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law.

6. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy.

(d) Unusual Pattern of Guaranteed Cash Surrender Values.

1. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an n year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where n is the number of years from the date of issue to the date the unusual cash surrender value is scheduled.

2. The reserves actually held subsequent to any unusual guaranteed cash surrender value shall not be less than the reserves calculated by treating the policy as an n year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where

a. n is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of:

(I) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or

(II) The mandatory expiration date of the policy; and

b. The net premium for a given year during the n year period is equal to the product of the net to gross ratio and the respective gross premium; and

c. The net to gross ratio is equal to Item I divided by Item II as follows:

(I)(A) The present value at the beginning of the n year period of death benefits payable during the n year period, plus

(B) The present value at the beginning of the n year period of the next unusual guaranteed cash surrender value, if any, minus

(C) The amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the n year period.

(II) The present value at the beginning of the n year period of the scheduled gross premiums payable during the n year period.

3. For purposes of this subsection, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of:

a. 110 percent of the scheduled gross premium for that year;

b. 110 percent of one year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and

c. 5 percent of the first policy year surrender charge, if any.

(e) Optional Exemption for Yearly Renewable Term Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in paragraph (c).

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with paragraph (a) above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. A reinsurance agreement shall be considered YRT reinsurance for purposes of this subsection if only the mortality risk is reinsured.

6. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit shall be limited to the amount of reserve held by the assuming company for the affected policies.

(f) Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the option of the company, the following approach for reserves for attained-age-based YRT life insurance policies may be used:

1. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year.

2. Basic reserves shall never be less than the tabular cost of insurance for the appropriate period, as defined in paragraph (6)(c).

3. Deficiency reserves.

a. For each policy year, calculate the excess, if greater than zero, of the valuation net premium over the respective maximum guaranteed gross premium.

b. Deficiency reserves shall never be less than the sum of the present values at the date of valuation of the excesses determined in accordance with sub-subparagraph a. above.

4. For purposes of this subsection, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.

5. A policy shall be considered an attained-age-based YRT life insurance policy for purposes of this subsection if:

a. The premium rates on both the initial current premium scale and the guaranteed maximum premium scale are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and

b. The premium rates on both the initial current premium scale and the guaranteed maximum premium scale are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance, and attained age.

6. For policies that become attained-age-based YRT policies after an initial period of coverage, the approach of this subsection may be used after the initial period if:

a. The initial period is constant for all insureds of the same sex, risk class, and plan of insurance; or

b. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and

c. After the initial period of coverage, the policy meets the conditions of subparagraph 5. above.

7. If this election is made, this approach shall be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this rule.

(g) Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met:

1. The policy consists of a series of n-year periods including the first period and all renewal periods where n is the same for each period, except that for the final renewal period, n may be truncated or extended to reach the expiry age, provided that:

a. This final renewal period is less than 10 years and less than twice the size of the earlier n-year periods, and

b. For each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level;

2. The guaranteed gross premiums in all n-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.; and

3. There are no cash surrender values in any policy year.

(h) Exemption from Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue:

1. At issue, the insured is age 24 or younger;

2. Until the insured reaches the end of the juvenile period, which shall occur at or before age 25, the gross premiums and death benefits are level, and there are no cash surrender values; and

3. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy.

(7) Calculation of Minimum Valuation Standard for Flexible Premium and Fixed Premium Universal Life Insurance Policies that Contain Provisions Resulting in the Ability of a Policyowner to Keep a Policy in Force Over a Secondary Guarantee Period.

(a) General.

1. Policies with a secondary guarantee include:

a. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums;

b. A policy in which the minimum premium at any duration is less than the corresponding 1 year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without 10 year select mortality factors or the mortality tables specified in subsection 69O-162.201(6), F.A.C.; or

c. A policy with any combination of subparagraph a. and b.

2. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee.

a. When a policy contains more than one secondary guarantee, the minimum reserve shall be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees.

b. Secondary guarantees that are unilaterally changed by the insurer after issue shall be considered to have been made at issue.

c. Reserves described in paragraphs (b) and (c) below shall be recalculated from issue to reflect these changes.

3. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed.

4.a. For purposes of this section, the minimum premium for any policy year is the premium that, when paid into a policy with a zero account value at the beginning of the policy year, produces a zero account value at the end of the policy year.

b. The minimum premium calculation shall use the policy cost factors (including mortality charges, loads, and expense charges) and the interest crediting rate which are all guaranteed at issue.

5.a. The 1 year valuation premium means the net 1 year premium based upon the original schedule of benefits for a given policy year.

b. The 1 year valuation premiums for all policy years are calculated at issue.

c. The select mortality factors defined in subparagraphs (5)(b)2., 3., and 4. shall not be used to calculate the 1 year valuation premiums.

6. The 1 year valuation premium shall reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund.

(b) Basic Reserves for the Secondary Guarantees.

1. Basic reserves for the secondary guarantees shall be the segmented reserves for the secondary guarantee period.

2. In calculating the segments and the segmented reserves, the gross premiums shall be set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

3. The segments will be determined according to the contract segmentation method as defined in paragraph (4)(b).

(c) Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees shall be calculated for the secondary guarantee period in the same manner as described in paragraph (6)(b) with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force.

(d) Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of:

1. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or

2. The minimum reserves required by Rule 69O-164.010, F.A.C., governing universal life plans.

(9) Effective Date.

(a) This rule shall be effective for policies issued on or after January 1, 2000 for valuation dates on or after the date this rule is adopted.

(b) For valuation dates prior to the effective date of this rule, at the option of the company, the company may report reserves for policies issued in calendar year 2000 based upon this rule.

Rulemaking Specific Authority 624.308(1), 625.121(5) FS. Law Implemented 624.307(1), 625.121(5) FS. History--New 12-24-03, Formerly 4-164.020, Amended 6-8-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Office of Insurance Regulation, E-mail: Kerry.krantz@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 16, 2011

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 11, 2010

FINANCIAL SERVICES COMMISSION**Finance**

RULE NOS.:	RULE TITLES:
69V-180.040	Consumer Collection Agency Complaint Form and Procedures
69V-180.080	Consumer Collection Agency Records
69V-180.090	Consumer Collection Agency Records Retention and Destruction
69V-180.100	Guidelines for Imposing Administrative Penalties

PURPOSE AND EFFECT: The proposed rules: 1) revise the consumer complaint form to conform to statutory requirements; 2) adopt books and records requirements for consumer collection agencies; 3) provide guidance regarding the retention and destruction of records; and 4) establish guidelines for imposing administrative penalties.

SUMMARY: The proposed rules: 1) revise the consumer complaint form to conform to statutory requirements; 2) adopt books and records requirements for consumer collection agencies; 3) provide guidance regarding the retention and destruction of records; and 4) establish guidelines for imposing administrative penalties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The Agency has determined that the proposed rules will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. SERCs have been prepared by the agency, which are summarized as follows. The proposed rules are not likely to: 1) directly or indirectly have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; 2) directly or indirectly have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within 5 years after the implementation of the rule; or 3) directly or indirectly increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule. Accordingly, the Agency has determined that the proposed rules will not require legislative ratification. In addition, the proposed rules do not impose additional costs on the Office; nor do they impose any additional costs on any state or local government entity. There are no anticipated transactional costs and the Office does not foresee any adverse impact on small businesses, small counties or small cities. Rule 69V-180.040, F.A.C., applies to persons wishing to file complaints against consumer collection agencies. Rules 69V-180.080, .090, and .100, F.A.C., apply to consumer collection agencies.

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.

RULEMAKING AUTHORITY: 559.725(3), 559.5556, 559.730(3) FS.

LAW IMPLEMENTED: 559.5556, 559.565(1), 559.72, 559.725(6), 559.730(3) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Andy Grosmaire, Chief, Bureau of Finance Regulation, Office of Financial Regulation, The Fletcher Building, 200 E. Gaines Street, Tallahassee, Florida 32399, (850)410-9848, andy.grosmaire@flofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-180.040 Consumer Collection Agency Complaint Form and Procedures.

Each consumer desiring to file a complaint against a consumer collection agency shall submit to the Office of Financial Regulation a completed complaint form, Form OFR-CCA-103, effective _____, available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00310> 2-15-94, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation of Agriculture and Consumer Services, Division of Consumer Services, Mayo Building, Tallahassee, Florida 32399-0800. Such form shall be filed with the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida ~~32399-0376~~ 32399-0375.

Rulemaking Specific Authority 559.725(3) 47-29 FS. Law Implemented 559.72, 559.725(3) 559.725 FS. History--New 2-15-94, Formerly 3D-180.040, Amended _____.

69V-180.080 Consumer Collection Agency Records.

A registrant shall, at a minimum, maintain all records specified in this rule. Records shall be kept current to within one week of the current date. Computerized records that contain the equivalent of the information required to be maintained by this rule are acceptable. The following records shall be maintained:

(1) A copy of the contract or agreement that the registrant will use with its creditors.

(2) Records relating to the referrals made by a creditor to the registrant, identifying the name of the debtors, and the amount of the debt owed by each.

(3) The debtor's account of activity disclosing the following:

(a) The name and address of the debtor;

(b) The date that the account was referred or acquired and the account number;

(c) The actual amount of the claim submitted by the creditor;

(d) The name and address of the creditor or a means of identifying this information by code or account number; and

(e) A record of payments made by the debtor, including the date received and the amount and balance owing;

(f) A record of outbound contacts or attempted contacts by the registrant with the debtor including:

1. The full name of the debtor;

2. The date and time the contact was placed or received;

3. The phone number dialed if placing an outgoing phone call;

4. The disposition of the phone call;

5. The name of the person (or alias name of the person) making or attempting to make contact.

(4) A debtor's receipt for cash payments made to the registrant. The document shall provide space for recording:

(a) Name and address of registrant;

(b) Name of debtor;

(c) Date and amount of payment received;

(d) Balance owing;

(e) Name of the creditor; and

(f) Name of the person accepting payment.

(5) Documentation recording the dates and amounts of remittances by the registrant to the creditor.

(6) All form letters and stationery used by a registrant shall be maintained in a file and made available at all times for review by the Office of Financial Regulation.

(7) The name of the financial institution or institutions where the registrant's accounts will be maintained, and the identifying numbers assigned by the financial institutions to the accounts.

(8) All written agreements executed between the registrant and the debtor after the account has been received from the creditor.

(9) Basic information about the debt including, at the minimum:

(a) Documentation of the debt provided by the creditor;

(b) The date the debt was incurred and the date of the last payment;

(c) The identity of the original creditor as known to the debtors;

(d) The amount of the debt principal and an itemization of all interest, fees, or charges added to it by the original creditor and all subsequent holders;

(e) The chain of title if the debt has been sold.

(10) A copy of all letters, emails, and correspondence, written or electronically sent to a debtor.

(11) All phone numbers used by a registrant shall be disclosed and maintained in a file and made available at all times for review by the Office of Financial Regulation.

Rulemaking Authority 559.5556 FS. Law Implemented 559.5556, 559.72 FS. History--New _____.

69V-180.090 Consumer Collection Agency Records Retention and Destruction.

(1) All books, accounts, records, documents, and receipts must be maintained for at least 3 years from the date the consumer satisfied the debt being collected or the registrant has ceased collection efforts from the consumer.

(2) A registrant must have written policies and procedures for the secure handling of all consumer documents and information received in the course of collecting a debt from a consumer. Such procedures must include, at a minimum, the following steps, as appropriate:

(a) A secure method of destroying consumer information, such as those prescribed in 16 C.F.R. Part 682 (2011), which relates to disposal of consumer report information and records under section 216 of the Fair and Accurate Credit Transactions Act of 2003. Federal regulation 16 C.F.R. Part 682 (2011), available at <https://www.flrules.org/Gateway/reference.asp?No=Ref-00311>, is incorporated by reference in this rule.

(b) Maintaining records of the destruction including which records were destroyed, when were the records destroyed, where were the records destroyed, and who destroyed the records.

Rulemaking Authority 559.5556 FS. Law Implemented 559.5556 FS. History--New _____.

69V-180.100 Guidelines for Imposing Administrative Penalties.

Pursuant to Section 559.730(3), F.S., listed below are guidelines applicable to each ground for disciplinary action that may be imposed by the Office against a person for a violation of Part VI, Chapter 559, F.S. In determining an appropriate penalty within the range of penalties prescribed in this rule for each occurrence as based upon the violation, the Office shall consider the circumstances set forth in subsection (25).

	Statute	Violation Description	1st Occurrence	2nd Occurrence	3rd & Subsequent Occurrences
(1)	559.565(1)	An out-of-state consumer debt collector who collects or attempts to collect consumer debts in this state without first registering in accordance with this part.	Fine: B Cease and Desist	Fine: C Cease and Desist	
(2)	559.72(1)	Simulate in any manner a law enforcement officer or a representative of any governmental agency.	Fine: A	Fine: B	Fine: C Revocation
(3)	559.72(2)	Use or threaten force or violence.	Fine: B	Fine: C Revocation	
(4)	559.72(3)	Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed.	Fine: A	Fine: B	Fine: C Revocation
(5)	559.72(4)	Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor.	Fine: A	Fine: B	Fine: C Revocation
(6)	559.72(5)	Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.	Fine: A	Fine: B	Fine: C Revocation
(7)	559.72(6)	Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact or failed to notify within 30 days the details of the dispute to each person to whom disclosure was made.	Fine: A	Fine: B	Fine: C Revocation
(8)	559.72(7)	Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation
(9)	559.72(8)	Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation
(10)	559.72(9)	Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate or assert the existence of some other legal right when such person knows that the right does not exist.	Fine: B	Fine: C Revocation	
(11)	559.72(10)	Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued or approved by a government, governmental agency, or attorney at law, when it is not.	Fine: A	Fine: B	Fine: C Revocation
(12)	559.72(11)	Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.	Fine: B	Fine: C	Fine: C Revocation
(13)	559.72(12)	Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.	Fine: A	Fine: B	Fine: C Revocation
(14)	559.72(13)	Advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.	Fine: B	Fine: C Revocation	
(15)	559.72(13)	Threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.	Fine: A	Fine: B	Fine: C Revocation

(16)	559.72(14)	Publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.	Fine: B	Fine: C Revocation	
(17)	559.72(14)	Threaten to publish or post before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.	Fine: A	Fine: B	Fine: C Revocation
(18)	559.72(15)	Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.	Fine: A	Fine: B	Fine: C Revocation
(19)	559.72(16)	Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor.	Fine: B	Fine: C	Fine: C Revocation
(20)	559.72(17)	Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor.	Fine: A	Fine: B	Fine: C Revocation
(21)	559.72(18)	Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt.	Fine: A	Fine: B	Fine: C Revocation
(22)	559.72(19)	Cause a debtor to be charged for communications by concealing the true purpose of the communication.	Fine: A	Fine: B	Fine: C Revocation
(23)	559.725(6)	Failure to provide a written response to a consumer complaint within 45 days of written request.	\$150 per day	\$200 per day	\$250 per day

(24) In accordance with this rule:

(a) Depending on the severity and repetition of specific violations, the Office may impose an administrative fine, suspension of a person, or revocation of a person or any combination thereof;

(b) The Office may impose a cease and desist order, a suspension, or both in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances; and

(c) The Office will consider the person's disciplinary history for the past five years in determining an appropriate penalty, and may impose a more severe penalty when the disciplinary history includes past violations.

(25) In accordance with Section 559.730, F.S., the Office shall consider the following circumstances in determining an appropriate penalty within the range of penalties prescribed in this rule for each violation. The Office also shall consider these circumstances when determining whether a deviation from the range of sanctions prescribed in the disciplinary guidelines is warranted:

(a) The degree of harm to the public;

(b) The disciplinary history of the person;

(c) Whether the person detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;

(d) Whether the person's violation was the result of willful misconduct or recklessness;

(e) Whether at the time of the violation, the person had developed and implemented reasonable supervisory, operational or technical procedures, or controls to avoid the violation;

(f) Whether the person attempted to conceal the violation or mislead or deceive the Office;

(g) The length of time over which the person engaged in the violations; and

(h) Other relevant, case-specific circumstances.

(26) The list of violations cited in this rule is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Section 559.730, F.S.

(27) The ranges for administrative fines imposed by this rule are \$1,000 to \$3,500 for an "A" level fine; \$3,500 to \$7,500 for a "B" level fine; and \$7,500 to \$10,000 for a "C" level fine.

(28) A previous "occurrence" is the same or similar misconduct which was the subject of a Final Order entered by the Office prior to the acts or omissions which are the subject of the current action by the Office.

Rulemaking Authority 559.730(3) FS. Law Implemented 559.565(1), 559.72, 559.725(6), 559.730 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
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 of Financial Regulation, The Fletcher Building, 200 E. Gaines
 Street, Tallahassee, Florida 32399, (850)410-9848,
 andy.grosmaire@flofr.com
 NAME OF AGENCY HEAD WHO APPROVED THE
 PROPOSED RULE: Financial Services Commission
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: June 16, 2011
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: October 22, 2010

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 11. Subject Area Transfer Numbers52 51
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 2. Subject-Area Graduation Requirement Codes 55 54
 3. Course-Credit/Multiple-Credit Codes 56 55
 4. Certification Codes 56 55
 5. Explanation of Symbols 57 56
 6. Special Symbols Linked to Teacher
 Certifications 58 57

Section III
Notices of Changes, Corrections and
Withdrawals

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
 6A-1.09441 Requirements for Programs and
 Courses Which are Funded
 Through the Florida Education
 Finance Program and for Which the
 Student May Earn Credit Toward
 High School Graduation

NOTICE OF CHANGE

Notice is hereby given that the following changes have been
 made to the proposed rule in accordance with subparagraph
 120.54(3)(d)1., F.S., published in Vol. 37, No. 15, April 15,
 2011 issue of the Florida Administrative Weekly.

**2011-2012 COURSE CODE DIRECTORY AND
 PERSONNEL ASSIGNMENTS
 CHANGE DOCUMENT**

The following language was changed on page 3:

15. Postsecondary Readiness College Success
 Courses 41
 16. Advanced International Certificate of Education
 (AICE) Diploma 42 41
 17. The International Baccalaureate (IB) Curriculum for
High School Diploma 43 42

The following language was changed on page 4:

F) COURSE NUMBERING SYSTEM

1. General 46 45
 2. Grades PreK to 5 Numbering System 47 46
 3. District Elementary Reporting for Permanent Records
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The following language was stricken from page 6:

COURSE DESCRIPTIONS

~~State Board of Education (SBE) Rules 6A-1.09412,
 6A-1.09414, and 6A-6.0571, FAC, which address Course
 Descriptions, allow districts and schools greater flexibility in
 designing educational programs which meet the needs of their
 students. Districts are authorized to approve a variance of up to
 10% of the course requirements of any Course Description. In
 addition, district school boards may request a waiver to allow a
 school to substitute locally approved course requirements
 within a Course Description, provided these substitutions
 adequately address the major concepts and content contained
 in the Course Description and provided the waiver request is
 submitted in accordance with specified procedures. Career and
 technical education (CTE) licensure/certification programs
 may not use the 10% variance.~~

The following language was stricken from page 7:

COMMUNITY SERVICE

~~Section 1003.43(k), F.S. For students entering 9th grade prior
 to school year 2007-2008, allows school boards to award a
 maximum of one-half credit in social studies and one-half
 elective credit for student completion of non-paid voluntary
 community or school service work. Students choosing this
 option must complete a minimum of 75 hours of service in
 order to earn the one-half credit in either category of
 instruction. In order to earn two one-half credits, students
 would have to complete 150 hours of service. Credit may not
 be earned for service provided as a result of court action.
 School boards that approve the award of credit for student
 volunteer service must develop guidelines regarding the award
 of such credit, and school principals are responsible for~~