

## Section I

### Notice of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF REVENUE**

**Division of Child Support Enforcement**

RULE NOS.:	RULE TITLES:
12E-1.012	Consumer Reporting Agencies
12E-1.023	Suspension of Driver License; Suspension of Motor Vehicle Registration
12E-1.030	Administrative Establishment of Child Support Obligations
12E-1.036	Administrative Establishment of Paternity and Support Obligations
12E-1.037	Notification to Withhold Support from Reemployment Assistance
12E-1.039	Request for Services
12E-1.040	Intergovernmental Forms

**PURPOSE AND EFFECT:** The purpose of the proposed amendment of Rule 12E-1.012, F.A.C. (Consumer Reporting Agencies) is to update the criteria for reporting past-due support to consumer reporting agencies by changing the delinquent support criterion and adding new criteria, and to adjust the time allowed for informal reviews, including an additional five days for mailing.

The effect of the amendment is to amend the criteria for reporting past-due support to consumer reporting agencies, to adjust the delinquent support amount criterion, add new criteria, and to clarify the time frame associated with the informal review process.

The purpose of the proposed amendment of Rule 12E-1.023, F.A.C. (Suspension of Driver License; Suspension of Motor Vehicle Registration), is to provide additional criteria for initiating an action to suspend a parent’s driver license, including a delinquent support criterion, and to clarify the conditions when the Program terminates a pending suspension action or reinstates a suspended driver license.

The effect of the amendment is to add new criteria for initiating license suspensions, including a delinquent support amount criterion, and to clarify the license reinstatement process. The rule specifies the suspension criteria and reinstatement conditions that apply to suspending a license for non-payment of support, and distinguishes them from the suspension criteria and reinstatement conditions that apply when the license suspension or reinstatement is for failure to comply with a subpoena or order relating to a paternity or support proceeding. The purpose of creating proposed Rule 12E-1.030, F.A.C. (Administrative Establishment of Child Support Obligations), is to inform the public of how the Department establishes administrative support orders. The purpose of this rule

development is to notify the public of this proposed rule creation.

The effect of creating the proposed rule is to provide the public with the steps used by the Department when it seeks to administratively establish a child support child support obligations as well as the rights and responsibilities of the parties involved in an administrative support obligation.

The purpose of the proposed amendment to Rule 12E-1.036, F.A.C. (Administrative Establishment of Paternity and Support Obligations), is to align the rule with the current process used by the Department for administrative establishment of support in Rule 12E-1.030 (Administrative Establishment of Child Support Obligations). The amendment updates the rule for how the alleged father may opt-out of the administrative process, how the Department calculates support obligations for support orders, and updates information about how the Department determines cooperation for the mother.

The effect of the amendment is to clarify the alleged father’s right to opt-out of the administrative process, to clarify how the Department determines support obligations, and to clarify what actions constitute cooperation with this process.

The purpose of creating proposed Rule 12E-1.037, F.A.C. (Notification to Withhold Support from Reemployment Assistance), is to describe the process used to implement the requirement in section 443.051, Florida Statutes, to notify the Department of Economic Opportunity to withhold support payments from the reemployment assistance (formerly known as unemployment compensation) of parents who owe support obligations.

The effect of creating proposed Rule 12E-1.037, F.A.C., is to define the term “support obligations” as used in the rule, describe how the Department uses data received from the Department of Economic Opportunity, provide a limit for the amount to be withheld from a parent’s reemployment assistance, provide for refunding withheld amounts that exceed a parent’s total support obligation, provide for adjusting future withholdings to avoid excess withholding, and describe how the Department of Revenue allocates a withheld amount among cases when a parent who owes support has more than one case with a support obligation.

The purpose of proposed Rule 12E-1.039, F.A.C. (Request for Services), is to establish standards for applications and public assistance referrals for Title IV-D services. The purpose of this rule development is to notify the public of this proposed rule.

The effect of the proposed rule is to define who is eligible to receive services, how to apply for services and the information that must be provided. The proposed rule also addresses how applications and public assistance referrals for child support services are reviewed and processed by the Child Support Program.

The purpose of creating proposed Rule 12E-1.040, F.A.C. (Intergovernmental Forms), is to incorporate by reference federally approved forms General Testimony (CS-IS21) and the Affidavit in Support of Establishing Paternity (CS-IS26) used in intergovernmental cases.

The effect of creating proposed Rule 12E-1.040, F.A.C., is to provide the forms the department will use to in intergovernmental cases. The General Testimony (CS-IS21) form will be used to obtain a sworn statement about the information and facts of the case from a person seeking establishment of paternity, support, or paternity and support. The Affidavit in Support of Establishing Paternity (CS-IS26) form will be used to obtain a paternity affidavit from a person seeking establishment of paternity or paternity and support.

**SUBJECT AREA TO BE ADDRESSED:** The subject of this notice of proposed rule development is to amend the rules for reporting past-due support to consumer reporting agencies and for suspending driver licenses, and to introduce a new rule for withholding support from reemployment assistance.

**RULEMAKING AUTHORITY:** 61.1354(5), 61.14(1)(c), 120.54(6), 409.2557, 409.2557(3)(h), 409.2557(3)(i) 409.2557(3)(p), 409.256(17), 409.2563(7)(e), 409.2563(16) FS.

**LAW IMPLEMENTED:** 61.1354, 322.058, 409.256, 409.2563, 409.2567, 443.051 FS., 45 CFR 303.7(a)(4)

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** Wednesday, April 12, 2017 at 1:00 p.m.

**PLACE:** 2450 Shumard Oak Boulevard, Building One, Room 1220 and 1221, 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 48 hours before the workshop/meeting by contacting: Bobby York at (850)617-8037 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Bobby York, Government Analyst II, Child Support Program, Department of Revenue, 2450 Shumard Oak Blvd., Suite 2-4454, Tallahassee, Florida 32399-0184, telephone: (850)617-8037, email: Bobby.York@floridarevenue.com.

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:** Published on the Department’s Internet site at [floridarevenue.com/dor/rules](http://floridarevenue.com/dor/rules).

## Section II Proposed Rules

### **DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

#### **Division of Consumer Services**

RULE NOS.:	RULE TITLES:
5J-18.0011	Standards Adopted
5J-18.0012	Bureau of Fair Rides Inspection Forms
5J-18.007	Signage
5J-18.009	Inspections by Owner of Manager
5J-18.0125	Fencing and Gate Standards
5J-18.0127	Enforcement Actions and Administrative Penalties
5J-18.014	Training of Managers, Attendants, and Maintenance Persons
5J-18.015	Regulation of Go-Kart Tracks and Similar Vehicles
5J-18.016	Regulation of Water Parks
5J-18.025	Regulation of Bungy Operations

**PURPOSE AND EFFECT:** The purpose of developing changes to these rules is to: (1) update materials incorporated by reference; (2) provide language regarding signage pursuant to sections 616.242 (4) (b), (c) and (d), F.S.; (3) ensure compliance with 2016 legislative changes to sections 616.242(15) and (16), F.S. pursuant to s. 37, Ch. 2016-166, L.O.F.; (4) amend the penalty structure to encompass the addition of new rule language; (5) update forms currently in use.

**SUMMARY:** The proposed rules: (1) adopt updated materials incorporated by reference; (2) add standard requirements for signage prominently displayed at the entrance of amusement rides; (3) will allow owners and managers to submit ride specific daily inspection reports and employee training records for department approval in lieu of submitting department forms. Forms must, at a minimum, include all information required on the forms currently prescribed by rule of the department; (4) amend the penalty structure to encompass language from Rule 5J-18.007, F.A.C.; and (5) update forms for compliance with statutory requirements.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS (SERC) AND LEGISLATIVE RATIFICATION:** The Agency has determined that this rule 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. A SERC has not been prepared by the agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or, if no SERC is required, the information expressly relied upon and described

herein: The department’s economic analysis of the adverse impact or potential regulatory costs of the proposed rule did not exceed any of the criteria established in Section 120.541(2)(a), Florida Statutes. As part of this analysis, the department relied upon the Fair Rides database to determine the rides currently operating in the state under these classifications and those that may enter and operate in the upcoming year. Additionally, no interested party submitted additional information regarding the economic impact. Any person who wishes to provide information regarding the statement of estimated regulatory costs or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. RULEMAKING AUTHORITY: 616.165, 616.242(4), (6), (15), (16) FS.

LAW IMPLEMENTED: 616.242, 616.242(4), (15), (16), (18), (19) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michelle Faulk, 2005 Apalachee Parkway, Tallahassee, Florida 32399; (850)410-3838

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-18.0011 Standards Adopted.

The following standards, materials and practices are hereby adopted and incorporated by reference. Copies of these publications may be obtained from the associations referenced below and are available for public inspection during regular business hours at the Florida Department of Agriculture and Consumer Services, Division of Consumer Services, Bureau of Fair Rides Inspection, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500. Posting of the following materials on the internet for purposes of public examination would violate federal copyright law.

(1) through (5) No change.

(6) UIAA (Union Internationale des Associations d’Alpinisme), Mountaineering and Climbing Equipment.

(a) ‘Dynamic Ropes’ UIAA 101, May 2016.

(b) ‘Harnesses’ UIAA 105, May 2014.

(c) ‘Connectors/Karabiners’ UIAA 121, February 2016.

Copies of these publications may be obtained by contacting the UIAA, Monbijoustrasse 61, Postfach, CH – 3000 Bern 23, Switzerland; www.theuiaa.org.

(7) The National Fire Protection Association (NFPA) 1983 Standard on Life Safety Rope and Equipment for Emergency Services, 2012 Edition. A copy of this publication may be obtained by contacting the NFPA, 1 Batterymarch Park, Quincy, MA 02169-7471.

Rulemaking Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4) FS. History–New 2-14-99, Amended 10-2-07, 5-30-10, Formerly 5F-8.0011, Amended 7-5-16,\_\_\_\_\_.

5J-18.0012 Bureau of Fair Rides Inspection Forms.

The following forms are hereby incorporated by reference. Copies of these publications may be obtained from the Division of Consumer Services, Bureau of Fair Rides Inspection at 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 or online as indicated below.

Form Number	Revised	Title
FDACS 03401	01/09	Invoice
FDACS 03419	12/09	Amusement Ride Inspection Report
FDACS 03420	12/09	Water Park Amusement Ride Inspection Report
FDACS 03421	12/09	Go-kart Amusement Ride Inspection Report (Track)
FDACS 03422	01/09	Go-kart Amusement Ride Inspection Report (Vehicle)
FDACS 03423	12/09	Bungy Jump Inspection Report
FDACS 03424	<del>02/17</del> <del>12/09</del>	Owner’s Daily Inspection Report (Carnival Type), <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03425	<del>02/17</del> <del>12/09</del>	Owner’s Daily Inspection Report (Water Park), <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03426	<del>02/17</del> <del>12/09</del>	Owner’s Daily Inspection Report (Go-kart Track/Vehicle), <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03427	<del>02/17</del> <del>12/09</del>	Owner’s Daily Inspection Report (Bungy), <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03428	01/09	Written Accident Report
FDACS 03429	01/09	Request for Inspection or Reinspection
FDACS 03430	01/09	Mechanical, Structural or Electrical Defect Report
FDACS 03431	<del>02/17</del> <del>12/09</del>	Employee Training Record, <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03432	01/09	Amusement Ride Annual Permit Application
FDACS 03433	04/09	Affidavit of Compliance and Nondestructive Testing
FDACS 03434	<del>02/17</del> <del>04/09</del>	Affidavit of Annual Inspection for Exempt Facilities, <a href="http://www.flrules.org/Gateway">http://www.flrules.org/Gateway</a>
FDACS 03545	12/09	Stop Operation Order
FDACS 03546	12/09	Out of Service Tag
FDACS 03550	11/13	Inspection Certificate, <a href="http://www.flrules.org/Gateway/reference.asp?No=Ref-03685">http://www.flrules.org/Gateway/reference.asp?No=Ref-03685</a>
FDACS 03557	02/09	Fair Rides Immediate Final Order
FDACS 03558	02/09	Fair Rides Immediate Final Order Release

Rulemaking Authority 616.165, 616.242(4), (5), (6), (7), (10), (11), (14), (15), (16) FS. Law Implemented 616.242(4), (5), (6), (7), (10), (11), (14), (15), (16) FS. History–New 2-14-99, Amended 5-30-05, 10-2-07, 5-30-10, Formerly 5F-8.0012, Amended 2-26-14,\_\_\_\_\_.

5J-18.007 Signage.

(1) If required or recommended by the manufacturer of an amusement ride, each owner shall have signage prominently displayed at the entrance of the amusement ride including the following instructions and information for operation:

- (a) age restrictions;
- (b) height restrictions;
- (c) health restrictions;
- (d) weight limitations;
- (e) special considerations or use restrictions; and
- (f) notice to properly secure loose clothing and hair as to not interfere with safe operations.

(2) Due to accidents or unforeseen events, and in addition to the amusement ride manufacturer’s required or recommended instructions and information for operation, each owner shall have additional signage prominently displayed at the entrances of the following amusement rides:

(a) Grover Watkins, Hustler – signage shall include notice to properly secure loose clothing and hair as to not interfere with safe operations.

(b) Grover Watkins, Tempest – signage shall include notice to properly secure loose clothing and hair as to not interfere with safe operations.

Rulemaking Authority 616.165, 616.242(4)(b), (c) and (d) FS. Law Implemented 616.242 FS. History–New \_\_\_\_\_.

5J-18.009 Inspections by Owner or Manager.

Prior to opening on each day of operation and prior to any inspection by the ~~d~~Department the owner or manager of each amusement ride shall inspect and test the amusement ride in accordance with the requirements of Section 616.242(15), F.S., and record the inspection on the applicable ~~d~~Department, form FDACS\_03424, Rev. ~~02/17 12/09~~, Owner’s Daily Inspection Report (Carnival Type); FDACS\_03425, Rev. ~~02/17 12/09~~, Owner’s Daily Inspection Report (Water Park); FDACS\_03426, Rev. ~~02/17 12/09~~, Owner’s Daily Inspection Report (Go Kart Track and Vehicle); FDACS\_03427, Rev. ~~02/17 12/09~~, Owner’s Daily Inspection Report (Bungy). In lieu of the forms referenced in this section and incorporated by reference in Rule 5J-18.0012, F.A.C., the owner or manager may request approval of an alternative form if the alternative form includes, at a minimum, all information required on the applicable department form. Upon approval, an alternative form may be used to document daily inspections as required by Section 616.242(15), F.S.

Rulemaking Authority 616.165, 616.242(15) FS. Law Implemented 616.242 FS. History–New 9-15-92, Amended 2-23-94, 2-14-99, 5-30-05, 5-30-10, Formerly 5F-8.009, Amended \_\_\_\_\_.

5J-18.0125 Fencing and Gate Standards.

ASTM International, F-24 Committee F-24 on Amusement Rides and Devices Designations F1159-11 ~~F-1159-03a~~ and

F2291-14, as incorporated by reference in Rule 5J-18.0011, F.A.C. ~~F-2291-09a~~ and the following shall be the fencing and gate standards for amusement rides:

(1) through (2) No change.

Rulemaking Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242 FS. History–New 5-30-10, Formerly 5F-8.0125, Amended \_\_\_\_\_.

5J-18.0127 Enforcement Actions and Administrative Penalties.

(1) This rule sets forth the guidelines the ~~d~~Department will follow in imposing the penalties authorized under Chapter 616, F.S. The purpose of the guidelines is to give notice of the range of penalties which ~~normally~~ will be imposed for a single violation. These guidelines list aggravating and mitigating factors that, if present, will reduce or increase penalties to be imposed against the violator by the department. No aggravating factors will be applied to increase a fine imposed for a single violation above the statutory maximum of \$2,500 per violation, per day. The guidelines in this rule chapter are based upon a single count violation of each provision listed. Multiple counts of the violated provision or a combination of the listed violations will be added together to determine an overall total penalty and will be grounds for enhancement of penalties.

(2) The ~~d~~Department will enforce compliance with Chapter 616, F.S., and this rule chapter by issuing an administrative complaint, notice of noncompliance, a stop operation order, out of service tag, or an immediate final order for violations of Chapter 616, F.S., and this rule chapter.

(3) through (4) No change.

(5) Rule Not All-Inclusive. This rule contains illustrative violations. It does not, and is not intended to encompass all possible violations of statute or ~~d~~Department rule that might be committed by any person. The absence of any violation from this rule ~~chapter~~ shall in no way be construed to indicate that the violation does not cause harm to the public or is not subject to a penalty. In any instance where the violation is not listed in this rule ~~chapter~~, the penalty will be determined by consideration of:

(a) through (b) No change.

(6) Aggravating and Mitigating Factors. The ~~d~~Department will consider aggravating and mitigating factors in determining penalties for violations of Chapter 616, F.S., and this rule chapter. The factors shall be applied against each single count of the listed violation. If a notice of noncompliance is issued for an initial violation, a second violation within a three-year period shall result in a fine of at least \$250, not to exceed \$2,500. Both aggravating and mitigating factors, if present shall be applied against each single count of the listed violation regardless of whether the violation is a minor violation or a major violation as described in subsection (9) below.

- (a) Aggravating Factors shall include:
1. through 2. No change.
  3. Previous violations within the preceding three years for the same or a similar offense that resulted in imposition of administrative penalties, issuance of a notice of noncompliance, or suspension or revocation of a permit or inspection certificate enforcement action.
  4. No change.
  5. ~~The violation was repeated within three years.~~
  6. through 13. renumbered 5. through 12. No change.
- (b) Mitigating Factors shall include:
1. No change.
  2. ~~Whether~~ Intentional actions of another party prevented the violator from complying with the applicable laws or rules.
  3. Substantiated Financial hardship.
  4. Acts of God or nature that impairs the ability of the violator to comply with Chapter 616, F.S., or this rule chapter ~~Chapter 5J-18, F.A.C.~~
  5. through 9. No change.
  - (7) through (8) No change.
  - (9) Penalties.

(a) No change.

(b) Minor Violations. ~~A violation of Chapter 616, F.S., or this rule chapter is a minor violation if it does not result in economic or physical harm to a person or adversely affect the public health, safety, or welfare or create a significant threat of such harm.~~ Minor violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$250 per violation, per day. ~~Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph (6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as outlined in Section 616.242(19)(a), F.S.~~ For the purposes of this rule, the following violations shall be considered minor violations:

1. through 6. No change.
7. Failure to prominently display required signage at the entrance of each amusement ride.

(c) Major Violations. ~~A violation of a Chapter 616, F.S., or this rule chapter is a major violation if it results in economic or physical harm to a person or adversely affects the public health, safety, or welfare or creates a significant threat of such harm.~~ Major violations shall result in the imposition of an administrative fine against the owner of the amusement ride of \$1,000 per violation, per day or suspension of the owner's permit or inspection certificate for not more than one year or revocation the owner's permit or inspection certificate or any combination thereof. ~~Aggravating factors as defined in paragraph (6)(a) of this rule shall warrant the adjustment of the fine upward and mitigating factors as defined in paragraph~~

~~(6)(b) of this rule shall warrant the adjustment of the fine downward, but no fine shall exceed the statutory maximum as outlined in Section 616.242(19)(a), F.S.~~ For the purposes of this rule, the following violations shall be considered major violations due to their high potential for consumer harm:

1. through 6. No change.
7. Operating an amusement ride without a current permit, as outlined in Section 616.242(5), F.S., ~~affidavit of compliance/non-destructive testing, inspection certificate, or insurance or bond or any combination of each.~~
8. Operating an amusement ride without an affidavit of compliance/non-destructive testing, as outlined in Section 616.242(6), F.S.
9. Operating an amusement ride without an inspection certificate, as outlined in Section 616.242(7), F.S.
10. Operating an amusement ride without insurance, as outlined in Section 616.242(9), F.S.

8. through 15. renumbered 11. through 18. No change.  
 Rulemaking Authority 616.165, 616.242(4) FS. Law Implemented 616.242(4)(b), (18), (19) FS. History—New 5-30-10, Formerly 5F-8.0127, Amended.

5J-18.014 Training of Managers, Attendants, and Maintenance Persons.

The owner or manager shall maintain the record of employee training required by Section 616.242(16), F.S., on ~~d~~Department form FDACS-03431, Rev. 02/17 42/09, Employee Training Record. In lieu of form FDACS-03431 as incorporated by reference in Rule 5J-18.0012, F.A.C., the owner or manager may request approval of an alternative form if the alternative form includes, at a minimum, all information required on the applicable department form. Upon approval, an alternative form may be used to document employee training as required by Section 616.242(16), F.S.

Rulemaking Authority 616.165, 616.242(4), 616.242 (19) FS. Law Implemented 616.242(16) FS. History—New 7-31-94, Amended 2-14-99, 5-30-05, 5-30-10, Formerly 5F-8.014, Amended.

5J-18.015 Regulation of Go-Kart Tracks and Similar Vehicles.

- (1) through (2) No change.
- (3) Posted Signs. Each owner shall have a sign posted at the entrance to each track or in the pit area containing the following instructions and information for operation:
  - (a) through (e) No change.
  - (f) Properly secure clothing and hair as to not interfere with safe operations.

(4) through (9) No change.  
 Rulemaking Authority 616.165, 616.242(4), (15) FS. Law Implemented 616.242 FS. History—New 12-6-93, Amended 2-14-99, 5-30-10, Formerly 5F-8.015, Amended.

5J-18.016 Regulation of Water Parks.

(1) through (4) No change.

(5) Daily Inspections. During operations, the owner or the owner's designee shall:

(a) No change.

(b) Maintain appropriate water related amusement ride inspection records as required in Section 616.242(15), F.S., and section 4.1.4, ~~F770-14 F-770-88~~, ASTM International Committee F-24 on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C.

(6) through (8) No change.

Rulemaking Authority 616.165, 616.242(4)(c) FS. Law Implemented 616.242(4) FS. History—New 12-6-93, Amended 2-14-99, 5-30-10, Formerly 5F-8.016, Amended \_\_\_\_\_.

5J-18.025 Regulation of Bungy Operations.

(1) through (3) No change.

(4) Equipment Design and Construction.

(a) Prior to commencing bungy jump operations, the owner shall submit to the Department a professional engineer's report certifying that the design and construction of the structures, equipment, access ways and operating areas meet the requirements of Chapter 616, F.S., and Chapter 5J-18, F.A.C., the applicable local laws, American Society of Testing and Materials (ASTM) International Committee F-24 Standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C., and other applicable Government Codes, and are certified by the engineer to be suitable for a bungy jumping operation. The engineer's report shall also contain site plans, safety zones, drawings and specifications of equipment and structures, certification of the safety air bag, certification of the jumper safety harness, certification of the jump worthiness of the bungy cords to be used, and certification that the methods of attachment and location of attachment are the safest available.

(b) No change.

(5) through (12) No change.

(13) Cranes. No person shall operate a bungy jump which utilizes a crane or derrick unless the following criteria are expressly met:

(a) through (p) No change.

(q) The owner shall provide training to the crane or hoist operator, jump master, and ground personnel who assist jumpers in hooking up and unhooking, persons who dismantle or erect the crane, and persons who have any rigging duties. Training conducted must meet the minimum requirements set forth in ASTM Standard ~~F770-14, 4.1, F770-88 4.1.~~, contained in ASTM International Committee F-24 Standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C. ~~4th Edition, 1992.~~

(r) through (w) No change.

(14) through (15) No change.

(16) Jumper Harness. No bungy jump shall be operated unless the owner provides and requires each jumper to use a jumper harness that meets the following requirements:

(a) A jumper harness shall be full body, designed either as a full body harness or a sit harness with shoulder straps and shall be certified by a professional engineer as being in accordance with the requirements of one of the following:

1. UIAA, Mountaineering and Climbing Equipment, as incorporated by reference in paragraphs 5J-18.0011(6)(a) and (b), F.A.C. Chapters A, B, C, and E, General Regulations for the UIAA Label, Ropes for Mountaineering, Karabiners, and Harnesses, respectively, from Union Internationale Des Associations D'Alpinisme, hereby adopted by reference, 1380 Fairfield Woods Road, Fairfield, Connecticut 06430; or

2. The National Fire Protection Association (NFPA) 1983 Standard on Life Safety Rope and Equipment for Emergency Services, 2012 Edition, as incorporated by reference in subsection 5J-18.0011(7), F.A.C. Fire Service Life Safety Rope, Harness, and Hardware, 1990 Edition, hereby adopted by reference, copies of which may be obtained from NFPA, P. O. Box 9101, Quincy, Mass. 02269-9101; or

3. The American National Standards for Construction and Demolition Operations—Requirements for Safety Belts, Harnesses, Lanyards and Lifelines for Construction and Demolition Use approved on July 31, 1991 by the American National Standards Institute, Inc. and published by the National Safety Council, hereby adopted by reference, copies of which may be obtained from National Safety Council, 1121 Spring Lake Drive, Itasca, IL 60143-3201.

(b) through (e) No change.

(17) No change.

(18) Hardware.

(a) Karabiners shall be of the steel screw gate type with a breaking load of at least 4,400 pounds and shall be certified by a professional engineer as being in accordance with requirements of one of the following:

1. UIAA, Mountaineering and Climbing Equipment, as incorporated by reference in paragraph 5J-18.0011(6)(c), F.A.C. Chapters A, B, C, and E, General Regulations for the UIAA Label, Ropes for Mountaineering, Karabiners, and Harnesses, respectively, from Union Internationale Des Associations D'Alpinisme, hereby adopted by reference, 1380 Fairfield Woods Road, Fairfield, Connecticut 06430; or

2. The National Fire Protection Association (NFPA) 1983 Standard on Life Safety Rope and Equipment for Emergency Services, 2012 Edition, as incorporated by reference in subsection 5J-18.0011(7), F.A.C. Fire Service Life Safety Rope, Harness, and Hardware, 1990 Edition, hereby adopted by

~~reference, copies of which may be obtained from NFPA, P. O. Box 9101, Quincy, Mass. 02269 9101; or~~

~~3. The American National Standards for Construction and Demolition Operations — Requirements for Safety Belts, Harnesses, Lanyards and Lifelines for Construction and Demolition Use approved on July 31, 1991 by the American National Standards Institute, Inc. and published by the National Safety Council, hereby adopted by reference, copies of which may be obtained from National Safety Council, 1121 Spring Lake Drive, Itasca, IL 60143 3201.~~

(b) Pulleys and shackles shall have a minimum breaking load of at least 4,400 pounds and shall be certified by a professional engineer as being in accordance with the requirements of one of the following:

~~1. Chapters A, B, C, and E General Regulations for the UIAA Label, Ropes for Mountaineering, Karabiners, and Harnesses, respectively, from The Union Internationale Des Associations D'Alpinisme; or~~

~~2. The National Fire Protection Association (NFPA) 1983 Standard on Life Safety Rope and Equipment for Emergency Services, 2012 Edition, as incorporated by reference in subsection 5J-18.0011(7), F.A.C. Fire Service Life Safety Rope, Harness, and Hardware, 1990 Edition, hereby adopted by reference, copies of which may be obtained from NFPA, P. O. Box 9101, Quincy, Mass. 02269 9101; or~~

~~3. The American National Standards for Construction and Demolition Operations — Requirements for Safety Belts, Harnesses, Lanyards and Lifelines for Construction and Demolition Use approved on July 31, 1991 by the American National Standards Institute, Inc. and published by the National Safety Council, hereby adopted by reference, copies of which may be obtained from National Safety Council, 1121 Spring Lake Drive, Itasca, IL 60143 3201.~~

(c) through (e) No change.

(19) through (24) No change.

(25) Fences.

(a) through (c) No change.

(d) Prior to commencing bungy jump operations, the owner shall submit to the Department a professional engineer's report certifying that the design and construction of the fences or barricades meet the requirements of Chapter 616, F.S., and Chapter 5J-18, F.A.C., the applicable local laws, ASTM International Committee F-24 Standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C., and other applicable Government Codes, and are certified by the engineer to be suitable for a bungy jumping operation.

(e) No change.

(26) through (34) No change.

(35) Operating Manual and Documentation. The owner shall provide and maintain an operating manual at each bungy site in accordance with ASTM International Committee F-24 standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C., and the following requirements:

(a) through (d) No change.

(36) through (42) No change.

(43) Engineer Certification.

(a) Prior to conducting bungy jump operations in this state, the owner shall provide to the Department an affidavit, or affidavits, executed by a professional engineer, or professional engineers, containing the following information:

1. through 2. No change.

3. The engineer certifies that the bungy cords to be used in the bungy jump operation, as well as the manufacturing process for the bungy cords, including quality control methods, have been personally examined and reviewed and that the engineer found all types of bungy cords and the manufacturing process to conform in all applicable respects to Section 616.242, F.S., this rule chapter, and ASTM International Committee F-24 Standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C. The engineer shall further certify that the bungy cords tested and certified pursuant to subsection (4) of this rule were manufactured by the same manufacturing process as those cords which are to be used in the bungy jumping operations.

4. through 7. No change.

8. The engineer certifies the bungy jump operation has been inspected and is in compliance with Chapter 616, F.S., ASTM International Committee F-24 standards on Amusement Rides and Devices Designation, as incorporated by reference in Rule 5J-18.0011, F.A.C., and this rule.

9. No change.

(44) No change.

Rulemaking Authority 616.165, 616.242(4)(c), (6) FS. Law Implemented 616.242 FS. History—New 11-11-92, Amended 6-13-93, 9-21-93, 2-23-94, 4-15-94, 7-5-94, 5-7-96, 2-14-99, 5-30-10, Formerly 5F-8.025, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Amy Topol, Director, Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Commissioner of Agriculture Adam H. Putnam

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 22, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: August 8, 2016

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE NOS.: RULE TITLES:

5J-25.005 Security Requirements for Grain Dealers

5J-25.009 Documents Incorporated by Reference

PURPOSE AND EFFECT: The proposed rulemaking eliminates the monthly reporting requirement for grain dealers, removes unnecessary language, and amends and eliminates certain incorporated department forms to ensure efficiency and statutory compliance.

SUMMARY: The proposed rules repeal Rule 5J-25.005, F.A.C., remove the grain dealer monthly report requirement and unnecessary language that restates s. 604.33, F.S., and update and eliminate certain incorporated department forms to ensure statutory compliance with Ch. 2016-61, Laws of Florida and the dealers in agricultural products law.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

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. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The proposed revisions eliminate a monthly report filing, remove unnecessary language, and eliminate and amend department forms. There are no increased regulatory costs associated with these revisions. Additionally, no interested party submitted additional information regarding the economic impact.

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: 534.48, 535.02, 604.27, 570.07(23) FS.

LAW IMPLEMENTED: 534.48, 535.01, 604.16, 604.18, 604.20, 604.21, 604.23, 604.33 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Topol, Director, Division of Consumer Services, 2005 Apalachee Parkway, Tallahassee, Florida, 32399-6500, email at Amy.Topol@FreshFromFlorida.com or by phone (850)410-3662.

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

5J-25.005 Security Requirements for Grain Dealers. Rulemaking Authority 604.27 FS. Law Implemented 604.33 FS. History—New 2-2-86, Formerly 5H-1.005, Repealed.

5J-25.009 Documents Incorporated By Reference. The following documents are hereby incorporated by reference. Copies of these documents may be obtained from the Division of Consumer Services Agricultural Dealer’s Licenses at 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500 or online as indicated.

(1) No change.  
(2) Statement of Exemption, FDACS-06301 (Rev. 03/17 04/14), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00437>.

(3) Application for Agricultural Products Dealer License, FDACS-06302 (Rev. 03/17 04/14), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00438>.

(4) Agricultural Products Dealer Bond, FDACS-06303 (Rev. 03/17 03/14), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00439>.

~~(5) Grain Dealers Monthly Report, DACS 06306 (Rev. 10/10), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00440>.~~

~~(5)(6) Answer of Respondent, FDACS-06314 (Rev. 03/17 06/14), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00441>.~~

~~(7) Request For Accounting, DACS 06325 (Rev. 04/11), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00442>.~~

~~(6)(8) Agricultural Products Dealer Claim Package Packet, FDACS-06329 (Rev. 03/17 04/14), <http://www.flrules.org/Gateway/reference.asp?No=Ref-00443>.~~

Rulemaking Authority 534.48, 535.02, 570.07(23), 604.27 FS. Law Implemented 534.48, 535.01, 604.16, 604.18, 604.20, 604.21, 604.23, 604.33 FS. History—New 8-15-11, Formerly 5H-1.009, Amended.



NAME OF PERSON ORIGINATING PROPOSED RULE:  
Amy Topol, Director, Division of Consumer Services  
NAME OF AGENCY HEAD WHO APPROVED THE  
PROPOSED RULE: Commissioner of Agriculture Adam H.  
Putnam  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: March 24, 2017  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAR: October 28, 2016

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

RULE NO.: 61-9.003      RULE TITLE: Examinations  
PURPOSE AND EFFECT: To repeal paragraphs (c), (e), (f),  
(g), (h), (i), (j), and (k) in rule 61-9.003(2) and (5), F.A.C.  
SUMMARY: The proposed rulemaking repeals paragraphs (c),  
(e), (f), (g), (h), (i), (j), and (k) in rule 61-9.003(2) and (5),  
F.A.C., as they apply to professions which the Department no  
longer regulates.

**SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COSTS AND LEGISLATIVE  
RATIFICATION:**

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. A SERC has not  
been prepared by the Agency.

The Agency has determined that the proposed rule is not  
expected to require legislative ratification based on the  
statement of estimated regulatory costs or if no SERC is  
required, the information expressly relied upon and described  
herein: the economic review conducted 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: 455.203(5), 455.218(1), FS.  
LAW IMPLEMENTED: 455.218(1), (2), (3), FS.

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

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: Thomas J. Izzo, Assistant General Counsel,  
Department of Business and Professional Regulation, 2601  
Blair Stone Road, Tallahassee, Florida 32399, (850)488-0062.  
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: Thomas J. Izzo, Assistant General  
Counsel, Department of Business and Professional Regulation,  
2601 Blair Stone Road, Tallahassee, Florida 32399, (850)488-  
0062.

THE FULL TEXT OF THE PROPOSED RULE IS:

61-9.003 Examinations.

(1) No change.

(2) The examination for licensure pursuant to Section  
455.218(1), F.S., shall be the examination named or described  
as follows:

(a) through (b) No change.

~~(c) Dentistry. The examination to be licensed to practice  
Dentistry shall be the written practical examination prepared by  
the Department, or an examination equivalent to it, the laws and  
rules examination prepared by the Department, or an  
examination equivalent to it, and the Comprehensive Treatment  
Planning examination prepared by the North East Regional  
Board of Dental Examiners (NERB), or an examination  
equivalent to it, which shall include the following areas:~~

- ~~1. Diagnosis and Treatment Planning~~
- ~~2. Restorative~~
- ~~3. Endodontics~~
- ~~4. Periodontics~~
- ~~5. Orthodontics~~
- ~~6. Pediatric Dentistry~~
- ~~7. Prosthodontics (Fixed Complete and Removable)~~
- ~~8. Oral Surgery~~
- ~~9. Anesthesia~~
- ~~10. Prevention~~
- ~~11. Oral Medicine and Oral Pathology~~
- ~~12. Radiology~~
- ~~13. Infection Control~~
- ~~14. Dental Materials~~
- ~~15. Laws and Rules~~

~~(c)(d) Engineering. The examination for applicants to be  
licensed to practice Engineering shall be Part II of the  
Professional Engineer Examination described as Principles and  
Practice as prepared by the National Council of Engineering  
Examiners, or an examination equivalent to it. The examination  
will test the applicant's ability to apply acceptable engineering  
practice to problems which are representative of the applicant's  
discipline. The selection of disciplines will be made by the  
applicant at the time of application for examination. Applicants  
will be required to solve seven to ten problems drawn from a  
test pattern generally set forth as follows:~~

~~1. through 16. No change.~~

~~(e) Land Surveying. The examination for applicants to be licensed to practice Land Surveying shall be the Practice and Principles examination as prepared by the Department, or an examination equivalent to it. The examination will test the applicant's ability to apply acceptable land surveying practice to problems in the following areas:~~

- ~~1. Sectionalized Land~~
- ~~2. Metes and Bounds~~
- ~~3. Lot and Block~~
- ~~4. Water Boundary~~
- ~~5. Condominium~~
- ~~6. Right of Way~~
- ~~7. Topographic~~
- ~~8. Construction Layout~~
- ~~9. Legal Responsibilities and Records Research~~
- ~~10. Legal Description and Report Preparation~~
- ~~11. Record Plat Computations~~

~~(f) Medicine. The examination for applicants to be licensed to practice medicine shall be component 2 of the Federation Licensing Examination (FLEX) as provided by the Federation of State Medical Boards, or an examination equivalent to it.~~

~~(g) Nursing. The examination for applicants to be licensed to practice nursing as a Registered Nurse or Practical Nurse shall be the examination as prepared by the National Council of State Boards of Nursing, Inc., or an examination equivalent to it, which shall include the following subjects:~~

- ~~1. Registered Nurse:~~
  - ~~Medical Nursing~~
  - ~~Surgical Nursing~~
  - ~~Obstetrical Nursing~~
  - ~~Psychiatric Nursing~~
  - ~~Nursing of Children~~
- ~~2. Practical Nurse:~~
  - ~~Medical Nursing~~
  - ~~Surgical Nursing~~
  - ~~Obstetrical Nursing~~
  - ~~Nursing of Children~~

~~(h) Optometry. The examination for applicants to be licensed to practice Optometry shall be the examination as prepared by the Department, or an examination equivalent to it, which shall include the following subjects:~~

- ~~1. Pharmacology/Ocular Disease (25 problems; 125 questions)~~
- ~~2. Florida Laws and Rules governing the Practice of Optometry (25 questions)~~
- ~~3. Knowledge of Technique for:~~
  - ~~a. Internal Examination by Means of Binoocular Indirect Ophthalmoscope (10 questions)~~
  - ~~b. Biomeicroscopy (Binoocular) (10 questions)~~
  - ~~c. Gonioscopy (10 questions)~~
  - ~~d. Goldmann Tonometry (10 questions)~~

~~e. Hruby Lens and Fundus Lens (10 questions)~~

~~(i) Pharmacy. The examination to be licensed to practice Pharmacy shall be as follows:~~

- ~~1. Integrated NABP Examination, or an examination equivalent to it~~
  - ~~a. Interpreting and Dispensing Prescriptions/Medication Orders (25%)~~
  - ~~b. Assessing Prescription/Medication Orders and the Drugs Used in Dispensing Them (10%)~~
  - ~~c. Compounding and Calculation Involved in the Extemporaneous Preparation of Prescriptions/Medication Orders (15%)~~
  - ~~d. Monitoring Drug Therapy (25%)~~
  - ~~e. Counseling Patients & Health Professionals (25%)~~
- ~~2. Florida Laws and Rules Section~~

~~(j) Podiatric Technician. The examination to be licensed to practice as a Podiatric Technician, whose scope of practice is defined by the Board of Podiatric Medicine, shall be the written practical examination prepared by the Department, or an examination equivalent to it, which shall consist of 200 questions and be graded as to each subject area as follows:~~

- ~~1. Written Practical Examination~~
  - ~~a. History 8%~~
  - ~~b. Vascular Examination 8%~~
  - ~~c. Neurological Examination 8%~~
  - ~~d. Musculo-Skeletal Examination 8%~~
  - ~~e. Dermatological Examination 8%~~
  - ~~f. Palpitation 5%~~
  - ~~g. Laboratory 2%~~
  - ~~h. Radiography and Photography 5%~~
  - ~~i. Podiatric Management 13%~~
  - ~~j. Podiatric Orthopedic's 8%~~
  - ~~k. Surgical Management 8%~~
  - ~~l. Physical Therapy 8%~~
  - ~~m. First Aid 2%~~
  - ~~n. Patient Advice & Counseling 2%~~
  - ~~o. Anesthesia 5%~~
  - ~~p. Practice Management 2%~~
- ~~2. Clinical Practical Examination (Reserved)~~

~~(k) Podiatry (Reserved), or an examination equivalent to it.~~

~~(d)(4) Veterinary Medicine. The examination for applicants to be licensed to practice veterinary medicine shall consist of two parts as follows:~~

- ~~1. through 2. No change.~~
- ~~(3) through (4) No change.~~
- ~~(5) The passing scores for the examinations administered pursuant to Section 455.218(1), F.S., shall be as follows:~~

~~(a) through (b) No change.~~

~~(c) Dentistry. The passing score for the Dentistry examination shall be a combined scaled score of seventy-five (75) or greater on the Florida Written Practical and NERB~~

~~examination, or an examination equivalent to it, and a scaled score of seventy (70) or greater on the Laws and Rules, or an examination equivalent to it. A score with .5 or greater will be rounded up to the nearest whole number. A score of less than .5 will be rounded down to the nearest whole number.~~

~~(c)(4) Engineers. The passing score for the Engineering examination shall be in accordance with Rule 61G15-21.004(2), F.A.C., Board of Engineers.~~

~~(e) Land Surveying. The passing score for the Land Surveying examination shall be 70% of the total possible points on the examination.~~

~~(f) Medicine. (75)~~

~~(g) Nursing. The passing score for the Registered Nurse examination and the Practical Nurse examination shall be in accordance with Rule 61F7-8.023(1) and (2), F.A.C., Board of Nursing.~~

~~(h) Optometry. (Reserved)~~

~~(i) Pharmacy. The passing score for the Pharmacy examination shall be in accordance with Rule 61F10-12.001(2)(a) and (b), F.A.C., Board of Pharmacy.~~

~~(j) Podiatric Technician. Candidates' scores will be converted to a scale of 0 to 100. The minimum passing score shall be set at 75 on that scale.~~

~~(k) Podiatry. (Reserved)~~

~~(d)(4) Veterinary Medicine. The passing score for Part one of the Veterinary Medicine examination shall be in accordance with Rule 61G18-11.002(6), Florida Administrative Code, Board of Veterinary Medicine. The passing score of Part two of the Veterinary Medicine examination shall be in accordance with Rule 61G18-11.002(7), Florida Administrative Code, Board of Veterinary Medicine.~~

~~Rulemaking Specific Authority 455.203(5), 455.218(1) FS. Law Implemented 455.218(1), (2), (3) FS. History—New 2-5-87, Amended 3-24-88, 3-30-89, 6-14-89, 1-28-92, 6-3-93, Formerly 21-15.003, Amended 3-15-94, \_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:

Thomas J. Izzo, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: Matilde Miller, Interim Secretary

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: March 5, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: March 15, 2017

**FLORIDA HOUSING FINANCE CORPORATION**

RULE NOS.:	RULE TITLES:
67-21.001	Purpose and Intent
67-21.002	Definitions
67-21.0025	Miscellaneous Criteria
67-21.003	Application and Selection Process for Developments
67-21.004	Federal Set-Aside Requirements for MMRB Loans
67-21.0045	Determination of Method of Bond Sale
67-21.006	MMRB Development Requirements
67-21.007	MMRB 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	MMRB Credit Underwriting Procedures
67-21.015	Use of Bonds with Other Affordable Housing Finance Programs
67-21.017	Transfer of Ownership of a MMRB Development
67-21.018	Refundings and Troubled Development Review
67-21.019	Issuance of Bonds for Section 501(c)(3) Entities
67-21.025	HC Fees
67-21.026	HC Credit Underwriting Procedures
67-21.027	HC General Program Procedures and Requirements
67-21.028	HC with Tax-Exempt Bond-Financed Developments
67-21.029	HC Extended Use Agreement
67-21.030	Sale or Transfer of a Housing Credit Development
67-21.031	Qualified Contracts

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 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.; and

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

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

SUMMARY: Prior to the opening of an Application process, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Applications 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 for MMRB, Non-Competitive Housing Credits, or a combination of both.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

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. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The rule is not likely to 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. The rule is not likely to 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. In addition, the rule is not likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

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, 420.5099 FS.

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

DATE AND TIME: April 19, 2017, 10:00 a.m. Eastern Time

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301. The hearing will also be accessible by telephone and the call-in information will be posted on the Corporation’s website: <http://www.floridahousing.org/Developers/MultiFamilyPrograms/Competitive/2017RuleDev/>.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ken Reecy, Director of Multifamily Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197.

THE FULL TEXT OF THE PROPOSED RULE IS:

**PART I ADMINISTRATION**

**67-21.001 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 amount and make and service mortgage loans for new construction or rehabilitation of affordable rental units under the Multifamily Mortgage Revenue Bonds (MMRB) Program authorized by Section 420.509, F.S.; and,

(2) Administer the Application process, determine Non-Competitive 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, 420.508 FS. Law Implemented 420.509, 420.5099 FS. History—New 7-16-13, Repromulgated 2-2-15, 9-15-16,\_\_\_\_\_.

**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 number, street name and city or, at a minimum, street name, closest designated intersection, and whether or not the Development is located

within a 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:

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

(b) Serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer;

(c) Directly or indirectly receives or will receive a financial benefit from a Development except as further described in Rule 67-21.0025, F.A.C.; or

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

(6) "Allocation Authority" means the total dollar volume of the state of Florida's Housing Credit ceiling available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

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

(9) "Applicant" means any person or legal entity of the type and with the management and ownership structure described herein that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to Rule Chapter 67-60, F.A.C., for one or more of the Corporation's programs. For purposes of Rule 67-21.031, F.A.C., Applicant also includes any assigns or successors in interest of the Applicant. Unless otherwise stated in a competitive solicitation, as used herein, a 'legal entity' means a legally formed corporation, limited partnership or limited liability company with a management and ownership structure that consists exclusively of all natural persons by the third principal disclosure level. For Applicants seeking Housing Credits, the Housing Credit Syndicator/Housing Credit investor need only be disclosed at the first principal disclosure level and no other disclosure is required. The terms 'first principal disclosure level' and 'third principal disclosure level' have the meanings attributed to them in the definition of "Principal."

(10) "Application" means the forms and exhibits created by the Corporation for the purpose of providing the means to apply for MMRB only, Non-Competitive Housing Credits only, or both MMRB and Non-Competitive Housing Credits, as outlined in subsection 67-21.003(1), F.A.C. A completed

Application may include additional supporting documentation provided by an Applicant.

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

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

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

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

(15) "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.

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

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

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

(19) "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.

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

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

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

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

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

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

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

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

(33) “Development Cost” means the total of all costs incurred in the completion of a Development excluding Developer Fee, operating deficit reserves, and total land cost as typically shown in the Development Cost line item on the development cost pro forma.

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

(38) “Elderly Housing” 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.

(39) “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.

(40) “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.

(41) “Executive Director” means the Executive Director of the Corporation.

(42) “Family” describes a household composed of one or more persons.

(43) “Farmworker” means Farmworker as defined in Section 420.503, F.S.

(44) “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.

(45) “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.

(46) “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 Package pursuant to Rule 67-21.027, F.A.C.

(47) “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 67-21.0025, F.A.C.

(48) “Freddie Mac Multifamily Targeted Affordable Housing Lender” means any entity that (a) has been approved and designated by the Federal Home Loan Mortgage Corporation (“Freddie Mac”) to act as a lender and seller-servicer for Freddie Mac multifamily targeted affordable housing transactions (including those under Freddie Mac’s Tax-Exempt Loan Program) and (b) has accepted a written commitment from Freddie Mac to purchase Bonds under Freddie Mac’s Tax-Exempt Loan Program pursuant to the terms and conditions of said commitment.

(49) “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 Rules 67-21.014 and 67-21.026, F.A.C.

(50) “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 the following:

(a) Section 42(h)(7)(A) of the Internal Revenue Code;

(b) This rule chapter regarding Non-Competitive Housing Credits; and,

(c) Rule Chapter 67-48, F.A.C., regarding Competitive Housing Credits.

(51) “Homeless” means Homeless as defined in Section 420.621, F.S.

(52) “Housing Credit” means the tax credit issued in exchange for the development of rental housing pursuant to the following:

(a) Section 42 of the IRC;

(b) The provisions of this rule chapter regarding Non-Competitive Housing Credits; and,

(c) The provisions of Rule Chapter 67-48, F.A.C., regarding Competitive Housing Credits.

(53) “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.

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

(55) “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:

(a) The date specified by the Corporation in the Extended Use Agreement; or

(b) 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.

(56) “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.

(57) “Housing Credit Rent-Restricted Unit” means, with respect to a Housing Credit Development, a unit for which the gross monthly rent shall not exceed 30 percent of the imputed

income limitation applicable to such unit as committed to by the Applicant in its Application and shall be determined in a manner consistent with Section 42(g)(2) of the IRC.

(58) “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.

(59) “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 IRC.

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

(61) “HUD Risk Sharing Program” means the program authorized by section 542(c) of the Housing and Community Development Act of 1992.

(62) “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.

(63) “Investment Banker” means, with respect to an issue of Bonds, an underwriter, placement agent or structuring agent who is under contract with the Corporation and whose primary purpose is to either:

(a) In the case of an underwriter, acquire the Bonds in a commercial arm’s length transaction for resale to investors, or

(b) In the case of a placement agent or structuring agent, arrange for the sale of Bonds.

In either case, the underwriter, placement agent or structuring agent assists on matters pertinent to the Bond issue, such as structure, timing, marketing, terms, Bond ratings and cash flows.

(64) “IRC” or “Internal Revenue Code” means 26 CFR Sections 42, 142, 147, 151, and 501 of the Internal Revenue Code of 1986, 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.

(65) “IRMA” or “Independent Registered Municipal Advisor” means a professional who is under contract with the Corporation to provide advice with respect to the issuance of municipal securities, which advice may include, among other things, the determination of the method of sale for one or more series of Bonds. The IRMA owes the Corporation a fiduciary duty and is obligated to place the interest of the Corporation ahead of its own and may not engage in self-dealing.

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

(67) “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.

(68) “Low Income” means the adjusted income for a Family which does not exceed 80 percent of the area median income.

(69) “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.)

(70) “MMRB” or “MMRB Program” means the Corporation’s Multifamily Mortgage Revenue Bond Program.

(71) “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.

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

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

(74) “MMRB Loan Commitment” means the loan commitment ~~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 make the MMRB Loan ~~lend the proceeds of the Bonds~~ to the Applicant for the purpose of financing a Development.

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

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

(77) “Non-Competitive Housing Credits” or “Non-Competitive HC” means those Housing Credits which qualify to be used with Tax-Exempt Bond-Financed Developments and

do not come from the Corporation’s annual Allocation Authority.

(78) “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 67-21.0025, F.A.C.

(79) “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.

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

(81) “Persons with Special Needs” means Person with special needs as defined in Section 420.0004(13), F.S.

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

(83) “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.

(84) “Preservation” means rehabilitation of an existing development that was originally built in 1996 or earlier and has an active contract through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515, or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), or 811 of the U.S. Housing Act of 1937 (42 USC §1437), or either has PBRA or is public housing assisted through ACC. If funded through the Corporation, the Development must maintain at least the same number of PBRA or ACC units. Such developments must not have closed on funding from HUD or RD after 1996 where the budget was at least \$10,000 per unit for rehabilitation in any year.

(85) “Principal” means:

(a) With respect to an Applicant that is:

1. A corporation, at the first principal disclosure level, any officer, director, executive director, or shareholder of the Applicant corporation and, with respect to any shareholder of the Applicant corporation, at the second principal disclosure level, that is:



a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_ with respect to any shareholder entity identified at the second principal disclosure level that is:

e. A corporation, by the third disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons.

2. A limited partnership, at the first principal disclosure level, any general partner or limited partner of the Applicant limited partnership, and, unless otherwise excluded at subsection 67-21.002(9), F.A.C., with respect to any general partner or limited partner of the Applicant limited partnership, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_

with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and,

3. A limited liability company, at the first principal disclosure level, any manager or member of the Applicant limited liability company, and, unless otherwise excluded at subsection 67-21.002(9), F.A.C., with respect to any manager or member of the Applicant limited liability company, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_

with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons.

(b) With respect to a Developer that is:

1. A corporation, at the first principal disclosure level, any officer, director or shareholder of the Developer corporation and, with respect to any shareholder of the Developer corporation that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company;

2. A limited partnership, at the first principal disclosure level, any general partner or limited partner of the Developer limited partnership, and, with respect to any general partner or limited partner of the Developer limited partnership that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company; and,

3. A limited liability company, at the first principal disclosure level, any manager or member of the Developer limited liability company, and, with respect to any manager or member of the Developer limited liability company that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company.

(86) “Private Placement” means the sale of the Corporation Bonds directly or through an Investment Banker 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.

(87) “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 ~~the MMRB Loan Mortgage~~ sufficient to protect the interests of the Bond owners and the Corporation.

(88) “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.

(89) “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 Act of 1933,

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,

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,

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

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

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

7. Any business development company as defined in section 80b-2(a)(22) of the Investment Advisors Act of 1940,

8. Any organization described in section 501(c)(3) of the Internal Revenue Code, corporation (except a bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities Act of 1933, or a foreign bank or savings and loan or similar institution), partnership, Massachusetts or similar business trust, or any investment adviser registered under the Investment Advisors Act.

(b) Any dealer registered under section 15 of the Securities Exchange Act of 1934, 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 acting in a riskless principal transaction on behalf of a Qualified Institutional Buyer.

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

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

(f) Any bank or savings and loan defined in section 3(a)(2) or 3(a)(5)(A) of the Securities Act of 1933 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.

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

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

(92) "RD" or "Rural Development" means Rural Development Services (formerly the "Farmer's Home Administration" or "FmHA") of the United States Department of Agriculture.

(93) "Redevelopment" means:

(a) With regard to a proposed Development that involves demolition of multifamily rental residential structures currently or previously existing that were originally built in 1986 or earlier and either originally received financing or are currently financed through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515 or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), 811 of the U.S. Housing Act of 1937 (42 USC §1437), or have PBRA; and new construction of replacement structures on the same site maintaining at least the same number of PBRA units, or

(b) With regard to proposed Developments that involve demolition of public housing structures currently or previously existing on a site with a Declaration of Trust that were originally built in 1986 or earlier and that are assisted through ACC; and new construction of replacement structures on the same site, providing at least 25 percent of the total new units with PBRA, ACC, or both, after Redevelopment.

(94) "Rehabilitation" means, with respect to the Housing Credit Program, 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 67-21.0025, F.A.C.

(95) "Rehabilitation Expenditures", with respect to the MMRB Program, has the meaning set forth in section 147(d)(3) of the Internal Revenue Code.

(96) "Scattered Sites," as applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a "Scattered Site"). 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. All of the Scattered Sites must be located in the same county.

(97) "Special Counsel" means any attorney or law firm retained by the Corporation, pursuant to a Request for Qualifications (RFQ), to serve as counsel to the Corporation, including Disclosure Counsel.

(98) "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 Single Family Mortgage Revenue Bonds or MMRB Programs.

(99) "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.

(100) "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.

(101) "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.

(102) "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.

(103) "Total Development Cost" means the 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, and as further described in Rule 67-21.0025, F.A.C.

(104) "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.

(105) "Website" means the Florida Housing Finance Corporation's website, the Universal Resource Locator (URL) of which is [www.floridahousing.org](http://www.floridahousing.org).

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.502, 420.503, 420.503(4), 420.507, 420.508, 420.509, 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, 11-7-11, 7-16-13, 2-2-15, 9-15-16,\_\_\_\_\_.

## 67-21.0025 Miscellaneous Criteria.

(1) In addition to the alteration, improvement or modification of an existing structure, Rehabilitation or Preservation with respect to the Housing Credit Program also includes what is stated in Section 42(e) of the IRC, except that for the purposes of Non-Competitive HC, the following is substituted for Section 42(e)(3)(A)(ii)(II): "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 \$15,000 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. 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 MMRB Land Use Restriction Agreement and the Extended Use Agreement, as applicable. 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, of which the total cost cannot exceed the appraised value of the real property as determined in the Credit Underwriting process.

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

(c) Any expenses relating to the issuance of Tax-exempt Bonds or Taxable Bonds 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.

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

(i) Allowances for contingency reserves and any anticipated operating reserves as recommended by the Credit Underwriter and approved by the Corporation.

(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 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 67-21.002, 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 this rule chapter.

(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.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.509, 420.5099 FS. History--New 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated.

67-21.003 Application and Selection Process for Developments.

(1) Applicants shall apply for MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC as set forth below. For purposes of this subsection only, the term NC Award shall refer to MMRB, Non-Competitive HC, or a combination of MMRB and Non-Competitive HC, and funding from the following Corporation programs will not be considered to be other Corporation funding: Predevelopment Loan Program (PLP) and Elderly Housing Community Loan (EHCL) Program.

(a) If the NC Award will be in conjunction with other Corporation funding made available through the competitive

solicitation funding process outlined in Rule Chapter 67-60, F.A.C., the Applicant shall apply for the NC Award using the forms and procedures specified in the applicable competitive solicitation for such other funding. Unless otherwise specifically provided in the solicitation, all of the substantive provisions of this chapter will continue to apply to the NC Award. Any references in this chapter to "Application" shall mean the application or response submitted for such other funding.

(b) If the NC Award will not be in conjunction with other Corporation funding made available through the competitive solicitation funding process outlined in Rule Chapter 67-60, F.A.C., the Applicant shall utilize the Non-Competitive Application Package in effect at the time the Applicant submits the Application. The Non-Competitive Application Package or NCA (Rev. 08-2016) is adopted and incorporated herein by reference and consists of the forms and instructions available, without charge, on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-07356>, which shall be completed and submitted to the Corporation in accordance with this rule chapter.

(c) 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) For purposes of the Non-Competitive Application Package, failure to submit an Application completed in accordance with the Application instructions and these rules will result in the failure to meet threshold in accordance with the instructions in the Application and this rule chapter.

(3) For purposes of the Non-Competitive Application Package, each submitted Application shall be evaluated and preliminarily scored using the factors specified in the Non-Competitive Application Package and these rules. The Contact Person shall be notified by e-mail of 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. For the Corporation to deem an Application complete, all arrearages must be satisfied.

(4) For purposes of the Non-Competitive Application Package, 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 subsection (3) above that could result in failure to meet

threshold. A new form, page or exhibit provided to the Corporation prior to the time the Application is deemed complete 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. 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 to make such other changes as necessary to keep the Application consistent as revised. In the event an invitation to Credit Underwriting is not extended within 12 months of the date on which the Application was initially received due to an uncured failure to meet threshold, then the Application will be deemed to have expired. Following expiration of an Application, the Applicant may submit a new Non-Competitive Application Package for the same Development, which shall include payment of the Application fee for the new Application.

(5) For purposes of the Non-Competitive Application Package, for Applications requesting MMRB only or MMRB and Non-Competitive HC, based on the availability of State Bond Allocation designated by the Board of Directors for multifamily housing, the Corporation will recommend that the Board of Directors designate Applications for funding and offer the opportunity to enter Credit Underwriting.

(6) An Applicant shall be ineligible for funding or allocation in any program administered by the Corporation for a period of time as determined in paragraph (c) below if:

(a) The Board determines that the Applicant or any Principal, Financial Beneficiary, or Affiliate of the Applicant has made a material misrepresentation or engaged in fraudulent actions in connection with any Application for a Corporation program. For purposes of this subsection, there is a rebuttable presumption that an Applicant has engaged in fraudulent actions if the Applicant or any Principal, Financial Beneficiary or Affiliate of the Applicant:

1. Has been convicted of fraud, theft or misappropriation of funds,
2. Has been excluded from federal or Florida procurement programs for any reason, or
3. Has been convicted of a felony in connection with any Corporation program.

(b) Before any such determination can be final or effective, the Corporation must serve an administrative complaint that affords reasonable notice to the Applicant of the facts or conduct that warrant the intended action, specifies the proposed duration of ineligibility, and advises the Applicant of the opportunity to request a proceeding pursuant to Sections 120.569 and 120.57, F.S. Upon service of such complaint, all

pending transactions under any program administered by the Corporation involving the Applicant, or any Principal, Financial Beneficiary or Affiliate of the Applicant shall be suspended until a final order is issued or the administrative complaint is dismissed.

(c) The administrative complaint will include a proposed duration of ineligibility, which may be either a specific period of time or permanent in nature. With regard to establishing the duration, the Board shall consider the facts and circumstances, inclusive of each Applicant's compliance history, the type of misrepresentation or fraud committed, and the degree of harm to the Corporation's programs that has been or may be done.

(7) For purposes of the Non-Competitive Application Package, 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 (4) above:

(a) The Development is inconsistent with the purpose of the MMRB Program, the Housing Credit Program, or both, 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 (3) above.

(8) 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 is deemed complete. 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. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

(b) Principals of each Developer, including all co-Developers; notwithstanding the foregoing, the Principals 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. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

(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 is on the site. With regard to said approval, the Corporation shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

(f) Development Category;

(g) Development Type;

(h) Demographic Commitment;

(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. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

(j) 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; notwithstanding the foregoing, the Total Set-Aside Percentage 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. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

(k) Submission of one original hard copy with the required number of photocopies of the Application by the applicable Application submission deadline, as outlined in the Non-Competitive Application instructions;

(l) Payment of the required Application fee and, if applicable, the TEFRA fee at submission of the Application;

(m) The Application labeled "Original Hard Copy" must include a properly completed Applicant Certification reflecting an original signature.

All other items may be submitted as cures pursuant to subsection (4) above.

(9) 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 or to the Credit Underwriter, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(10) 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 until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(11) 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.

(12) 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.

(13) For Applications requesting MMRB:

(a) The Corporation shall initiate TEFRA Hearings on the proposed Developments after Applications are submitted. Neither the TEFRA Hearing, the invitation into Credit Underwriting, nor the Acknowledgment Resolution obligate the Corporation to finance the proposed Development in any way.

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

(c) 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 the good faith deposit within 14 Calendar Days from the receipt of such notice.

(d) Upon Board of Directors approval of a Credit Underwriting Report and a preliminary recommendation for the method of bond sale from the Corporation's IRMA, staff shall proceed with activities necessary to facilitate issuance of the

bonds. This shall include assigning an Investment Banker, Bond Counsel, Special Counsel, Disclosure Counsel, Trustee and any other professional necessary to complete the transaction. Requests for Taxable Bonds shall be considered by the Board of Directors in an amount recommended by the Credit Underwriter.

(e) Following receipt of the good faith deposit, the Corporation's assigned Special Counsel shall begin preparation of the loan commitment.

(f) Upon execution of a loan commitment, the Corporation shall authorize Bond Counsel, Special Counsel and Disclosure Counsel to prepare the Program Documents.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.502, 420.507(4), (13), (14), (18), (19), (20), (21), (24), (35), 420.508, 420.509, 420.5099 FS. History—New 12-3-86, Amended 12-4-90, 11-23-94, 9-25-96, 1-7-98, Formerly 91-21.003, 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, 11-7-11, 7-16-13, 2-2-15, 10-6-15, 9-15-16, \_\_\_\_\_.

67-21.0035 Applicant Administrative Appeal Procedures. 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, 11-7-11, Repealed 7-16-13.

## PART II MULTIFAMILY MORTGAGE REVENUE BOND PROGRAM

67-21.004 Federal Set-Aside Requirements for MMRB Loans.

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, 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, 420.508 FS. Law Implemented 420.502, 420.507, 420.508, 420.509 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, Amended 11-7-11, 7-16-13, 2-2-15, Repromulgated 9-15-16, \_\_\_\_\_.

#### 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 a competitively bid sale, 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 IRMA 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 IRMA shall consider the following:

(a) The anticipated credit and security structure of the transaction;

(b) The proposed financing structure of the transaction;

(c) The Corporation's programmatic objectives; and

(d) 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 IRMA recommends as candidates for a competitive sale, the Corporation shall engage a structuring agent. The Applicant may, at its sole expense, engage an Investment Banker for the transaction. Any cost to the Applicant for the Investment Banker in excess of \$18,000 must be paid out of the Developer Fee.

(6) For those transactions that the Corporation's IRMA recommends for a negotiated sale, the Corporation shall appoint an underwriter or placement agent.

Rulemaking Authority 420.507, 420.508 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, 11-7-11, 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated \_\_\_\_\_.

#### 67-21.006 MMRB 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 (2) 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, 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 the Elderly, Commercial Fishing Workers, the Homeless, Persons with Special Needs, 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 IRC; 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 (5) 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) 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 the Elderly, Commercial Fishing Workers, the Homeless, Persons with Special Needs, 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 (6) 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, with said approval being based upon the criteria outlined in paragraphs (a) and (b) above.

(14) The Applicant and Developer of a proposed Rehabilitation Development shall make every effort to rehabilitate existing housing without displacing existing tenants or 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 Rule Chapter 67-53, F.A.C., the Applicant's selection of a management company 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 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. With regard to said approval, the Board shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made will have a negative impact to the Development or whether Cross-collateralization with some or all of the Applicant's other assets would strengthen the security of the Corporation's mortgage.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.502, 420.507(9), (11), (14), (18), (19), (20), (21), 420.508, 420.509 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, Amended 11-7-11, 7-16-13, 2-2-15, Repromulgated 9-15-16, \_\_\_\_\_.

#### 67-21.007 MMRB Fees.

In addition to the fees specified in the Non-Competitive Application Package, or competitive solicitation, as applicable, the Corporation shall collect the following fees and charges in conjunction with the MMRB Program:

##### (1) Refundable Fees and Charges:

(a) 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 the Corporation. 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 one (1) installment and is due within

14 Calendar Days of the date the Board of Directors approves the Credit Underwriting Report. If the good faith deposit is exhausted, the Applicant shall be required to pay, within three (3) business 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.

(b) 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.

(2) Non-refundable Fees and Charges:

(a) TEFRA fee: Applicants shall submit a non-refundable TEFRA fee to the Corporation in the amount of \$1,000 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 Register notices of TEFRA Hearings. If the actual cost of the required publishing exceeds \$1,000, 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.

(b) Credit Underwriting and appraisal fee: Applicants shall submit the required non-refundable Credit Underwriting fee to the Credit Underwriter designated by the Corporation within seven (7) Calendar Days of the date of the invitation to enter Credit Underwriting. The Credit Underwriting fee shall be determined pursuant to a contract between the Corporation and the Credit Underwriter. Applicants shall submit the required appraisal fee within seven (7) Calendar Days of being invoiced by the Credit Underwriter.

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

1. Format II environmental review fee – The fee the Applicant shall pay will be determined by contract between the Corporation and the environmental professional.

2. Subsidy layering review fee – The fee the Applicant shall pay will be determined by the contract between the Corporation and the Credit Underwriter.

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

(e) Permanent loan servicing fees: The annual servicing fee the Applicant shall pay will be determined by contract between the Corporation and the servicer.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.507(4), (19), 420.509 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 11-7-11, 7-16-13, 2-2-15, 9-15-16, Repromulgated.

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 subparagraphs (i)1. through 5. below, as the Corporation or its servicer may reasonably request.

(i) 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 to the financial statements.

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

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

b. 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.

(j) 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, as determined by the MMRB Loan Agreement.

(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 Loan 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 the appropriate 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) Written evidence of required 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) Adequate insurance shall be maintained on the Development, as required by the MMRB Loan Agreement.

~~(16)(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 (6) months of debt service on the Bonds.

~~(17)(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. 05-14), which is incorporated by reference and available on the Corporation's website under the Property Owners & Managers link labeled Forms or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-04907>.

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](mailto: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 to the financial statements.

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 \$250 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.

Rulemaking Authority 420.507, 420.508 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 11-7-11, 7-16-13, 2-2-15, 9-15-16, \_\_\_\_\_.

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, 420.508 FS. Law Implemented Chapter 75, 420.507, 420.508, 420.509 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, 1-29-06, 4-

1-07, 3-30-08, 8-6-09, 11-7-11, 7-16-13, 2-2-15, 9-15-16, Repromulgated \_\_\_\_\_.

#### 67-21.010 Issuance of Revenue Bonds.

The Corporation shall fund Mortgage Loans with the proceeds from the sale of Bonds. The issuance and sale of the Bonds shall be governed by resolutions adopted by the Corporation and by Section 420.509, F.S., and this rule chapter. 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, 420.508 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, 11-7-11, 7-16-13, Amended 2-2-15, Repromulgated 9-15-16, \_\_\_\_\_.

#### 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 or a Freddie Mac Multifamily Targeted Affordable Housing Lender. 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 IRMA, and again prior to the pricing of the Bonds, showing any changes affecting the original estimated substantial benefit. The Corporation shall engage the Investment Banker with respect to such Bonds. The Corporation, in its discretion, will allow only one of either 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 Depository Trust Company (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 or a Freddie Mac Multifamily Targeted Affordable Housing Lender, is purchasing such Bonds for its own account and not for immediate resale to a purchaser other than a Qualified Institutional Buyer or a Freddie Mac Multifamily Targeted Affordable Housing Lender, 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 or a Freddie Mac Multifamily Targeted Affordable Housing Lender.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.507(4), (5), (6), (9), (11), (14), (16), (18), (19), (20), (21), 420.509 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, 11-7-11, 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated \_\_\_\_\_.

#### 67-21.014 MMRB Credit Underwriting Procedures.

Credit Underwriting is a de novo review of all information supplied, received or discovered during or after any application scoring 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.

(2) The Credit Underwriter shall in Credit Underwriting analyze and review 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 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.

(c) 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:

1. Considering all affordable housing developments in which any party named above has been involved, if:

a. 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

b. 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.

2. 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 ten (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.

3. 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, and for MMRB Applicants that have Housing Credits, the Housing Credit Syndicator, 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.

(d) 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 per unit per annum must be deposited annually in the replacement reserve account for all Developments.

1. The initial replacement reserve will have limitations on the ability to be drawn upon during the following time periods:

a. 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

b. 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.

2. The amount established as a replacement reserve shall be adjusted based on a CNA, prepared by an independent third party, ordered by a first mortgage lender, third party Credit Enhancer or a Housing Credit Syndicator, received by the

Corporation or its servicers, 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, meeting the parameters of this section, 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 Multifamily Programs link labeled Non-Competitive Funding Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-02850> and/or such items that can be capitalized and depreciated over multiple years. An Applicant may choose to fund a portion of the replacement reserves at closing from moneys other than the proceeds of the Bonds. Unless approved by the Corporation and the Credit Underwriter, this partial funding cannot exceed 50 percent of the required replacement reserves for two (2) 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.

(e) At a minimum, the general partner(s) (individual and entity) or manager(s)/managing member(s) (individual and entity), as applicable, of the Applicant shall provide a guarantee for completion of construction. In addition, one or more entities or individuals (other than a general partner or manager/managing member) having an ownership interest, either directly or indirectly, in the Applicant or in the general partner or managing member of the Applicant shall be required to provide guarantees or personal guarantees, as applicable, for completion of construction as recommended by the Credit Underwriter or as otherwise required by the Corporation. The

Corporation shall consider the following when determining the need for additional construction completion guarantees based on the recommendations of the Credit Underwriter:

1. Liquidity of any guarantee provider.
2. Applicant's, Developer's and General Contractor's history in successfully completing Developments of similar nature.
3. The past performance of the Applicant, Developer, General Contractor, or any other guarantee provider, in developing or constructing Developments financed by the Corporation or its predecessor.
4. Percentage of the Corporation's funds utilized compared to Total Development Costs. If, after evaluation of subparagraphs 1. through 4. above, by the Corporation and the Credit Underwriter, it is determined that additional surety is needed, the Applicant will be required to provide a letter of credit or payment and performance bond.

(f) 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.

(g) 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.

(h) For a 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. Its findings shall be used to determine the amount of rehabilitation that will be carried out and to set replacement reserves.

(i) 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 request the information from the Applicant. Such requested information shall be submitted within the timeframe established by the Credit Underwriter. Failure for any reason to submit required information on or before the specified deadline shall result in immediate termination of Credit Underwriting activities.

(j) 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 financial statements that are either audited, 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 and the two (2) most recent years tax returns. If any of the applicable 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. The financial statements and information provided for review should be in satisfactory form and shall be reviewed in accordance with Part IIIA, Sections 401 through 408 and 410, of the Fannie Mae Multifamily Selling and Servicing Guide, in effect as of June 10, 2015, which is incorporated by reference and available on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Funding Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-07357>. A certification meeting the criteria of the Multifamily Underwriting Certificate outlined in Section 407 may be used in lieu of the Multifamily Underwriting Certificate.

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.

(k) The Credit Underwriter shall require an operating deficit guarantee. Upon written request of the guarantor(s) to the Corporation, the Credit Underwriter, or the servicers, the operating deficit guarantee will be released upon achievement of a 1.15x debt service coverage ratio for the MMRB 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, all 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. The Credit Underwriter or servicer will determine whether all of the requirements described above have been met, including receipt, acceptance and verification of the documentation provided by the Certified Public Accountant, and will then submit a letter to the Corporation containing a positive or negative recommendation concerning the release of the operating deficit guarantee. If the Corporation's decision is to deny the release of the operating deficit guarantee, the Board shall consider the facts and circumstances of the Applicant's request and the Corporation's denial, and make a determination of whether to grant the requested release. Notwithstanding the above, the operating deficit guarantee shall not be released prior to the earlier of the date which is three (3) years following the final certificate of occupancy or the date on which the MMRB Loan is repaid.

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

(m) 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.

(n) 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 from an appraiser qualified for the geographic area and development 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.

(o) 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.

(p) 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:

1. An average physical occupancy rate of 92 percent or greater; and,
2. For Developments with new construction units, 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.

(q) Developer Fee shall be limited to 18 percent of Development Cost excluding land and operating deficit reserves. Consulting fees, if any, and any financial or other guarantees required for the financing must be paid out of the Developer Fee. Consulting fees include payments for Application consultants, construction management or supervision, or Local Government consultants. Fees of the Applicant's or Developer's attorney(s) awarded in conjunction with litigation against the Corporation with respect to a Development shall also not be included in Total Development Costs. Fees for services provided by architects, accountants, appraisers, engineers or Investment Bankers as outlined in subsection 67-21.0045(5), F.A.C., may be included as part of the Total Development Costs, except that those fees for an Investment Banker 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 Investment Banker fees. The Corporation shall not authorize fees to be paid for duplicative services or duplicative overhead.

(r) General Contractor's fees are inclusive of general requirements, profit and overhead and shall be limited to 14 percent of actual construction costs. 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:

1. Employ a Development superintendent and charge the costs of such employment to the general requirements line item of the General Contractor's budget,
2. 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,
3. Secure building permits, issued in the name of the General Contractor,
4. 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.,

5. Ensure that none of the General Contractor duties to manage and control the construction of the Development are subcontracted,

6. Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor.

~~7.6-~~ Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity, with the exception of a subcontractor contracted to deliver the building shell of a building of at least five (5) stories which may not have more than 31 percent of the construction cost in a subcontract, unless otherwise approved by the Corporation Board for a specific Development. With regard to said approval, the Corporation Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and the General Contractor's fee; and,

~~8.7-~~ Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of affiliated with the General Contractor or the Developer unless otherwise approved by the Board for a specific Development. ~~With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and ownership interests in the Development.~~ For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-21.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor".

(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 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, 420.508 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, 11-7-11, 7-16-13, 2-2-15, 9-15-16,\_\_\_\_\_.

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

(1) Applicants may submit one Application for the MMRB Program and Non-Competitive Housing Credits, subject to the restrictions set forth in the Non-Competitive 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, a competitive solicitation, and this rule.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.507, 420.508, 420.509 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, 11-7-11, Amended 7-16-13, 2-2-15, Repromulgated 9-15-16,\_\_\_\_\_.

#### 67-21.017 Transfer of Ownership of a MMRB Development.

(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 Housing 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, 420.508 FS. Law Implemented 420.507, 420.508, 420.508(3)(a), 420.509 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, 11-7-11, Amended 7-16-13, Repromulgated 2-2-15, 9-15-16,\_\_\_\_\_.

#### 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. With regard to said determination, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development;

(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, 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, 420.508 FS. Law Implemented 420.507, 420.508, 420.509 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, 11-7-11, Amended 7-16-13, Repromulgated 2-2-15, 9-15-16,\_\_\_\_\_.

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, and all attachments and correspondence to and from the IRS relative to section 501(c)(3) status of the Applicant; 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 Non-Competitive Application in effect at the time the Applicant submits the Application. Applicants must meet all threshold requirements of the Application.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.502, 420.507(14), (24), 420.508, 420.509 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, Amended 11-7-11, 7-16-13, 2-2-15, Repromulgated 9-15-16, \_\_\_\_\_.

**PART III HOUSING CREDIT PROGRAM**

**67-21.025 HC Fees**

The Corporation and the Credit Underwriter shall collect via check or money order the following non-refundable fees and charges in conjunction with the HC Program, as outlined in the Non-Competitive Application instructions, a competitive solicitation, the invitation to enter Credit Underwriting, the Preliminary Determination, or this rule chapter, as applicable:

- (1) Application fee.
- (2) Credit Underwriting fees.
- (3) Administrative fees.
- (4) Compliance monitoring fees.
- (5) Construction inspection fees.
- (6) Qualified Contract Package fees.
- (7) Processing fees.

Failure to pay any fee associated with a Housing Credit Allocation shall cause the Housing Credit Allocation to be rescinded. Where a Development has been awarded funding under the MMRB Program and a Housing Credit Allocation, failure to pay any fee associated with either the MMRB or Housing Credits, or both, shall result in the termination or default, as applicable, of the MMRB and rescission of the Housing Credit Allocation.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated \_\_\_\_\_.

**67-21.026 HC Credit Underwriting Procedures.**

Credit Underwriting is a de novo review of all information supplied, received or discovered during or after any application scoring 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 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 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 this rule chapter.

(1) Within 10 business days after the Non-Competitive Application is deemed complete, the Corporation shall offer Applicants that pass threshold an invitation to enter Credit Underwriting. If the Non-Competitive Housing Credits are awarded as a result of a competitive solicitation, the invitation to enter Credit Underwriting for the Non-Competitive Housing Credits will be in conjunction with the invitation for the other Corporation funding. The Corporation shall select the Credit Underwriter for each Development.

(2) 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 invitation.

(3) If the invitation to enter Credit Underwriting is accepted, all Applicants shall submit the Credit Underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the invitation to enter Credit Underwriting. Failure to submit the Credit Underwriting fee within this time frame shall result in withdrawal of the invitation.

(4) The Credit Underwriter shall review all information in the Application, including information relative to the Applicant,

Developer, Housing Credit Syndicator, General Contractor, and, if an assisted living facility, the service provider(s), as well as other members of the Development team based on information provided to the Credit Underwriter. 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.

(5) 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, and any Financial Beneficiary of the Applicant or Developer 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.

(a) 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:

1. Considering all affordable housing developments in which any party named above has been involved, if:

a. 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

b. 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.

2. 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.

(b) A negative recommendation may also result from the review of:

1. An Applicant, Developer, and any Financial Beneficiary of the Applicant or Developer in connection with any other affordable housing development,

2. Financial capacity of an Applicant, Developer, and any Financial Beneficiary of the Applicant or Developer, or

3. Any other relevant matters relating to an Applicant, Developer, and any Financial Beneficiary of the Applicant or Developer if, in the Credit Underwriter's opinion, one or more members of the Development team do not possess the ability to proceed.

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

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

(8) If the Credit Underwriter determines that special expertise is required to review information submitted to the Credit Underwriter which is beyond the scope of the Credit Underwriter's expertise, the fee for such services shall be borne by the Applicant.

(9) A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of Credit Underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed Development'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 Housing Credit Allocation. The Credit Underwriter shall also review the appraisal and other market documentation to determine if the market exists to support both the demographic and income restriction set-asides committed to within the Application. For the Credit Underwriter to make a favorable recommendation, the submarket of the proposed Development must have:

(a) An average physical occupancy rate of 92 percent or greater; and,

(b) For Developments with new construction units, 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.

(10) The Corporation's assigned Credit Underwriter shall require a guaranteed maximum price construction contract, acceptable to the Corporation, 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 units or a physical needs assessment for rehabilitation units and review the Development's costs.

(11) 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 per unit per annum must be used for all Developments.

(a) The initial replacement reserve will have limitations on the ability to be drawn upon during the following time periods:

1. 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

2. 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.

(b) The amount established as a replacement reserve shall be adjusted based on a CNA prepared by an independent third party, ordered by a first mortgage lender, third party credit enhancer or a Housing Credit Syndicator, received by the Corporation or its servicers, 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, meeting the parameters of this section, 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 Multifamily Programs link labeled Non-Competitive Funding Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-02851> and/or such items that can be capitalized and depreciated over multiple years. An Applicant may choose to fund a portion of the replacement reserves at closing. Unless approved by the Corporation and the Credit Underwriter, the amount cannot exceed 50 percent of the required replacement reserves for two (2) years and must be placed in escrow at closing.

(12) The Developer fee and General Contractor fee shall be limited to:

(a) The Developer fee shall be limited to 18 percent of Development Cost, excluding land and operating deficit reserves, for proposed Developments qualified for Non-Competitive Housing Credits pertaining to Tax-Exempt Bond-Financed Developments; and,

(b) The General Contractor's fee shall be limited to a maximum of 14 percent of the actual construction costs. For the purpose of any necessity to prepare a HUD subsidy layering review, 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.

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

(e) Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor:

~~(f)~~(e) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity, with the exception of a subcontractor contracted to deliver the building shell of a building of at least five (5) stories which may not have more than 31 percent of the construction cost in a subcontract, unless otherwise approved by the Corporation Board for a specific Development. With regard to said approval, the Corporation Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and the General Contractor's fees; and,

~~(g)~~(f) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of affiliated with the General Contractor or the Developer unless otherwise approved by the Board for a specific Development. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and ownership interests in the Development. For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-21.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor".

(14) 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 no more than 15 percent of total actual construction costs (hard costs) and no more than 5 percent of total general development costs (soft costs) for Rehabilitation and Preservation may be included within the Total Development Cost for Application and underwriting purposes; however, in the event financing is obtained through a federal government rehabilitation program, a contingency reserve up to 20 percent may be utilized if required by the program.

(15) 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.

(16) 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.

(17) 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.

(18) 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 15 basis points over the percentage as of the date of invitation to enter Credit Underwriting up to 4 percent will be used for Developments receiving Tax-exempt Bonds, unless the Applicant has previously locked in the percentage at a different rate, in which case the Credit Underwriter shall use the locked-in Housing Credit percentage.

(b) Costs such as syndication fees and brokerage fees cannot be included in eligible basis. All consulting fees and any financial or other guarantees required for the financing 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 (12) above.

(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 Non-Competitive Housing Credit Allocation, the recommendation will be the lesser of the qualified basis calculation result or the gap calculation result.

(f) As part of the process the Corporation uses to determine financial feasibility as set forth in Section 42(m)(2) of the IRC, the Corporation shall utilize the greater of:

1. The actual percentage of the Applicant's Housing Credit Allocation being sold to the Housing Credit Syndicator/direct investor(s), or

2. 99.99 percent of the Applicant's Housing Credit Allocation.

The actual percentage of the Applicant's Housing Credit Allocation being sold must be equal to or less than the

percentage of ownership interest held by the limited partner (inclusive of any special limited partner) or member.

(g) When any Housing Credit Allocation is syndicated or sold directly to an investor, the Corporation will require that the net proceeds received on the sale of the Housing Credits be reflective of market rate pricing as depicted by the price per dollar of Housing Credit Allocation available to the Development. All Non-Competitive Housing Credits not retained by the Applicant (up to an assumed maximum of 0.01 percent of the Housing Credit Allocation) must be sold directly or indirectly to an investor at market rate pricing. The amount of equity capital contributed by investors to an Applicant shall not be less than the amount generally contributed by investors to similar Developments as determined by using sales of comparable Housing Credit Developments and the Corporation's evaluation of market trends. The Applicant shall have documentation provided to the Corporation by the Housing Credit Syndicator (for Housing Credits that are syndicated) or by the Applicant (for any Housing Credits that are not syndicated) that details, for each Housing Credit investor (providing the name of the actual investor is optional), the following information:

1. The gross dollar amount of funding provided to the Housing Credit Syndicator or the Applicant, as applicable, in exchange for the purchase of the Housing Credits,
2. The net dollar amount of funding provided to the Housing Credit Syndicator or the Applicant, as applicable, that will be passed along to the Applicant as Housing Credit equity; and,
3. The annual dollar amount of Housing Credit allocation sold to the investor in exchange for the funding provided.

The Corporation will base all calculations of the minimum net syndication/investor proceeds available to the Development on the assumption that a minimum of 99.99 percent of the Housing Credit Allocation is being sold to raise equity capital. The Corporation will use the greater of:

- a. The actual equity capital contributed to the Development, or
- b. The required minimum equity capital contributed to the Development based on the criteria provided herein.

(19) 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 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. All

contingencies required in the Preliminary Determination 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.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Amended 2-2-15, 9-15-16, \_\_\_\_\_.

#### 67-21.027 HC General Program Procedures and Requirements.

(1) 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.

(2) 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 Determination to the Applicant and all contingencies of such documents are satisfied. Allocations are further contingent on the Applicant complying with its Application commitments, this rule chapter, and Section 42 of the IRC.

(3) All of the dwelling units within a Housing Credit Development shall be rented or available for rent on a continuous basis to members of the general public. The owner of the Housing Credit Development shall not give preference to any particular class or group in renting the dwelling units in the Housing Credit Development, except to the extent that dwelling units are required to be rented to Eligible Persons. All Housing Credit Developments must comply with the Fair Housing Act as implemented by 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 as implemented by 24 CFR Part 8 ("Section 504 and its related regulations"), and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35. To the extent that a Housing Credit Development is not otherwise subject to Section 504 and its related regulations, the Housing Credit Development shall nevertheless comply with Section 504 and its related regulations as requirements of the Housing Credit Program to



the same extent as if the Housing Credit Development were subject to Section 504 and its related regulations in all respects. To that end, for purposes of the Housing Credit Program, a Housing Credit Allocation shall be deemed "Federal financial assistance" within the meaning of that term as used in Section 504 and its related regulations for all Housing Credit Developments.

(4) Each Housing Credit Development shall complete the Final Cost Certification Application Package by the earlier of the following two dates:

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

(b) 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.

(5) 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.

(6) The Final Cost Certification Application Package (Form FCCAP) 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 67-21.026, F.A.C. Such form package shall be completed, executed and submitted to the Corporation in both hard copy format and electronic files of the Microsoft Excel spreadsheets for the HC Development Final Cost Certification (DFCC) and the General Contractor Cost Certification (GCCC) included in the form package, along with the executed Extended Use Agreement and appropriate recording fees, IRS Tax Information Authorization Form 8821 for all Financial Beneficiaries, a copy of the syndication agreement disclosing the rate and all terms, the required certified public accountant opinion letter for both the DFCC and GCCC, an unqualified audit report prepared by an independent certified public accountant for both the DFCC and GCCC, photographs of the completed Development, the monitoring fee, and documentation of the placed-in-service date as specified in the Form FCCAP instructions. The Final Housing Credit Allocation will not be issued until such time as all required items are received and processed by the Corporation. The Final Cost Certification Application Package (Form FCCAP) is adopted and incorporated herein by reference, effective August

2016, and is available on the Corporation's website under the Multifamily Programs link labeled Non-Competitive Funding Programs or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-07359>, or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1321.

(7) 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 67-21.029, F.A.C., the IRS Low-Income Housing Credit Allocation and Certification Forms 8609 are issued to the Applicant of the Housing Credit Development, as provided below. 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 Package, 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.

(8) 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. 05-14), which is incorporated by reference and available on the Corporation's website under the Property Owners & Managers link labeled Forms or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-04908>. 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](mailto: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 the Housing Credit equity partnership agreement or 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 to financial statements.

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 \$250 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated.

67-21.028 HC with Tax-Exempt Bond-Financed Developments.

(1) Tax-Exempt Bond-Financed Developments which applied for Non-Competitive Housing Credits when also applying for MMRB from the Corporation 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 this rule chapter; 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) If applying utilizing the Non-Competitive Application Package, be deemed to have met all HC Program scoring threshold requirements prior to issuance of an invitation to enter Credit Underwriting, or if applying under a competitive solicitation, meet all requirements of the competitive solicitation and be successfully selected for award through final Board action;

(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. If the MMRB and Non-Competitive Housing Credits are awarded as a result of a competitive solicitation, the Development shall also be subject to the provisions of such competitive solicitation;;

(f) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application Package requirements of Rule 67-21.027, 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 receiving bonds issued by a County Housing Finance Authority established pursuant to Section 159.604, F.S., 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 the Non-Competitive Application Package or a competitive solicitation, as applicable;

(c) Meet the HC Program requirements pursuant to the Non-Competitive Application Package or a competitive solicitation, as applicable, and participate in the required Credit Underwriting review, as outlined in this rule chapter and the Non-Competitive Application Package or competitive solicitation, as applicable, by a Credit Underwriter under contract with the Corporation;

(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 complete and stabilize the Development, 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 67-21.026, F.A.C.: subsections (2), (4) through (8), (10) through (13), and (15) through (19). The Application will be subject to the following provisions of subsection (9): A full or self-contained appraisal as defined by the Uniform Standards of Professional Appraisal Practice and a separate market study shall be ordered by the Credit Underwriter, at the Applicant's expense, from an appraiser qualified for the geographic area and product type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the proposed Development'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. For proposed Developments subject to location restrictions as designated in the Non-Competitive Application instructions, the Credit Underwriter must address the market and impact issues;

(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 invitation to enter Credit Underwriting shall result in withdrawal of the invitation;

(f) Be subject to the administrative fee specified in the Non-Competitive Application Package or a competitive solicitation, as applicable;

(g) Receive a Preliminary Determination from the Corporation upon satisfying the requirements of paragraphs (a) through (f) above, as applicable;

(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 the applicable provisions of Part I and Part III;

(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 the Non-Competitive Application Package or a competitive solicitation, as applicable;

(m) Submit an Application to the Corporation utilizing the Non-Competitive Application Package or a competitive solicitation, as applicable. If utilizing the Non-Competitive Application Package, it must be completed in accordance with the requirements outlined in the Non-Competitive Application Package instructions. The Application Form and all required exhibits may be submitted to the Corporation once the Applicant enters Credit Underwriting for the Tax-exempt Bonds, but in no event may the Non-Competitive Application Package be submitted later than the last Corporation business day of December of the year the Development is placed in service. If utilizing a competitive solicitation to apply for the Non-Competitive Housing Credits, the requirements of the specific competitive solicitation must be followed; and,

(n) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application Package requirements of Rule 67-21.027, 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 this rule chapter, utilizing the Non-Competitive Application Package, 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 the Non-Competitive Application Package;

(c) Meet the HC Program threshold requirements pursuant to the Non-Competitive Application Package and shall have secured a commitment for the Tax-exempt Bonds;

(d) Be subject to the Credit Underwriting fees as set forth in the Non-Competitive Application Package. Failure to submit the required Credit Underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the invitation to enter Credit Underwriting shall result in withdrawal of the invitation;

(e) Participate in the Credit Underwriting process pursuant to Rule 67-21.026, F.A.C.;

(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 the Non-Competitive Application Package. The administrative fee must be paid within seven (7) Calendar 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 III;

(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 the Non-Competitive Application Package;

(n) Receive Building Identification Numbers from the Corporation upon satisfying the requirements of this section and the Final Cost Certification Application Package requirements of Rule 67-21.027, F.A.C.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Amended 2-2-15, 9-15-16, Repromulgated \_\_\_\_\_.

67-21.029 HC 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 or subsequently agreed to by the Corporation.

(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, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Repromulgated 2-2-15, 9-15-16, \_\_\_\_\_.

67-21.030 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, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Repromulgated 2-2-15, 9-15-16, \_\_\_\_\_.

67-21.031 Qualified Contracts.

(1) An owner’s written request to the Corporation for a qualified contract (a “qualified contract request”) shall be governed by 26 CFR 1.42-18 (the “qualified contract regulations”), Section 42 of the IRC, as applicable, and this rule section in effect at the time of the qualified contract request.

(2) After the fourteenth year of the Compliance Period, unless otherwise obligated under the Extended Use Agreement, or a Land Use Restriction Agreement under another Corporation program, and provided the right to request a qualified contract for the Development was not waived in exchange for or in connection with the award of Housing Credits, the owner of a Development may submit a qualified contract request to the Corporation. When submitting a qualified contract request, the owner shall utilize the Qualified Contract Package in effect at the time of the request and shall remit payment of the required Qualified Contract Package fee as provided therein. 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 Multifamily Programs link labeled Non-Competitive Funding Programs or from \_\_\_\_\_ [http://www.flrules.org/Gateway/reference.asp?No=Ref\\_07358](http://www.flrules.org/Gateway/reference.asp?No=Ref_07358), which shall be completed and submitted to the Corporation in order to request a qualified contract. The Qualified Contract Package, (Rev. 03-2017 ~~08-2016~~), is adopted and incorporated herein by reference.

(3) All information contained in a Qualified Contract Package is subject to independent review, analysis and verification by the Corporation or its agents. The Corporation may request additional information to document the qualified contract amount calculated by the owner. The Corporation may also engage the services of its own certified public accountant (CPA) and real estate appraiser to assist in the review of a Qualified Contract Package. Real estate appraisers involved in the qualified contract process must be licensed by the state of Florida as certified general appraisers and otherwise acceptable to the Corporation.

(4) The qualified contract regulations provide that the fair market value of the non-low-income portion of the building includes the fair market value of the underlying land and that the valuation of the underlying land must take into account the existing and continuing requirements contained in the Extended

Use Agreement. Pursuant to Section 193.017, F.S., and the statutes cited therein, the Extended Use Agreement recorded in connection with a Housing Credit property is a land-use regulation and a limitation on the highest and best use of the property during the term of the agreement that must be considered by the county property appraiser in assessing the value of the property. Unless the owner elects otherwise as provided below, for purposes of a qualified contract request, the fair market value of the underlying land shall be the value attributed to the underlying land by the county property appraiser in the most recent year's assessed value of the Development provided that the county property appraiser's valuation of the land takes into account the existing and continuing requirements contained in the Extended Use Agreement. The county property appraiser's valuation methodology shall be verified upon submission of a qualified contract request in order to determine if the valuation of the land has taken into account the existing and continuing requirements contained in the Extended Use Agreement. If the owner is of the opinion that the county property appraiser's valuation does not represent the fair market value of the underlying land within the contemplation of the qualified contract regulations at the time of the qualified contract request, the owner may elect to submit with its qualified contract request a value (the "owner's appraised value") for the underlying land at the fair market value determined by a real estate appraiser (the "owner's appraiser") engaged by the owner for that purpose in lieu of the county property appraiser's valuation. A copy of the real estate appraisal (the "owner's appraisal report") upon which the owner's appraised value is based shall be included with the owner's qualified contract request. If the owner elects to rely on the county property appraiser's valuation of the land and the Corporation determines that the county property appraiser's valuation did not take into account the existing and continuing requirements contained in the Extended Use Agreement, the county property appraiser's valuation shall be disregarded, and instead, the owner must obtain and submit to the Corporation an owner's appraisal report together with the owner's appraised value as provided above. The owner's appraiser must certify in the appraisal report that the valuation represents the fair market value of the underlying land taking into account the existing and continuing requirements contained in the Extended Use Agreement for the property. The owner's appraisal report must also include a narrative describing the methodology or manner in which the requirements contained in the Extended Use Agreement were considered by the owner's appraiser in arriving at the owner's appraised value of the underlying land, and, for comparison and evaluation purposes, the opinion of the owner's appraiser as to what the fair market value of the underlying land would be if unencumbered by the requirements of the Extended Use Agreement. The owner's appraised value

of the underlying land and the owner's appraisal report shall be subject to review and approval by the Corporation. The Corporation may engage the services of one or more real estate appraisers, or other professionals, to assist in the review and evaluation of the owner's appraised value and the owner's appraisal report.

(5) In addition to the Qualified Contract Package fee, the owner shall be responsible for all third party fees in connection with the owner's qualified contract request. Third party fees include, but are not limited to, the costs of the services provided by CPAs and real estate appraisers or other real estate professionals engaged by the Corporation to assist it in the review of a qualified contract request, and the fees and commissions of any real estate broker in connection with the marketing and sale of the development to a buyer under a qualified contract.

(6) When offering a development for sale to the general public pursuant to a qualified contract request, the Corporation may, but shall not be required to, utilize the services of a real estate broker under contract with or designated by the Corporation to market and sell the development. The owner of the development shall be responsible for the fees and commissions due any such real estate broker in connection with the marketing and sale of the development, and, upon request of the Corporation or the real estate broker, the owner shall enter into a written agreement with the real estate broker pursuant to which the owner agrees to pay to the real estate broker such fees and commissions in connection with the marketing and sale of the development.

(7) The running of the one-year period described in Section 42(h)(6)(I) of the IRC shall be suspended by the Corporation at any time upon written notice to the owner if:

(a) The Corporation concludes that the owner's request lacks information required in the Qualified Contract Package or other essential information;

(b) The owner fails to pay the Qualified Contract Package fee or, thereafter, fails to timely pay any other fees or costs for which the owner is responsible hereunder;

(c) The owner and the Corporation are unable to reach mutual agreement on the qualified contract amount;

(d) The Development that is the subject of the qualified contract request is not in compliance with the applicable program requirements or if any fees related to the Development are delinquent;

(e) The owner fails to allow the Corporation, its agents or prospective buyers access to the Development for purposes of verification, inspection or due diligence;

(f) 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;

(g) Following request, the owner fails to enter into the written agreement with the real estate broker designated by the Corporation to market and sell the development; or

(h) The owner otherwise fails to comply with the requirements of this rule section or the qualified contract regulations.

The term of any such suspension shall begin on the date of the written notice provided by the Corporation to the owner, and shall continue unabated until such date as the deficiency, non-payment or disagreement giving rise to the suspension is cured or otherwise resolved. The Corporation shall acknowledge the cure or resolution by written notice to the owner within 10 days thereafter. The owner’s election to value the underlying land based on the owner’s appraised value as provided in subsection (4) above shall automatically prevent the owner’s purported qualified contract request from beginning the one-year period described in Section 42(h)(6)(I) of the IRC until such time as the Corporation and the owner shall mutually agree on the value of the underlying land for purposes of the owner’s qualified contract request.

(8) Upon mutual agreement of the owner and the Corporation, the qualified contract amount shall be documented in writing signed by the Corporation and the owner.

(9) The owner shall cooperate with the Corporation and its agents, real estate brokers and prospective buyers in connection with the processing of the owner’s qualified contract request and the marketing of the Development to prospective buyers. The owner shall exercise good faith in acting upon a qualified contract as may be presented within the one-year period. If the Corporation provides a qualified contract within the one-year period and the owner rejects or fails to act upon the contract, the Development shall remain subject to the Extended Use Agreement, and the owner shall be deemed to have waived any right or option to submit another qualified contract request for the Development.

(10) An owner shall be allowed only one qualified contract request per Development.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5099 FS. History—New 7-16-13, Amended 2-2-15, 9-15-16,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ken Reecy, Director of Multifamily Programs, 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: Bernard Smith, 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: March 24, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 16, January 25, 2017

**FLORIDA HOUSING FINANCE CORPORATION**

RULE NOS.:	RULE TITLES:
67-48.001	Purpose and Intent
67-48.002	Definitions
67-48.004	Selection Procedures for Developments
67-48.005	Applicant Administrative Appeal Procedures (Repealed)
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 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	Qualified Contracts
67-48.040	EHCL General Program Procedures and Restrictions
67-48.041	Terms and Conditions of EHCL Loans

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

(1) Address loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) and Elderly Housing Community Loan (EHCL) Programs authorized by

Section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.; and (2) Address Competitive Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S. The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the state of Florida.

**SUMMARY:** Prior to the opening of a funding process, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior competitive funding processes to determine what changes or additions should be added to the Rule, competitive solicitations, and the Qualified Allocation Plan (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 under these funding programs.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

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. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The rule is not likely to 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. The rule is not likely to 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. In addition, the rule is not likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within 5 years after the implementation of the rule.

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:** April 19, 2017, 10:00 a.m. Eastern Time

**PLACE:** Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor Seltzer Room, Tallahassee, Florida 32301. The hearing will also be accessible by telephone and the call-in information will be posted on the Corporation's website <http://www.floridahousing.org/Developers/MultiFamilyPrograms/Competitive/2017RuleDev/>.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Ken Reecy, Director of Multifamily Programs, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197.

**THE FULL TEXT OF THE PROPOSED RULE 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) Address loan amounts, make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program and the Elderly Housing Community Loan (EHCL) Program authorized by Section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by Section 420.5089, F.S.; and,

(2) Address Competitive 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, 420.508 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 11-22-11, 10-9-13, 10-8-14, Repromulgated 9-15-16,\_\_\_\_\_.

**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 number, street name and city or, at a minimum, the street name, closest designated intersection, and whether or not the Development is located

within a city or in the unincorporated area of the county. If located within a city, include the name of the city.

(4) “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.

(5) “Affiliate” means any person that:

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

(b) Serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer;

(c) 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

(d) Is the spouse, parent, child, sibling, or relative by marriage of a person described in paragraph (a), (b) or (c) 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 Chapter 58A-5, F.A.C.

(7) “Allocation Authority” means the total dollar volume of the state of Florida’s Housing Credit ceiling available for distribution by the Corporation and authorized pursuant to Section 42 of the IRC.

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

(9) “Applicant” means any person or legal entity of the type and with the management and ownership structure described herein that is seeking a loan or funding from the Corporation by submitting an Application or responding to a competitive solicitation pursuant to Rule Chapter 67-60, F.A.C., 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. Unless otherwise stated in a competitive solicitation, as used herein, a ‘legal entity’ means a legally formed corporation, limited partnership or limited liability company with a management and ownership structure that consists exclusively of all natural persons by the third principal disclosure level. For Applicants seeking Housing Credits, the Housing Credit Syndicator/Housing Credit investor need only be disclosed at the first principal disclosure level and no other disclosure is required. The terms ‘first principal disclosure level’ and ‘third principal disclosure level’ have the meanings attributed to them in the definition of “Principal.”

(10) “Application” means the sealed response submitted to participate in a competitive solicitation for funding pursuant to Rule Chapter 67-60, F.A.C.

(11) “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.

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

(13) “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.

(14) “Calendar Days” means, the seven (7) days of the week.

(15) “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.

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

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

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

(21) “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.

(22) “Consolidated Plan” means the plan prepared in accordance with 24 CFR Part 91, which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs, including the HOME Program.

(23) “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.



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

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

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

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

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

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

(30) "Development Cash Flow" means, with respect to SAIL Developments as well as HOME Developments when the HOME Development is also at least partially financed with a Multifamily Mortgage Revenue Bond (MMRB) Loan (as defined in Rule Chapter 67-21, F.A.C.), cash transactions of the Development as calculated in the statement of cash flows prepared in accordance with generally accepted accounting principles ("GAAP"), as adjusted for any cash transactions that are subordinate to the SAIL loan interest payment 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 the annual debt service coverage in the Board approved final credit underwriting report.

(31) "Development Cost" means the total of all costs incurred in the completion of a Development excluding Developer fee, operating deficit reserves, and total land cost as typically shown in the Development Cost line item on the development cost pro forma.

(32) "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 on an annual basis included in the final credit underwriting report, as approved by the Board, and maximum of 20 percent Developer fee per year.

(33) "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.

(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.

(35) "Domestic Violence" means Domestic violence as defined in Section 741.28, F.S.

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

(37) "EHCL" or "EHCL Program" means the Elderly Housing Community Loan Program created pursuant to Section 420.5087(3), F.S.

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

(39) "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.

(40) "ELI Loan" means the loan made by the Corporation for the Applicant's ELI Set-Aside commitment, based on terms and conditions outlined in a competitive solicitation.

(41) "ELI Persons" or "Extremely Low Income Persons" means Extremely low income persons as defined in Section 420.0004(9), F.S., or in a competitive solicitation

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

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

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

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

(48) “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) “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 process as required by Section 42, IRC.

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

(52) “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) “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.

(54) “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.

(55) “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 the following:

(a) Section 42(h)(7)(A) of the IRC,

(b) This rule chapter regarding Competitive Housing Credits, and,

(c) Rule Chapter 67-21, F.A.C., regarding Non-Competitive Housing Credits.

(56) “HOME” or “HOME Program” means the HOME Investment Partnerships Program administered by the

Corporation pursuant to 24 CFR Part 92 and Section 420.5089, F.S.

(57) “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.

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

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

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

(61) “Homeless” means Homeless as defined in Section 420.621, F.S.

(62) “Housing Credit” means the tax credit issued in exchange for the development of rental housing pursuant to the following:

(a) Section 42 of the IRC;

(b) The provisions of this rule chapter regarding Competitive Housing Credits; and,

(c) The provisions of Rule Chapter 67-21, F.A.C., regarding Non-Competitive Housing Credits.

(63) “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.

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

(65) “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:

(a) The date specified by the Corporation in the Extended Use Agreement, or

(b) 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.

(66) “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.

(67) “Housing Credit Rent-Restricted Unit” means, with respect to a Housing Credit Development, a unit for which the

gross monthly rent shall not exceed 30 percent of the imputed income limitation applicable to such unit as committed to by the Applicant in its Application and shall be determined in a manner consistent with Section 42(g)(2) of the IRC.

(68) "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.

(69) "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 IRC].

(70) "Housing for the Elderly" or "Housing Community for the Elderly" means any housing community as defined in Section 420.503, F.S.

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

(73) "IRC" means 26 CFR Section 42 and subsections 501(c)(3) and 501(c)(4) of the Internal Revenue Code of 1986, 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.

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

(76) "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) "Low Income" means the Adjusted Income for a Family which does not exceed 80 percent of the area median income.

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

(82) "Non-Competitive Housing Credits" means the Housing Credits which qualify to be used with Tax-Exempt Bond-Financed Developments and do not come from the Corporation's annual Allocation Authority.

(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.

(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.

(85) "PBRA" or "Project-Based Rental Assistance" means a rental subsidy through a contract with HUD or RD for a property.

(86) "Person with a Disability" means, pursuant to Section 3 of the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, an individual to which both of the following applies:

(a) The individual has a physical or mental impairment that substantially limits one or more of the major life activities of such individual; and,

(b) The individual is currently or was formerly regarded as having an existing record of such an impairment.

(87) "Person with a Disabling Condition" means a person with a Disabling condition as defined in Section 420.0004(7), F.S.

(88) "Persons with Special Needs" means Person with special needs as defined in Section 420.0004(13), F.S.

(89) "PHA" or "Public Housing Authority" means a housing authority under Chapter 421, F.S.

(90) "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.

(91) "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.

(92) "Preservation" means Rehabilitation of an existing development that was originally built in 1996 or earlier and has an active contract through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515, or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), 811 of the U.S. Housing Act of 1937 (42 U.S.C. §1437), or either has PBRA or is public housing assisted through ACC. If funded through the Corporation, the Development must maintain at least the same number of PBRA or ACC units. Such developments must not have closed on funding from HUD or RD after 1996 where the budget was at least \$10,000 per unit for rehabilitation in any year.

(93) "Principal" means:

(a) With respect to an Applicant that is:

1. A corporation, at the first principal disclosure level, any officer, director, executive director, or shareholder of the Applicant corporation and, with respect to any shareholder of the Applicant corporation, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_ with respect to any shareholder entity identified at the second principal disclosure level that is:

e. A corporation, by the third disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons;

2. A limited partnership, at the first principal disclosure level, any general partner or limited partner of the Applicant limited partnership, and, unless otherwise excluded at

subsection 67-48.002(9), F.A.C., with respect to any general partner or limited partner of the Applicant limited partnership, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_

with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and,

3. A limited liability company, at the first principal disclosure level, any manager or member of the Applicant limited liability company, and, unless otherwise excluded at subsection 67-48.002(9), F.A.C., with respect to any manager or member of the Applicant limited liability company, at the second principal disclosure level, that is:

a. A corporation, any officer, director, executive director, or shareholder of the corporation,

b. A limited partnership, any general partner or limited partner of the limited partnership,

c. A limited liability company, any manager or member of the limited liability company, or

d. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons; and \_\_\_\_\_ with respect to any entity identified at the second principal disclosure level that is:

e. A corporation, by the third principal disclosure level, any officer, director, executive director, or shareholder of the corporation, each of whom must be a natural person,

f. A limited partnership, by the third principal disclosure level, any general partner or limited partner of the limited partnership, each of whom must be a natural person,

g. A limited liability company, by the third principal disclosure level, any manager or member of the limited liability company, each of whom must be a natural person, or

h. A trust, any trustee of the trust and all beneficiaries of majority age (i.e.; 18 years of age) as of Application deadline, each of whom must be a natural person. Such trust shall be comprised only of trustee(s) and beneficiaries who are natural persons.

(b) With respect to a Developer that is:

1. A corporation, at the first principal disclosure level, any officer, director or shareholder of the Developer corporation and, with respect to any shareholder of the Developer corporation that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company;

2. A limited partnership, at the first principal disclosure level, any general partner or limited partner of the Developer limited partnership, and, with respect to any general partner or limited partner of the Developer limited partnership that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company; and,

3. A limited liability company, at the first principal disclosure level, any manager or member of the Developer limited liability company, and, with respect to any manager or member of the Developer limited liability company that is:

a. A corporation, at the second principal disclosure level, any officer, director or shareholder of the corporation,

b. A limited partnership, at the second principal disclosure level, any general partner or limited partner of the limited partnership, or

c. A limited liability company, at the second principal disclosure level, any manager or member of the limited liability company.

(94) "Project" or "Property" means Project as defined in Section 420.503, F.S.

(95) "QAP" or "Qualified Allocation Plan" means, with respect to the HC Program, the 2016 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 Multifamily Programs link or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or from <http://www.flrules.org/Gateway/reference.asp?No=Ref-07355>.

(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) of the IRC.

(97) "RD" or "Rural Development" means Rural Development Services (formerly the "Farmer's Home Administration" or "FmHA") of the United States Department of Agriculture.

(98) "Redevelopment" means:

(a) With regard to a proposed Development that involves demolition of multifamily rental residential structures currently or previously existing that were originally built in 1986 or earlier and either originally received financing or are currently financed through one or more of the following HUD or RD programs: Sections 202 of the Housing Act of 1959 (12 U.S.C. §1701q), 236 of the National Housing Act (12 U.S.C. §1701), 514, 515, or 516 of the U.S. Housing Act of 1949 (42 U.S.C. §1484), 811 of the U.S. Housing Act of 1937 (42 U.S.C. §1437), or have PBRA; and new construction of replacement structures on the same site maintaining at least the same number of PBRA units; or

(b) With regard to proposed Developments that involve demolition of public housing structures currently or previously existing on a site with a Declaration of Trust that were originally built in 1986 or earlier and that are assisted through ACC; and new construction of replacement structures 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) "Review Committee" or "Committee" means a committee established pursuant to Rule Chapter 67-60, F.A.C.

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

(102) “SAIL Development” means a residential Development comprised of one (1) or more residential buildings proposed to be constructed or rehabilitated with SAIL funds for Eligible Persons.

(103) “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, Persons with Special Needs, or Farmworker and Commercial Fishing Worker) under which the Application has been made, as further described in Rule 67-48.009, F.A.C.

(104) “SAIL Rent-Restricted Unit” means with respect to a SAIL Development, a unit for which the gross monthly rent shall not exceed 30 percent of the imputed income limitation applicable to such unit as committed to by the Applicant in its Application and shall be determined in a manner consistent with Section 42(g)(2) of the IRC.

(105) “Scattered Sites,” as applied to a single Development, means a Development site that, when taken as a whole, is comprised of real property that is not contiguous (each such non-contiguous site within a Scattered Site Development, is considered to be a “Scattered Site”). 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. All of the Scattered Sites must be located in the same county.

(106) “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.

(107) “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.

(108) “Special Needs Household Referral Agency” means an organization that is designated and authorized by legislative mandate or the responsible federal or state agency to plan, coordinate and administer the provision of federal or state supportive services or long-term care programs for at least one Special Needs Household population.

(109) “Sponsor” means Sponsor as defined in Section 420.503, F.S.

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

(111) “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.

(112) “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.

(113) “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.

(114) “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.

(115) “Very Low-Income” means:

(a) With respect to the SAIL and EHCL Programs,

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.

(116) "Website" means the Florida Housing Finance Corporation's website, the Universal Resource Locator (URL) for which is [www.floridahousing.org](http://www.floridahousing.org).

(117) "Youth Aging Out of Foster Care" means youth or young adults who are eligible for services under Section 409.1451(2), F.S.

(118) "Zero Bedroom Unit" means a single person occupancy unit of at least 350 square feet that includes a private full bathroom and a vertical closet for clothing. The unit shall include a kitchen with a refrigerator, stove and sink.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, \_\_\_\_\_.

67-48.004 Selection Procedures for Developments.

(1) SAIL, HOME and Housing Credit Applications shall be limited to one submission per subject property. Two or more Applications, submitted in the same competitive solicitation process, that have the same demographic commitment and one or more of the same Financial Beneficiaries, will be considered submissions for the same Development site if any of the following is true:

- (a) Any part of any of the property sites is contiguous with any part of any of the other property sites, or
- (b) Any of the property sites are divided by a street or easement, or
- (c) 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 site, 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.

(2) An Applicant shall be ineligible for funding or allocation in any program administered by the Corporation for a period of time as determined in (c) below if:

(a) The Board determines that the Applicant or any Principal, Financial Beneficiary, or Affiliate of the Applicant has made a material misrepresentation or engaged in fraudulent actions in connection with any Application for a Corporation program. For purposes of this subsection, there is a rebuttable presumption that an Applicant has engaged in fraudulent actions if the Applicant or any Principal, Financial Beneficiary or Affiliate of the Applicant:

- 1. Has been convicted of fraud, theft or misappropriation of funds,

- 2. Has been excluded from federal or Florida procurement programs for any reason,

- 3. Has been convicted of a felony in connection with any Corporation program, or

- 4. Has offered or given consideration with respect to a local contribution as set forth in subsection (7) below.

(b) Before any such determination can be final or effective, the Corporation must serve an administrative complaint that affords reasonable notice to the Applicant of the facts or conduct that warrant the intended action, specifies a proposed duration of ineligibility, and advises the Applicant of the opportunity to request a proceeding pursuant to Sections 120.569 and 120.57, F.S. Upon service of such complaint, all pending transactions under any program administered by the Corporation involving the Applicant, or any Principal, Financial Beneficiary or Affiliate of the Applicant shall be suspended until a final order is issued or the administrative complaint is dismissed.

(c) The administrative complaint will include a proposed duration of ineligibility, which may be either a specific period of time or permanent in nature. With regard to establishing the duration, the Board shall consider the facts and circumstances, inclusive of each Applicant's compliance history, the type of misrepresentation or fraud committed, and the degree of harm to the Corporation's programs that has been or may be done.

(3) For the SAIL, HOME and Housing Credit Programs, notwithstanding any other provision of these rules, the following items as identified by the Applicant in the Application must be maintained and cannot be changed by the Applicant after the applicable submission, unless provided otherwise below:

- (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.

With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

(b) Principals of each Developer, including all co-Developers; notwithstanding the foregoing, the Principals 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. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

- (c) Program(s) applied for;

(d) Applicant applying as a Non-Profit or for-profit organization, unless provided otherwise in a competitive solicitation;

(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 is on the site and, if applicable, the total proximity points awarded during scoring are not reduced. In addition, if the increase of the site is such that the proposed Development now meets the definition of a Scattered Site, then the Applicant shall be required to provide such Scattered Sites information and meet all Scattered Sites requirements as required by Corporation staff. With regard to said approval, the Corporation shall consider the facts and circumstances of each Applicant's request, inclusive of validity and consistency of Application documentation;

(f) Development Category;

(g) Development Type;

(h) Demographic Commitment;

(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. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development, as well as review of 24 CFR Part 92 to ensure continued compliance for the HOME Program;

(j) For 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. For the HOME Program, the total number of HOME-Assisted Units committed to in the Set-Aside Commitment section of the Application. Notwithstanding the foregoing, the Total Set-Aside Percentage, or total number of HOME-Assisted Units, as applicable, 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. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of each Applicant's request, in evaluating whether the changes made are prejudicial to the Development or to the market to be served by the Development, as well as review of 24 CFR Part 92 to ensure continued compliance for the HOME Program;

(k) CHDO election for the HOME Program;

(l) Funding Request Amount, exclusive of adjustments by the Corporation as outlined in any applicable competitive solicitation;

(4) For all funding programs outlined in this rule chapter, 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 or to the Credit Underwriter, and the changes made are prejudicial to the Development or to the market to be served by the Development.

(5) For all funding programs outlined in this rule chapter, 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 until such time as all of their existing Developments participating in any Corporation programs are in compliance.

(6) For all funding programs outlined in this rule chapter, 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.

(7) For all funding programs outlined in this rule chapter, if the Applicant or any Principal, Financial Beneficiary or Affiliate of the 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 Review Committee's recommendations, the Corporation shall reject the Application and any other Application submitted by the same Applicant and any Principal, Financial Beneficiary or Affiliate of the Applicant. If discovered after the Board approves the Review Committee's recommendations, any tentative funding or allocation for the Application and any other Application submitted by the same Applicant and any Principal, Financial Beneficiary or Affiliate of the Applicant will be withdrawn. Such Applicant and any of such Applicant's Principals, Financial Beneficiaries or Affiliates will be ineligible for funding or allocation in any



program administered by the Corporation in accordance with the procedure set forth in subsection (2) above.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5087, 420.5087(6)(c), 420.5089, 420.5089(6), 420.5099, 420.5099(2) FS. History—New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 9I-48.004, Amended 4-7-98, 11-9-98, 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, 3-30-08, 8-6-09, 11-22-11, 10-9-13, 10-8-14, 9-15-16, Repromulgated.

#### 67-48.005 Applicant Administrative Appeal Procedures.

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 11-22-11, Repealed 10-9-13.

#### 67-48.007 Fees.

The Corporation, the Credit Underwriter or the environmental provider shall collect via check, money order, or as otherwise provided in a competitive solicitation the following non-refundable fees and charges in conjunction with the SAIL, HOME, HC, and EHCL Programs, as outlined in the competitive solicitation, the invitation to enter credit underwriting, the Preliminary Allocation, the preliminary commitment, the firm commitment, the Binding Commitment, the Carryover Allocation Agreement, or this rule chapter, as applicable:

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

All of the fees set forth above with respect to the SAIL and EHCL Programs are part of Development Cost and can be included in the Development Cost pro forma and paid with SAIL and EHCL loan proceeds. Failure to pay any fee associated with any applicable loan program shall cause the firm loan commitment under any such loan program(s) to be terminated or shall constitute a default on the respective loan documents. Failure to pay any fee associated with a Housing Credit Allocation shall cause the Housing Credit Allocation to be rescinded. Where a Development has been awarded funding

under a loan program(s) and a Housing Credit Allocation, failure to pay any fee associated with either the loan(s) or Housing Credits, or both, shall result in both the termination or default, as applicable, of the loan(s) and rescission of the Housing Credit Allocation.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, Repromulgated 9-15-16, \_\_\_\_\_.

#### 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 competitive solicitation scoring and funding preference 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, EHCL, or HOME loan amount, Housing Credit allocation amount or a combined SAIL or HOME 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 applicable 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) After the Board's decision to select Applicants for funding as a result of a competitive solicitation process has become final action, the Corporation shall offer such Applicants an invitation to enter credit underwriting. The Corporation shall select the Credit Underwriter for each Development. For purposes of this section, a decision regarding an Applicant will become final action:

(a) If none of the Board's selections of Applicants for funding are challenged pursuant to Section 120.57(3), F.S.;

(b) If some of the Board's selections of other Applicants for funding are challenged pursuant to Section 120.57(3), F.S., but none of the challenges could impact the decision to select the Applicant for funding, or

(c) When the Board issues a final order as a result of a challenge pursuant to Section 120.57(3), F.S.

(2) For SAIL, EHCL, 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 invitation. For any invitation to enter credit underwriting that is offered to an Applicant after Board approval of the list of eligible Applications that is sorted from highest funding preference to lowest, where the Applicant's response is to decline to enter credit underwriting, the result shall be the removal of the Application from the list of eligible Applications for the applicable competitive solicitation and any other funding where that list of eligible Applications will be used.

(4) If the invitation to enter credit underwriting is accepted:

(a) All Applicants shall submit the credit underwriting fee to the Credit Underwriter within seven (7) Calendar Days of the date of the invitation to enter credit underwriting. In addition:

1. Within seven (7) Calendar Days of the date of the invitation, Competitive HC Applicants shall submit the Preliminary Recommendation Letter (PRL) fee to the Credit Underwriter, and

2. Within 14 Calendar Days of the date of the invitation, Competitive HC, SAIL, EHCL, and HOME Applicants shall submit IRS Tax Information Authorization Form 8821 for all Financial Beneficiaries to the Corporation.

(b) For Competitive HC, SAIL, EHCL, and HOME Applicants, failure to submit the required credit underwriting fee or the HC PRL fee, as applicable, by the specified deadline shall result in withdrawal of the invitation. For HOME Applicants that apply and qualify as a Non-Profit entity, the Corporation shall bear the cost of the credit underwriting review, environmental review, and legal counsel. 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, environmental review processing, and legal counsel.

(c) For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, the credit underwriting process must be completed within the time frame outlined in subsection 67-48.0072(21), F.A.C., below and the loan must close within the time frame outlined in subsection 67-48.0072(26), F.A.C., below. For SAIL and HOME that is in conjunction with Competitive HC, the credit underwriting process and loan

closing must be accomplished within the time frames outlined in the competitive solicitation.

(5) The Credit Underwriter shall review all information in the Application and subsequently provided during the credit underwriting process, 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.

(a) 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:

1. Considering all affordable housing developments in which any party named above has been involved, if:

a. 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

b. 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.

2. 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.

(b) A negative recommendation may also result from the review of:

1. Financial capacity of an Applicant, Developer, any Financial Beneficiary of the Applicant or Developer, the General Contractor, and, for SAIL and HOME Applicants that have Housing Credits, the Housing Credit Syndicator, or

2. 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.

(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) For Competitive HC, SAIL, and HOME Applicants, 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 development type not later than completion of credit underwriting. The Credit Underwriter shall review the appraisal to properly evaluate the development 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 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:

(a) An average physical occupancy rate of 92 percent or greater; and,

(b) For Developments with new construction units, 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 1.10x debt service coverage (DSC) requirements with all first and second mortgages for Housing Credits. If during the credit underwriting it is determined that there is no need for a first mortgage or any debt service payments then the proposed Development shall demonstrate the ability to achieve breakeven. In the case where an operating deficit reserve (ODR) is approved during credit underwriting, then the ODR can be used as income for purposes of this test. For SAIL and HOME, the minimum debt service coverage shall be 1.10x for the 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 or HOME loan, including all superior mortgages. For SAIL, EHCL, and HOME, the maximum debt service coverage shall be 1.50x for the SAIL, EHCL, 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 1.50x 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) For Competitive HC, SAIL, and HOME, the Corporation's assigned Credit Underwriter shall require a guaranteed maximum price 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 units and a physical needs assessment for rehabilitation units and review the Development's costs. If an EHCL Development has a General Contractor, the preceding requirement will also apply to the EHCL Development.

(13) For Competitive HC, SAIL, and HOME, 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 per unit per annum must be used for all Developments.

(a) The initial replacement reserve will have limitations on the ability to be drawn upon during the following time periods:

1. 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

2. 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.

(b) The amount established as a replacement reserve shall be adjusted based on a CNA prepared by an independent third party, ordered by a first mortgage lender, third party credit enhancer or a Housing Credit Syndicator, received by the Corporation or its servicers, 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, meeting the parameters of this section, 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 eligible items which can be as identified in a competitive solicitation and/or such items that can be capitalized and depreciated over multiple years. An Applicant may choose to fund a portion of the replacement reserves at closing. Unless approved by the Corporation and the Credit

Underwriter, 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, EHCL, HOME, and Competitive HC, the Credit Underwriter may request additional information, but at a minimum for SAIL, EHCL, 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 financial statements that are either audited, 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 and the two most recent years' tax returns. If any of the applicable 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. The financial statements and information provided for review should be in satisfactory form and shall be reviewed in accordance with the terms and conditions of this rule chapter and any applicable competitive solicitation.

(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) For SAIL and HOME, the general partner(s) (individual and entity) or manager(s)/managing member(s) (individual and entity), as applicable, of the Applicant shall provide a guarantee for completion of construction. In addition, one or more entities or individuals (other than a general partner or manager/managing member) having an ownership interest, either directly or indirectly, in the Applicant or in the general partner or managing member of the Applicant shall be required to provide guarantees or personal guarantees, as applicable, for completion of construction as recommended by the Credit

Underwriter or as otherwise required by the Corporation. The Corporation shall consider the following when determining the need for additional construction completion guarantees based on the recommendations of the Credit underwriter:

(a) Liquidity of any guarantee provider.

(b) Applicant's, Developer's and General Contractor's history in successfully completing Developments of similar nature.

(c) The past performance of the Applicant, Developer, General Contractor or any other guarantee provider in developing or constructing Developments financed by the Corporation or its predecessor.

(d) Percentage of the Corporation's funds utilized compared to Total Development Costs.

After evaluation of paragraphs (a)-(d) above by the Corporation and the Credit Underwriter, it is determined that additional surety is needed, the Applicant will be required to provide a letter of credit or payment and performance bond.

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

(a) Unless otherwise provided in a competitive solicitation process, the Developer fee shall be limited to 16 percent of Development Cost, excluding land and operating deficit reserves, except that, based upon criteria outlined in a competitive solicitation, a Developer fee of up to 21 percent of Development Cost, excluding land and operating deficit reserves, shall be allowed if the proposed Development is qualified for Competitive Housing Credits with a demographic commitment of Homeless or Persons with Special Needs. When the Developer fee is limited to 21 percent of the Development Cost, an amount equal to 5 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 in any operating deficit reserve (or similarly purposed) account may be drawn to pay down any outstanding Corporation loan debt, including loan fees, on the Development administered by the Corporation or its servicer. If there is no Corporation loan debt on the Development at the end of the Compliance Period, then any remaining balance in said operating subsidy reserve account shall be placed into either an operating subsidy reserve account or a replacement reserve account for the Development, which will have similar distribution restrictions as stated herein or in paragraph (b), below. In no event shall the remaining balance in said operating subsidy reserve account be paid to the Developer or General Contractor in an amount that would cause the Developer fee or General Contractor fee to exceed the applicable percentage limitations provided herein and in paragraph (b) below. Amounts withdrawn from the reserve

account will not be considered Development Cash Flow. In the event amounts withdrawn are to pay any deferred Development Costs, it can be done prior to the end of the Compliance Period, but no sooner than the end of the 13th year of the Compliance Period and only after the Corporation's Credit Underwriter confirms that said withdrawal does not negatively impact the Development through the remainder of the Compliance Period.

To the extent there are any Housing Credits that are not sold to an investor(s) (and at the minimum price referenced in paragraph 67-48.0072(29)(h), F.A.C.), in excess of 0.01 percent of the Applicant's Housing Credit Allocation, then it will be assumed those unsold Housing Credits are valued at the same price as those Housing Credits sold to an investor(s) and that total value will be considered to be part of the Developer fee.

(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;

(f) Ensure that no construction or inspection work that is normally performed by subcontractors is performed by the General Contractor;

(g) (f) Ensure that not more than 20 percent of the construction cost is subcontracted to any one entity, with the exception of a subcontractor contracted to deliver the building shell of a building of at least five (5) stories which may not have more than 31 percent of the construction cost in a subcontract, unless otherwise approved by the Corporation Board for a specific Development. With regard to said approval, the Corporation Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and the General Contractor's fees; and,

(h) (g) Ensure that no construction cost is subcontracted to any entity that has common ownership or is an Affiliate of affiliated with the General Contractor or the Developer unless

~~otherwise approved by the Board for a specific Development. With regard to said approval, the Board shall consider the facts and circumstances of each Applicant's request, inclusive of construction costs and ownership interests in the Development. For purposes of this paragraph, "Affiliate" has the meaning given it in subsection 67-48.002(5), F.A.C., except that the term "Applicant" therein shall mean "General Contractor".~~

(18) For SAIL and HOME, the Credit Underwriter shall require an operating deficit guarantee. Upon written request of the guarantor(s) to the Corporation or its agent, the operating deficit guarantee will be released upon achievement of a 1.15x debt service coverage ratio 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, all 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. The Credit Underwriter or servicer will determine whether all of the requirements described above have been met, including receipt, acceptance and verification of the documentation provided by the Certified Public Accountant, and will then submit a letter to the Corporation containing a positive or negative recommendation concerning the release of the operating deficit guarantee. If the Corporation's decision is to deny the release of the operating deficit guarantee, the Board shall consider the facts and circumstances of the Applicant's request and the Corporation's denial, and make a determination of whether to grant the requested release. Notwithstanding the above, the operating deficit guarantee shall not be released earlier than three (3) years following the final certificate of occupancy. An operating deficit guarantee, to be released upon achievement of 1.00x 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 no more than 15 percent of total actual construction costs (hard costs) and no more than 5 percent of total general development costs (soft costs) for Rehabilitation,

Moderate Rehabilitation, Substantial Rehabilitation, and Preservation may be included within the Total Development Cost for Application and underwriting purposes; however, in the event financing is obtained through a federal government rehabilitation program, a contingency reserve up to 20 percent may be utilized if required by the program. 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) For SAIL, EHCL, and HOME Developments, the Corporation shall issue a firm loan commitment after approval of the Credit Underwriter's recommendation for funding by the Board.

(b) For SAIL, EHCL, and HOME that is not in conjunction with Competitive HC, unless stated otherwise in a competitive solicitation, the firm loan commitment must be issued within nine (9) months of the Applicant's acceptance to enter credit underwriting. Unless an extension is approved by the Corporation in writing, failure to achieve credit underwriting report approval and issuance of a firm loan commitment by the specified deadline shall result in withdrawal of the preliminary commitment. Applicants may request one (1) extension of up to six (6) months to secure a firm loan commitment. All extension requests must be submitted in writing to the program administrator and contain the specific reasons for requesting the extension and shall detail the time frame to achieve a firm loan commitment. In determining whether to grant an extension, the Corporation Board shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. The Corporation shall charge a non-refundable extension fee of one (1) percent of each loan amount if the request to extend the credit underwriting and firm loan commitment process beyond the initial nine (9) month deadline is approved. If, by the end of the extension period, the Applicant has not received a firm loan commitment, then the preliminary commitment shall be withdrawn.

(c) For SAIL and HOME that is in conjunction with Competitive HC, the firm loan commitment must be issued within the time frame outlined in the competitive solicitation.

(d) For Competitive HC Developments, regardless of whether the HC is in conjunction with SAIL or HOME, 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 invitation to enter credit underwriting. In determining whether to grant an extension, the Corporation shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. If the Corporation's decision is to deny the Applicant's request for an extension, then prior to the withdrawal of the invitation, the Board shall consider the facts and circumstances of the Applicant's request, the Corporation's denial, and any credit underwriting report, if available, and make a determination of 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 invitation to enter credit underwriting, or both, as applicable. In determining whether to grant an extension, the Corporation shall consider the facts and circumstances of the Applicant's request, inclusive of the responsiveness of the Development team and its ability to deliver the Development timely. If the Corporation's decision is to deny the Applicant's request for an extension, then prior to the withdrawal of the preliminary commitment or the invitation to enter credit underwriting, or both, as applicable, the Board shall consider the facts and circumstances of the Applicant's request, the Corporation's denial, and any credit underwriting report, if available, and make a determination of 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, EHCL, and HOME, the Credit Underwriter's loan recommendations will be sent to the Board for approval.

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

(26) For SAIL, EHCL, and HOME, that is not in conjunction with Competitive HC, these Corporation loans and other mortgage loans related to the Development must close within 120 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 of the firm loan commitment(s). Unless an extension is approved by the Board, failure to close the loan(s) by the specified deadline outlined above shall result in the firm loan commitment(s) being deemed void and the funds shall be de-obligated. Applicants may request one (1) extension of the loan closing deadline outlined above for a term of up to 90 Calendar Days. 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, inclusive of the Applicant's ability to close within the extension term and any credit underwriting report, prior to determining whether to grant the requested extension. The Corporation shall charge an extension fee of one (1) percent of each Corporation loan amount if the Board approves the request to extend the loan closing deadline beyond the applicable 120 Calendar Day or 180 Calendar Day period outlined above. In the event the Corporation loan(s) does not close by the end of the extension period, the firm loan commitment(s) shall be deemed void and the funds shall be de-obligated.

(27) For SAIL and HOME that is in conjunction with Competitive HC, upon issuance of the preliminary loan commitment, these Corporation loans and other mortgage loans related to the Development must close within the time frame outlined in the competitive solicitation.

(28) 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.

(29) For Competitive Housing Credits, 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. Unless otherwise stated in a competitive solicitation, twenty (20) basis points over the percentage as of the date of invitation to enter credit underwriting with a minimum of 9 percent for 9 percent credits for new construction and Rehabilitation Developments unless the Applicant has previously locked-in the percentage at a different rate, in which case the Credit Underwriter shall use the locked-in Housing Credit percentage;

2. Fifteen (15) basis points over the percentage as of the date of invitation to enter credit underwriting up to 4 percent for 4 percent credits for acquisition and federally subsidized Developments, unless the Applicant has previously locked-in the percentage at a different rate, in which case the Credit Underwriter shall use the locked-in Housing Credit percentage.

(b) Costs such as syndication fees and brokerage fees cannot be included in eligible basis. All consulting fees and any financial or other guarantees required for the financing 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:

1. The qualified basis calculation result,
2. The gap calculation result, or
3. The Housing Credit award considered in the Application.

During the credit underwriting process and as a part of the final cost certification process, the Development will be subjected to the Total Development Cost per unit limitation test as outlined in a competitive solicitation.

(f) As part of the process the Corporation uses to determine financial feasibility as set forth in Section 42(m)(2) of the IRC, the Corporation shall utilize the greater of:

1. The actual percentage of the Applicant's Housing Credit Allocation being sold to the Housing Credit Syndicator/direct investor(s), or
2. 99.99 percent of the Applicant's Housing Credit Allocation.

The actual percentage of the Applicant's Housing Credit Allocation being sold must be equal to or less than the percentage of ownership interest held by the limited partner (inclusive of any special limited partner) or member. In addition, the price of the Housing Credits being sold must reflect a market rate value at a minimum or one will be utilized when determining a recommendation for the amount of the Housing Credit Allocation using the gap calculation.

(g) When utilizing the gap calculation in determining a recommendation for the amount of the Housing Credit Allocation as part of the process the Corporation uses to determine financial feasibility as set forth in Section 42(m)(2) of the IRC, the Credit Underwriter shall assume a first mortgage loan amount from a non-governmental agency (i.e., a traditional first mortgage lender) to be the greater of:

1. The actual amount committed to the Development, or
2. The amount of the proposed Development's minimum qualifying first mortgage as determined herein. The Development's minimum qualifying first mortgage shall be the lesser of a. or b. as follows:

a. An amount that yields a debt service coverage ratio of 1.25x based on the pro forma for the proposed Development's 15th year given an annual rate of increase for revenues of the lesser of 2 percent or the annual rate of increase utilized in credit underwriting, along with an annual rate of increase for operating expenses of the greater of 3 percent or the annual rate of increase utilized in credit underwriting, or

b. The greater of either:

- (I) An amount that yields a debt service coverage ratio of 1.50x, or

(II) An amount that yields a net cash flow after debt service of \$1,000 per unit.

Both (I) and (II) above are based on the pro forma for the proposed Development's initial year.

With regard to subparagraph 2. above, unless otherwise stated in a competitive solicitation, the first mortgage shall be sized based on an interest rate equal to the actual interest rate of the actual first mortgage of the proposed Development, but no less than an interest rate floor of the greater of 7.0 percent or 325 basis points over the 10-year Treasury Rate as of the submission deadline for the applicable competitive solicitation and an interest rate ceiling of no greater than 100 basis points over said interest rate floor. The first mortgage shall be sized based on an amortization term equal to the greater of the actual amortization term of the actual first mortgage of the proposed Development or 30 years. If the resulting calculated minimum qualifying first mortgage is less than \$500,000, then the Development shall assume to have no minimum qualified first mortgage. This determination applies to any Development that did not qualify as a Homeless or Persons with Special Needs Demographic Development, which said Homeless or Persons with Special



Needs Demographic Developments would only use its actual committed debt.

(h) When any Housing Credit Allocation is syndicated or sold directly to an investor, the Corporation will require that the net proceeds received on the sale of the Housing Credits be reflective of market rate pricing as depicted by the price per dollar of Housing Credit Allocation available to the Development. All Competitive Housing Credits not retained by the Applicant (up to an assumed maximum of 0.01 percent of the Housing Credit Allocation) must be sold directly or indirectly to an investor at market rate pricing. The amount of equity capital contributed by investors to an Applicant shall not be less than the amount generally contributed by investors to similar Developments as determined by using sales of comparable Housing Credit Developments and the Corporation’s evaluation of market trends. The Applicant shall have documentation provided to the Corporation by the Housing Credit Syndicator (for Housing Credits that are syndicated) or by the Applicant (for any Housing Credits that are not syndicated) that details, for each Housing Credit investor (providing the name of the actual investor is optional), the following information:

1. The gross dollar amount of funding provided to the Housing Credit Syndicator or the Applicant, as applicable, in exchange for the purchase of the Housing Credits,
2. The net dollar amount of funding provided to the Housing Credit Syndicator or the Applicant, as applicable, that will be passed along to the Applicant as Housing Credit equity; and,
3. The annual dollar amount of Housing Credit Allocation sold to the investor in exchange for the funding provided.

The Corporation will base all calculations of the minimum net syndication/investor proceeds available to the Development on the assumption that a minimum of 99.99 percent of the Housing Credit Allocation is being sold to raise equity capital. The Corporation will use the greater of:

- a. The actual equity capital contributed to the Development, or
- b. The required minimum equity capital contributed to the Development based on the criteria provided herein.

(30) 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. 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. 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.

(31) For Competitive HC, the credit underwriting report must be finalized no later than the deadline provided in 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.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16,

67-48.0075 Miscellaneous Criteria.

(1) In addition to the alteration, improvement or modification of an existing structure, Rehabilitation or Preservation 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 Competitive Housing Credit Developments, what is stated in Section 42(e) of the IRC, except that the following is substituted for Section 42(e)(3)(A)(ii)(II): “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 \$25,000 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. 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.

(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, of which the total cost cannot exceed the appraised value of the real property as determined in the credit underwriting process.

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

(c) Any expenses relating to the issuance of tax-exempt bonds or taxable bonds 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 any anticipated operating reserves as recommended by the Credit Underwriter and approved by the Corporation.

(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.

(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.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, Repromulgated.

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, F.S., Commercial Fishing Workers as defined in Section 420.503, F.S., or the Homeless as defined in Section 420.621, F.S., or Persons with Special Needs as defined in Section 420.0004(13), F.S., over the life of the loan.

(3) Unless stated otherwise in any competitive solicitation, the following types of Sponsors are eligible to apply for loans that do not exceed 35 percent of Total Development Cost for proposed Developments serving the Family or Elderly demographic categories, as well as those serving the Homeless, Farmworker, Commercial Fishing Worker, or Persons with Special Needs demographic categories that do not meet the criteria outlined in subsection (2) above:

(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 from the date the first residential unit is occupied; or
- (c) Such longer term agreed to by the Applicant in the Application.

The set-aside requirements apply to the total number of residential units in the Development beginning on the later of the first day on which any residential unit in the Development is occupied or the SAIL loan closing date. For a period of 12 months beginning on the SAIL loan closing date (the “transition period”), the failure to satisfy the set-aside requirements shall not cause noncompliance.

(5) Unless otherwise permitted in a competitive solicitation process, 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 or will close prior to the date of the preliminary commitment for the applicable SAIL funding.

(b) The proposed Development has received an allocation of Housing Credits or a Competitive Housing Credit commitment, unless:

1. The Applicant is also applying for Corporation-issued tax exempt bonds or provides evidence of a non-Corporation-issued tax exempt bond commitment, or

2. Written notice has been provided to the Corporation prior to the deadline to apply for the applicable SAIL funding withdrawing acceptance of such allocation or commitment and returning the previously awarded HC funding.

(c) A preliminary commitment of funding for the proposed Development through the SAIL Program or the HOME Program has already been accepted, unless written notice has been provided to the Corporation prior to the deadline to apply for the new SAIL funding withdrawing such acceptance and returning the prior SAIL Program or HOME Program funding.

(d) 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, unless at least one (1) of the following exceptions applies:

1. A LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, or

2. A LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the deadline to apply for the applicable SAIL funding, where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation/Moderate Rehabilitation/Substantial Rehabilitation, Acquisition and Rehabilitation/Moderate Rehabilitation/Substantial Rehabilitation, Preservation, or Acquisition and Preservation.

(6) Unless stated otherwise in a competitive solicitation, 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, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, Repromulgated.

67-48.0095 Additional SAIL Selection Procedures.

(1) Subject to the provisions of Section 420.507(48), F.S., during the first six (6) months following the publication date of the first Notice of Funding Availability published in any year within the state of Florida, SAIL funds shall be allocated in accordance with the ranking and selection process set forth in the applicable competitive solicitation and based upon the requirements specified in Section 420.5087(3), F.S., which specifies the required funding within the five (5) demographic categories of:

- (a) Family;
- (b) Elderly;
- (c) Homeless;
- (d) Commercial Fishing Workers and Farmworkers; and
- (e) Persons with Special Needs.

(2) 10 percent of the funds for Developments in the Elderly category shall be made available for the EHCL Program 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., and this rule chapter.

(3) The Corporation shall make available tentative loan amounts to Applicants in each demographic and geographic category, up to the total amount available.

(4) 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 competitive solicitation, the unallocated funds shall be equitably distributed pursuant to Board approval.

(5) Selection for SAIL Program participation is contingent upon fund availability at the conclusion of the appeals process as set forth in Rule 67-60.009, F.A.C.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, Amended 10-9-13, 10-8-14, 9-15-16, Repromulgated.

#### 67-48.010 Terms and Conditions of SAIL Loans.

(1) The proceeds of all SAIL loans shall be used for new construction or rehabilitation which creates or preserves 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 provided in Section 420.507(22), F.S., and specified in an applicable competitive solicitation.

(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 requirements as provided in a competitive solicitation, 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 the annual debt service coverage in the Board approved final credit underwriting report, with the exception of payment of the Developer fee allowable to maximum of 20 percent per year, will be added back to the amount of cash available for the SAIL loan interest payment, pursuant to the financial reporting process, 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 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 as calculated and disclosed in the Board approved final credit underwriting report;

(b) Development Expenses for the SAIL Development, plus up to 20 percent of total Developer fees per year;

(c) Interest payment on SAIL loan balance equal to the percentage specified in the applicable competitive solicitation 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 percentage specified in the applicable competitive solicitation over the life of the SAIL loan;

(b) Development Expenses on the SAIL Development loan plus 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 lien position, determination of Development Cash Flow, determination of payment priorities, and payment of interest on SAIL loans shall occur annually. A change in lien position from subordinate to first changes payment priorities. 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 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 following the fiscal 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 any other financial reporting requirements as provided in a competitive solicitation. 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 to financial statements.

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 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 year by 212 Calendar Days after the Applicant's fiscal year end. 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 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 year by 212 Calendar Days after the Applicant's fiscal year end of each 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 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 following the fiscal 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 of the fiscal year during which the first unit is occupied.

(9) After maturity or acceleration, the Note shall bear interest at its default interest rate, as provided therein, 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 for 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 applicable present value discount rate shall be established in each competitive solicitation. Such amount shall be reduced by the amount of any compliance monitoring fees for other programs collected by the Corporation for the Development for the period, 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, the Corporation, or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance as required by the terms and conditions outlined in a competitive solicitation.

(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 Corporation will recommend that the Board deny any 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. For example, if the amount of the original SAIL mortgage is \$2,000,000, the original superior mortgage is \$4,400,000, with a current balance of \$3,000,000, a proposed new superior mortgage of \$5,000,000, then the amount of the increase in the superior mortgage would be \$2,000,000, 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 \$625,000. This \$625,000 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. 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 are determined in a manner consistent with Section 42(g)(2) of the IRC. The gross monthly rent shall not exceed 30 percent of the imputed income limitation applicable to such unit as committed to by the Applicant in its Application.

(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., any competitive solicitation, or both, 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, Persons with Special Needs, 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 Corporation will recommend that the Board require that Applicants provide additional amenities or resident programs suitable for the proposed resident population.

(c) The Corporation will recommend that the Board require that Applicants to modify loan documents to conform to the

terms and conditions, including the interest rate, as outlined in the competitive solicitation, or to accelerate payments of SAIL loan principal or interest.

(21) Failure to provide the Corporation and its servicer with any financial reporting required in a competitive solicitation 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.

(22) 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 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.

(23) The Compliance Period for a SAIL Development shall be, at a minimum, a period of time equal to the greater of:

(a) The term of the loan,

(b) 12 years from the date the first residential unit is occupied, or

(c) Such longer period agreed to by the Applicant in the Application.

The set-aside requirements apply to the total number of residential units in the Development beginning on the later of the first day on which any residential unit in the Development is occupied or the SAIL loan closing date. For a period of 12 months beginning on the SAIL loan closing date (the "transition period"), the failure to satisfy the set-aside requirements shall not cause noncompliance.

(24) 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 to financial statements.

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.

(25) Any SAIL Applicant from SAIL Application cycles with non-amortizing loans at 9 percent simple interest per annum with payments based on Development Cash Flow pursuant to the applicable cycle rule, may submit a written renegotiation request to the Corporation to modify their SAIL loan interest rate going forward from 9 percent simple interest per annum to 3 percent simple interest per annum with payments based on Development Cash Flow pursuant to subsections 67-48.010(5)-(10), F.A.C., in exchange for providing a payment to the Corporation of the deferred interest based on an accrual rate of 3 percent simple interest per annum in no more than five (5) equal annual installments but in no event shall it be later than the maturity date of the loan. Payments made from Development Cash Flow, shall be included as Development Expenses as stated in paragraph 67-48.010(6)(b), F.A.C. All loan renegotiation requests must be submitted in writing to the Director of Special Assets. In addition to any related professional fees, the Corporation shall charge a non-refundable renegotiation fee as outlined in the most current competitive solicitation. The Corporation shall not proceed with the request until the Applicant or Developer has satisfied any financial obligations for which the Applicant or Developer, or Principal, Affiliate or Financial Beneficiary of the Applicant or Developer is in arrears to the Corporation or any agent or assignee of the Corporation.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, \_\_\_\_\_.

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 most current competitive solicitation.

(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 for the periods for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. Such amount shall be reduced by the amount of any compliance monitoring fees collected by the Corporation for the Development for that period, 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, as supported by a copy of the final executed purchase and sale

agreement, and that no other consideration passed between the parties, as supported by a draft and final closing statement, 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 most current competitive solicitation.

(5) The Corporation will recommend that the Board 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 Corporation will recommend that the Board deny any 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 Corporation will recommend that the Board limit any approved extension to a minimum term which makes the Development feasible and which does not exceed an industry standard term.

The Corporation will recommend that the Board deny any 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, 420.508 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 11-22-11, Amended 10-9-13, 10-8-14, 9-15-16, 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 Corporation and 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.

(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, 420.508 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, 11-22-11, Amended 10-9-13, Repromulgated 10-8-14, Amended 9-15-16, Repromulgated.

PART III HOME INVESTMENT PARTNERSHIPS PROGRAM

67-48.014 HOME General Program Procedures and Restrictions.

(1) Unless otherwise provided in a competitive solicitation, 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 meet all CHDO requirements as defined by HUD in 24 CFR Part 92 and other Corporation requirements identified in a competitive solicitation.

(3) For any rental funding administered pursuant to Rule Chapter 67-48, F.A.C., the Corporation will distribute funds as provided in the applicable competitive solicitation.

(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 applicable competitive solicitation.

(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 of the gross income of a Family at 65 percent of median income limit, minus utility allowance. 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 utility allowance. The rent limits for a HOME Rent-Restricted Unit is the maximum gross rent that can be charged for a HOME Rent-Restricted Unit (FMRs, 30 percent of the gross income of a family at 65 percent of median income, or 30 percent of the gross income of a family at 50 percent of the area median income), less the applicable utility allowance. These rent limits are published in HUD periodically, 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 Project Completion as defined in 24 CFR §92.2.

The set-aside requirements apply beginning on the later of the first day on which any residential unit in the Development is occupied or the HOME loan closing date. The Compliance Period will be extended until the later of such longer term agreed to by the Applicant in its Application or 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 Project Completion as defined in 24 CFR §92.2. The set-aside requirements apply beginning on the later of the first day on which any residential unit in the Development is occupied or the HOME loan closing date. The Compliance Period will be extended until the later of such longer term agreed to by the Applicant in its Application or 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, Rule Chapter 67-48, F.A.C., and any competitive solicitation process.

(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 submission deadline for the applicable competitive solicitation, the Development is able to provide evidence of compliance with federal labor standards (if 12 or more 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 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), 24 CFR §92.354, 24 CFR Part 70 (volunteers), and 40 U.S.C. §3145 (2002), 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), 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.).

(10) All HOME Developments must conform to the following federal requirements:

(a) Equal Opportunity and Fair Housing as enumerated in 24 CFR §92.202 and 92.251, Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.), Fair Housing Act (42 U.S.C. §§3601-3619), Age Discrimination Act of 1975, as amended (42 U.S.C. §6101), Executive Order 11063 (amended by Executive Order 12259), and 24 CFR §5.105(a).

(b) Affirmative Marketing as enumerated in 24 CFR §92.351.

(c) Environmental Review as enumerated in 24 CFR §92.352, 24 CFR Part 58 and National Environmental Policy Act of 1969.

(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), 49 CFR Part 24, 24 CFR Part 42 (Subpart C), and Section 104(d) “Barney Frank Amendments”.

(e) Lead-based Paint as enumerated in 24 CFR §92.355 and 24 CFR Part 35.

(f) Conflict of Interest as enumerated in 24 CFR §92.356, 24 CFR §200.317 and 24 CFR §200.318.

(g) Debarment and Suspension as enumerated in 24 CFR Part 24.

(h) Handicapped Accessibility as enumerated in Section 504 of the Rehabilitation Act of 1973 (implemented in 24 CFR Part 8) and 24 CFR §100.205.

(i) Americans with Disabilities Act as enumerated in 42 U.S.C. §12131; and 47 U.S.C. §§155, 201, 218 and 225.

(j) Equal Opportunity Employment as enumerated in Executive Order 11246 (implemented in 41 CFR Part 60).

(k) Economic Opportunity for Low- and Very Low-Income Persons as implemented in 24 CFR Part 135.

(l) Minority/Women Employment as enumerated in 24 CFR §200.321 and Executive Orders 11625, 12432, and 12138.

(m) Site and Neighborhood Standards as enumerated in 24 CFR §92.202.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, Repromulgated \_\_\_\_\_.

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, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, \_\_\_\_\_.

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, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, \_\_\_\_\_.

67-48.018 Eligible HOME Applicants.

(1) Unless otherwise permitted in a competitive solicitation process, 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 deadline to apply for the applicable

HOME funding withdrawing acceptance of such allocation or commitment and returning the previously awarded HC funding;

(b) A preliminary commitment of funding for the proposed Development through the HOME Program or the SAIL Program has already been accepted, unless written notice has been provided to the Corporation prior to the deadline to apply for the new HOME funding withdrawing such acceptance and returning the prior HOME Program or SAIL 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, unless at least one (1) of the following applies:

1. A LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, or

2. A LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the deadline to apply for the applicable HOME funding, where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation, Acquisition and Rehabilitation, Preservation or Acquisition and Preservation.

(2) Applicants for HOME loans may include CHDOs, Public Housing Authorities, Local Governments, Non-Profit organizations, and private for-profit organizations. The Applicant must be a legally-formed, existing entity at the time of Application. 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 Public Housing Authorities or their designees, who are Section Eight administrators, shall be limited to those Public Housing Authorities that provide a copy of their most recent Section Eight Management Assessment Program (SEMAP) and can demonstrate compliance with 24 CFR §982.401.

~~(a) Eligible Public Housing Authorities shall use the HOME Investment Partnership Program, state of Florida, Tenant Based Rental Assistance Program (TBRA) Summary (Rev. 06-14), which is incorporated herein by reference and available on the Corporation's website under the Multifamily Programs link or from [http://www.flrules.org/Gateway/reference.asp?No=Ref\\_04615](http://www.flrules.org/Gateway/reference.asp?No=Ref_04615).~~

(b) ~~An eligible Public Housing Authority's request for funding shall be based upon demonstration of recipient need.~~  
 Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, Repromulgated 9-15-16, Amended \_\_\_\_\_.

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 all applicable local and state codes, ordinances, and zoning requirements. Note that 24 CFR §92.251 requires that HOME-Assisted new construction projects must meet state or local residential and building codes, as applicable or, in the absence of a state or local building code, the International Residential Code or International Building Code (as applicable to the type of housing) of the International Code Council,

2. Rehabilitation, the costs necessary to meet all applicable local and state codes, ordinances, and requirements or, in the absence of a state or local building code, the International Existing Building Code of the International Code Council and Uniform Physical Condition Standards pursuant to 24 CFR 5.705,

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, or

(d) Any other expenses not allowed under 24 CFR Part 92. Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, Amended 10-8-14, 9-15-16, Repromulgated

67-48.020 Terms and Conditions of Loans for HOME Rental Developments.

All HOME Rental Development loans shall be in compliance with the Act, 24 CFR Part 92 and, at a minimum, contain the following terms and conditions:

(1) The HOME loan may be in a first, second, or subordinated lien position. The term of the loan shall be for a minimum period of 15 years for Rehabilitation Developments and 20 years for new construction Developments. The term of the HOME loan may be extended upon the recommendation of the Credit Underwriter and approval by the Corporation. With regard to said approval, the Corporation shall consider the facts and circumstances, inclusive of the financial feasibility of the Development.

(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) An Applicant owned in part by a qualified non-profit or a Public Housing Authority, but which does not meet the requirements of (b) or (c) above, 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 of the loan amount. 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 specified in an applicable competitive solicitation.

(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. Unless otherwise provided in any competitive solicitation, the Corporation will consider the facts and circumstances, inclusive of the financial feasibility of the Development.

(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 requirements as provided in a competitive solicitation, 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, with the exception of

payment of the Developer fee allowable to maximum of 20 percent per year, will be added back to the amount of cash available for the HOME loan interest payment, pursuant to the financial reporting process, 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 for the HOME Development plus up to 20 percent of total Developer fees per year,
- c. Interest payment on HOME loan balance as stated in subsection 67-48.020(2), 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 company of the Development must attend a Corporation-sponsored training session on income certification and compliance procedures.

(8) If the Development has 12 or more 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, the Corporation, or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance as required by the terms and conditions outlined in a competitive solicitation.

(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 Corporation will recommend that the Board deny any requests to increase the amount of any superior mortgage, unless the criteria outlined in subsection 67-48.0205(4), 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. For example, if the amount of the original HOME mortgage is \$2,000,000, the original superior mortgage is \$4,400,000, with a current balance of \$3,000,000, a proposed new superior mortgage of \$5,000,000, then the amount of the increase in the superior mortgage would be \$2,000,000, 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 \$625,000. This \$625,000 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 an audited financial statement and any other financial reporting requirements as provided in a competitive solicitation. 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 to financial statements.

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 to financial statements.

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, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16, Repromulgated.

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;

(c) The proposed transferee agrees to pay all loan servicing and compliance monitoring fees through the end of the HOME LURA; and,

(d) 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 most current competitive solicitation.

(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, as supported by a copy of the final executive purchase and sale agreement, and that no other consideration passed between the parties, as supported by a draft and final closing statement, 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.

(d) The proposed transferee will pay an amount equal to the present value of the annual compliance monitoring fee for the years for which the Development will have a set-aside for Very Low-Income persons or households beyond the repayment date. Such amount shall be reduced by the amount of any compliance monitoring fees collected by the Corporation for the Development for that period, provided:

1. The compliance monitoring fee covers some or all of the period following the anticipated HOME 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.

(3) 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 HOME 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 most current competitive solicitation.

(4) The Corporation will recommend that the Board 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.

(5) The Corporation will recommend that the Board deny any 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 Corporation will recommend that the Board 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, 420.508 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, 11-22-11, Amended 10-9-13, 10-8-14, 9-15-16, Repromulgated.

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 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, 420.508 FS. Law Implemented 420.5089(1) FS. History—New 7-22-96, Amended 12-23-96, 7-10-97, 1-6-98, Formerly 91-48.022, 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, 11-22-11, Amended 10-9-13, Repromulgated 10-8-14, 9-15-16, \_\_\_\_\_.

#### PART IV HOUSING CREDIT PROGRAM

67-48.023 Housing Credits General Program Procedures and Requirements.

(1) Unless otherwise permitted in a competitive solicitation process, 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 or has accepted an invitation to enter credit underwriting, unless written notice has been provided to the Corporation prior to the deadline to apply for the applicable new funding withdrawing acceptance of such allocation or commitment and returning the previously awarded HC funding;

(b) A preliminary commitment of funding for the proposed Development through the SAIL Program or the HOME Program has already been accepted, unless written notice has been provided to the Corporation prior to the deadline to apply for the applicable new funding withdrawing such acceptance and returning the prior SAIL Program or HOME 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, unless at least one (1) of the following exceptions applies:

1. A LURA recorded in conjunction with the Predevelopment Loan Program or the Elderly Housing Community Loan Program, or

2. A LURA or EUA, or both, for an existing building or buildings, originally constructed at least 25 years prior to the deadline to apply for the applicable Competitive Housing Credits, where, in the current Application, the Applicant has selected and qualified for the Homeless demographic commitment with a Development category of Rehabilitation, 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 committed to 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 or subsequently agreed to by the Corporation. Applications will not be considered approved to receive an allocation of Housing Credits until the Corporation issues a Preliminary Allocation 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 Housing Credit Development shall be rented or available for rent on a continuous basis to members of the general public. The owner of the Housing Credit Development shall not give preference to

any particular class or group in renting the dwelling units in the Housing Credit Development, except to the extent that dwelling units are required to be rented to Eligible Persons. All Housing Credit Developments must comply with the Fair Housing Act as implemented by 24 CFR Part 100 and Titles II and III of the Americans with Disabilities Act of 1990 as implemented by 28 CFR Part 35.

(5) Each Housing Credit Development shall complete the final cost certification process as required in a competitive solicitation.

(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) Final cost certification documentation shall be submitted 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., along with the executed Extended Use Agreement, IRS Tax Information Authorization Form 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 competitive solicitation. The Final Housing Credit Allocation will not be issued until such time as all items required by a competitive solicitation are received and processed by the Corporation.

(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 IRS Low-Income Housing Credit Allocation and Certification Forms 8609 are issued to the Applicant of the Housing Credit Development, as provided below. 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 documentation, 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 any other financial reporting requirements as provided in a competitive solicitation. 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 the Housing Credit equity partnership agreement, or 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 to financial statements.

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 \$250 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, 10-8-14, Repromulgated 9-15-16,\_\_\_\_\_.

#### 67-48.027 Tax-Exempt Bond-Financed Developments.

Non-Competitive Housing Credits to be used with Tax-Exempt Bond-Financed Developments are available as outlined in Rule Chapter 67-21, F.A.C.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, Repromulgated 10-8-14, 9-15-16,\_\_\_\_\_.

#### 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 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 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 as outlined in the Carryover Allocation Agreement and the competitive solicitation. If the progress report does not demonstrate continuous and adequate development and construction progress, the Corporation will require monthly submission of progress reports 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. Each progress 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.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, Repromulgated 10-9-13, Amended 10-8-14, Repromulgated 9-15-16,\_\_\_\_\_.

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 or subsequently agreed to by the Corporation.

(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, 420.508 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, 11-22-11, Amended 10-9-13, Repromulgated 10-8-14, 9-15-16,\_\_\_\_\_.

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, 420.508 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, 11-22-11, 10-9-13, 10-8-14, 9-15-16,\_\_\_\_\_.

67-48.031 Qualified Contracts.

(1) An owner's written request to the Corporation for a qualified contract (a "qualified contract request") shall be governed by 26 CFR 1.42-18 (the "qualified contract regulations"), Section 42 of the IRC, as applicable, and this rule section in effect at the time of the qualified contract request.

(2) After the fourteenth year of the Compliance Period, unless otherwise obligated under the Extended Use Agreement, or a Land Use Restriction Agreement under another Corporation program, and provided the right to request a qualified contract for the Development was not waived in exchange for or in connection with the award of Housing Credits, the owner of a Development may submit a qualified contract request to the Corporation. When submitting a qualified contract request, the owner shall utilize the Qualified Contract Package in effect at the time of the request and shall remit payment of the required Qualified Contract Package fee as provided therein. 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 Multifamily Programs link or from

[http://www.flrules.org/Gateway/reference.asp?No=Ref\\_07354](http://www.flrules.org/Gateway/reference.asp?No=Ref_07354),

which shall be completed and submitted to the Corporation in order to request a qualified contract. The Qualified Contract Package, Rev. ~~03-2017~~ ~~08-2016~~, is adopted and incorporated herein by reference.

(3) All information contained in a Qualified Contract Package is subject to independent review, analysis and verification by the Corporation or its agents. The Corporation may request additional information to document the qualified contract amount calculated by the owner. The Corporation may also engage the services of its own certified public accountant (CPA) and real estate appraiser to assist in the review of a Qualified Contract Package. Real estate appraisers involved in the qualified contract process must be licensed by the state of Florida as certified general appraisers and otherwise acceptable to the Corporation.

(4) The qualified contract regulations provide that the fair market value of the non-low-income portion of the building includes the fair market value of the underlying land and that the valuation of the underlying land must take into account the existing and continuing requirements contained in the Extended Use Agreement. Pursuant to Section 193.017, F.S., and the statutes cited therein, the Extended Use Agreement recorded in connection with a Housing Credit property is a land-use regulation and a limitation on the highest and best use of the property during the term of the agreement that must be considered by the county property appraiser in assessing the value of the property. Unless the owner elects otherwise as provided below, for purposes of a qualified contract request, the

fair market value of the underlying land shall be the value attributed to the underlying land by the county property appraiser in the most recent year's assessed value of the Development provided that the county property appraiser's valuation of the land takes into account the existing and continuing requirements contained in the Extended Use Agreement. The county property appraiser's valuation methodology shall be verified upon submission of a qualified contract request in order to determine if the valuation of the land has taken into account the existing and continuing requirements contained in the Extended Use Agreement. If the owner is of the opinion that the county property appraiser's valuation does not represent the fair market value of the underlying land within the contemplation of the qualified contract regulations at the time of the qualified contract request, the owner may elect to submit with its qualified contract request a value (the "owner's appraised value") for the underlying land at the fair market value determined by a real estate appraiser (the "owner's appraiser") engaged by the owner for that purpose in lieu of the county property appraiser's valuation. A copy of the real estate appraisal (the "owner's appraisal report") upon which the owner's appraised value is based shall be included with the owner's qualified contract request. If the owner elects to rely on the county property appraiser's valuation of the land and the Corporation determines that the county property appraiser's valuation did not take into account the existing and continuing requirements contained in the Extended Use Agreement, the county property appraiser's valuation shall be disregarded, and instead, the owner must obtain and submit to the Corporation an owner's appraisal report together with the owner's appraised value as provided above. The owner's appraiser must certify in the appraisal report that the valuation represents the fair market value of the underlying land taking into account the existing and continuing requirements contained in the Extended Use Agreement for the property. The owner's appraisal report must also include a narrative describing the methodology or manner in which the requirements contained in the Extended Use Agreement were considered by the owner's appraiser in arriving at the owner's appraised value of the underlying land, and, for comparison and evaluation purposes, the opinion of the owner's appraiser as to what the fair market value of the underlying land would be if unencumbered by the requirements of the Extended Use Agreement. The owner's appraised value of the underlying land and the owner's appraisal report shall be subject to review and approval by the Corporation. The Corporation may engage the services of one or more real estate appraisers, or other professionals, to assist in the review and evaluation of the owner's appraised value and the owner's appraisal report.

(5) In addition to the Qualified Contract Package fee, the owner shall be responsible for all third party fees in connection

with the owner’s qualified contract request. Third party fees include, but are not limited to, the costs of the services provided by CPAs and real estate appraisers or other real estate professionals engaged by the Corporation to assist it in the review of a qualified contract request, and the fees and commissions of any real estate broker in connection with the marketing and sale of the development to a buyer under a qualified contract.

(6) When offering a development for sale to the general public pursuant to a qualified contract request, the Corporation may, but shall not be required to, utilize the services of a real estate broker under contract with or designated by the Corporation to market and sell the development. The owner of the development shall be responsible for the fees and commissions due any such real estate broker in connection with the marketing and sale of the development, and, upon request of the Corporation or the real estate broker, the owner shall enter into a written agreement with the real estate broker pursuant to which the owner agrees to pay to the real estate broker such fees and commissions in connection with the marketing and sale of the development.

(7) The running of the one-year period described in Section 42(h)(6)(I) of the IRC shall be suspended by the Corporation at any time upon written notice to the owner if:

(a) The Corporation concludes that the owner’s request lacks information required in the Qualified Contract Package or other essential information;

(b) The owner fails to pay the Qualified Contract Package fee or, thereafter, fails to timely pay any other fees or costs for which the owner is responsible hereunder;

(c) The owner and the Corporation are unable to reach mutual agreement on the qualified contract amount;

(d) The Development that is the subject of the qualified contract request is not in compliance with the applicable program requirements or if any fees related to the Development are delinquent;

(e) The owner fails to allow the Corporation, its agents or prospective buyers access to the Development for purposes of verification, inspection or due diligence;

(f) 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;

(g) Following request, the owner fails to enter into the written agreement with the real estate broker designated by the Corporation to market and sell the development; or

(h) The owner otherwise fails to comply with the requirements of this rule section or the qualified contract regulations.

The term of any such suspension shall begin on the date of the written notice provided by the Corporation to the owner, and

shall continue unabated until such date as the deficiency, non-payment or disagreement giving rise to the suspension is cured or otherwise resolved. The Corporation shall acknowledge the cure or resolution by written notice to the owner within 10 days thereafter. The owner’s election to value the underlying land based on the owner’s appraised value as provided in subsection (4) above shall automatically prevent the owner’s purported qualified contract request from beginning the one-year period described in Section 42(h)(6)(I) of the IRC until such time as the Corporation and the owner shall mutually agree on the value of the underlying land for purposes of the owner’s qualified contract request.

(8) Upon mutual agreement of the owner and the Corporation, the qualified contract amount shall be documented in writing signed by the Corporation and the owner.

(9) The owner shall cooperate with the Corporation and its agents, real estate brokers and prospective buyers in connection with the processing of the owner’s qualified contract request and the marketing of the Development to prospective buyers. The owner shall exercise good faith in acting upon a qualified contract as may be presented within the one-year period. If the Corporation provides a qualified contract within the one-year period and the owner rejects or fails to act upon the contract, the Development shall remain subject to the Extended Use Agreement, and the owner shall be deemed to have waived any right or option to submit another qualified contract request for the Development.

(10) An owner shall be allowed only one qualified contract request per Development.

Rulemaking Authority 420.507, 420.508 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, 11-22-11, 10-9-13, Repromulgated 10-8-14, Amended 9-15-16, \_\_\_\_\_.

**PART V ELDERLY HOUSING COMMUNITY LOAN PROGRAM**

**67-48.040 EHCL General Program Procedures and Restrictions.**

(1) The proceeds of all loans shall be used for life-safety, health, sanitation, or security-related repairs or improvements which result in making the Development safe and secure, and meeting requirements of state, federal, or local regulations, as well as all requirements outlined in a competitive solicitation.

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

(3) Loan proceeds shall not be used to pay for administrative costs, routine maintenance or new construction. Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5087(3) FS. History—New 10-8-14, Repromulgated 9-15-16, \_\_\_\_\_.

67-48.041 Terms and Conditions of EHCL Loan.

(1) The loan shall be in compliance with this rule chapter and the Act, and loan documents shall, at a minimum, contain the following terms and conditions:

(a) The loan shall be non-amortizing and shall have an interest rate, as provided in Section 420.5087(3)(e), F.S. The applicable interest rate shall be established in the competitive solicitation;

(b) Repayment of principal and interest may be deferred until maturity of the Note, as determined by the Credit Underwriter based on the debt service coverage ratio for the EHCL loan, including all superior mortgages;

(c) The loan term shall not exceed 15 years but may be for a shorter period of time as requested by the Applicant or recommended by the Credit Underwriter. However, if the lien of the Corporation's encumbrance is subordinate to the lien of another mortgage, then the term may be made coterminous with the longest term of the superior lien if requested by the borrower and approved by the Credit Underwriter based on debt service coverage ratio, loan to value ratio, and other factors established in a competitive solicitation.

(d) The Applicant shall certify annually to the Corporation that the Development is providing Housing for the Elderly as defined herein.

(2) Annually, within 151 Calendar Days following the Applicant's fiscal year end, the Applicant shall provide an audited financial statement and any other financial reporting requirements as provided in a competitive solicitation. The initial submission will be due following the fiscal year within which the 12 month anniversary of the EHCL 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 to financial statements.

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 \$250 will be assessed by the Corporation for failure to submit the above documents by the stated deadline.

(3) The Corporation shall forgive the portion of the loan attributable to the units in a project reserved for Extremely Low Income (ELI) Persons for Non-Profit organizations, not to exceed 25 percent, where the project will provide affordable Housing to the Elderly for 15 years or more.

(4) The loan shall not be assumable upon Development sale, transfer or refinancing of the Development, unless approved by HUD.

(5) The Corporation shall require adequate insurance to be maintained on the Development as determined by the first mortgage lender, the Corporation, or the Corporation's servicer, but which shall, in any case, include fire, hazard and other insurance as required by the terms and conditions outlined in a competitive solicitation.

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

- (a) First mortgage debt service and fees;
- (b) Any other superior debt service and fees;
- (c) Expenses of the sale;
- (d) EHCL loan principal and accrued interest.

(7) The Corporation or an authorized representative of the Corporation shall monitor compliance of all terms and conditions of the loan as provided in the loan documents.

(8) Any violation of the terms and conditions required by this rule chapter or the loan documents constitutes a default under the loan documents allowing the Corporation to accelerate its loan and to seek foreclosure as well as any other remedies legally available to it.

Rulemaking Authority 420.507, 420.508 FS. Law Implemented 420.5087(3) FS. History—New 10-8-14, Repromulgated 9-15-16, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ken Reecy, Director of Multifamily Programs, 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: Bernard Smith, 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: March 24, 2017

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: Volume 43, Number 16, January 25, 2017

**Section III**  
**Notice of Changes, Corrections and**  
**Withdrawals**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

RULE NOS.:	RULE TITLES:
61-9.011	Applicability
61-9.012	Definitions
61-9.013	Fees
61-9.014	Standards, Review Procedures and Methodology
61-9.015	Renewal

**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 43 No. 50, March 14, 2017 issue of the Florida Administrative Register.

The third sentence in the Summary of the Statement of Estimated Regulatory Costs (“SERC”) approved by the agency is corrected to state:

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: the economic review conducted by the Agency.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-552.200	Definitions
<u>62-552.300</u>	General Program Information
62-552.430	Loan Applications and Agreements
62-552.500	Funds Reserved for Specific Purposes.
62-552.680	<u>Environmental Review. Project List Management.</u>

**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with Section 120.54(3)(d)1., F.S., published in Vol. 42, No. 200, October 13, 2016 issue of the Florida Administrative Register. The Loan Application document incorporated by reference was also changed to clarify the applicability of Federal requirements included in 40 CFR 35 Section 35.3575.

62-552.200 Definitions.

(1) through (11) No change.

(12) “Financially disadvantaged community” means a municipality, county or agency (such as a county-wide department) thereof, franchised area or other entity with a defined public water system service jurisdiction having a median household income of less than the statewide average. The median household income (MHI) data for loan recipients shall be updated on December 31st each year to adjust for

economic changes in the state using the 5-year estimate established by the American Community Survey (ACS) (<http://www.census.gov/programs-surveys/acs/data.html>), computed as provided in the ACS publication, “American Community Survey Design and Methodology (January 2014)” (<http://www.census.gov/programs-surveys/acs/methodology/design-and-methodology.html>). The Department shall use the 5-year estimate from December 2016 for the 2017 MHI determinations and the data from the previous December of each year for subsequent determinations as reported in the most recent American Community Survey (ACS) 5 year estimate from the U.S. Census Bureau or from verifiable estimates.

(13) through (29) No change.

(30) “Service area” means all connections and proposed connections to be served by the project sponsor’s public water system. Population of the service area shall be calculated by multiplying the number of service connections by the number of persons per connection. Persons per connection shall be calculated by dividing the community population by the number of households. The community population and number of households will be determined using the ACS 5-year estimate calculated as provided in Subsection 62-552.200 (12), F.A.C. as provided by the most recent American Community Survey (ACS) 5 year estimate from the U.S. Census Bureau.

(31) through (33) No change.

(34) The following terms and phrases used throughout this Rule Chapter have the meaning given these words in sections 287.012, 403.8532, or 403.852, Florida Statutes: best value, Florida Water Pollution Control Financing Corporation (also referred to as “FWPCFC”), and local governmental agencies.

62-552.300 General Program Information.

(1) Steps involved in obtaining a loan.

(a) through (d) No change

(e) Priority System.

1. Base Priority Score.

a. through c. No change.

d. A project sponsor with a qualifying water conservation project is eligible to receive an additional 100 points added to their priority score if the sponsor provides a water conservation plan in accordance with EPA’s Water Conservation Plan Guidelines, document number EPA-832-D-98-001, August 6, 1998, hereby adopted and incorporated by reference. The sponsor must demonstrate that the proposed project meets the objective of the water conservation plan. This document is available from the Department’s Drinking Water State Revolving Fund Program, 3900 Commonwealth Blvd, Tallahassee, Florida 32399-3000, or electronic versions are available at <https://www3.epa.gov/watersense/pubs/guide.html>

or <http://www.flrules.org/Gateway/reference.asp?No=Ref-00###>.

e. No change.

2. Affordability Score.

a. MHI Score. MHI score shall be derived based on the extent a community's MHI falls below the statewide average. MHI data used to determine points shall be determined using the ACS 5-year estimate calculated as provided in Subsection 62-552.200 (12), F.A.C. ~~come from the most recent American Community Survey (ACS) 5 year estimate from the U.S. Census Bureau~~ or from verifiable estimates and shall represent all areas to be served by the project sponsor's public water system.

(I) MHI score shall not exceed a maximum of 75 points, shall not be less than zero points, and shall be rounded to the nearest whole number.

(II) MHI score is calculated as follows:

MHI Score = 100 x (1.00 - MHI fraction), MHI fraction is equal to the MHI of the service area divided by the statewide MHI.

b. No change.

(f) No change.

(2) Steps involved in obtaining a loan with principal forgiveness.

(a) The project sponsor for a loan with principal forgiveness must qualify as a financially disadvantaged small community, except as stated in paragraphs 62-552.300(2)(f) and 62-552.300(2)(g) below. ~~The project sponsor for a loan with principal forgiveness shall qualify as a financially disadvantaged small community, unless specifically exempted by these rules.~~

(b) through (f) No change.

(g) A project sponsor that does not otherwise qualify as a financially disadvantaged small community is eligible for a construction loan with principal forgiveness if connecting a financially disadvantaged community. ~~A sponsor, regardless of status as a financially disadvantaged small community, is eligible for a construction loan with principal forgiveness to connect a financially disadvantaged community~~ that has less than 250 residential private wells or that has an existing public water system with less than 250 service connections. The sponsor that owns and operates a separate, non-interconnected, public water system that qualifies as a financially disadvantaged small community, regardless of the number of systems owned and operated by the sponsor, is eligible for a construction loan with principal forgiveness for that system. Verifiable documentation of the community's median household income, number of service connections, and estimated persons per household is required to calculate the percentage of principal forgiveness in accordance with these rules, not to exceed 50% of the construction loan amount. This

type of project would follow the same priority listing process as a financially disadvantaged small community in competing for principal forgiveness dollars.

(3) Allowable Project Costs

(a) Land purchased, including easements and right-of-ways for construction of drinking water infrastructure. Funding shall be limited to the fair market value of the acreage, in fee simple, of land necessary for and integral to locate the project facilities thereon including mandatory set-backs. Funding for loans with principal forgiveness shall be limited to the appraised market value of the acreage. The appraisal report must be less than 12 months old at the time the construction loan application is received. If additional land is acquired, the eligible amount shall be the acreage of land necessary for the project divided by the total area purchased times the purchase price;

(b) through (n) No change.

(4) through (8) No change.

(9) Exceptions to Program Requirements.

(a) The Department shall consider a request for an exception to the requirements of this chapter if the exception does not conflict with state or federal law or federal regulations.

(b) A request for exception must contain the following information:

1. The name of the project sponsor, project number, award date, application date, and the financial assistance amount involved;

2. The specific rule to which an exception is requested;

3. A complete description of what the exception would accomplish and justification for the exception;

4. A statement of whether the same or a similar exception previously has been sought; and, if so, an explanation of the reason for that request and the outcome;

5. A demonstration that compliance with the specified rules is unnecessary for abatement of pollution and protection of public health; and

6. A demonstration that the economic, social, and environmental costs of compliance exceed the economic, social, and environmental benefits of compliance.

62-552.430 Loan Applications and Agreements

(1) General.

(a) through (b) No change.

(c) If a project sponsor does not submit a complete loan application within 120 days, or a loan agreement is not executed within 210 days after a project is added to the fundable portion, the project shall be removed from the priority list at the next scheduled public meeting; unless the project sponsor can show good cause prior to that meeting documenting why the application was not submitted or why the agreement was not executed by the appropriate deadline. For the purpose of this paragraph, good cause shall mean unforeseen circumstances



~~outside of the sponsor's control or a showing that the sponsor is making a diligent effort to complete or execute the loan application or loan agreement. If a project sponsor does not submit a complete loan application within 120 days, or a loan agreement is not executed within 210 days after a project is added to the fundable portion, the project is subject to removal from the priority list at the next scheduled public meeting, unless mitigating circumstances are presented to the Department by the beginning of that meeting that document why the application was not submitted or why the agreement was not executed by the appropriate deadline.~~

(d) through (e) No change.

(2) through (10) No change.

62-552.500 Funds Reserved for Specific Purposes.

(1) Small Community Reserve.

~~(a) Fifteen percent of the funds allocated each year by the Department shall be reserved to fund projects that will serve small communities. Fifteen percent of the funds allocated each year by the Department less the amount of any bonds issued or to be issued by the Florida Water Pollution Control Financing Corporation shall be reserved to fund projects that will serve small communities.~~

(b) No change.

(2) through (3) No change.

~~62-552.680 Environmental Review. Project—List Management.~~

~~(1) General.~~

~~(a) The Department shall perform an environmental review for each project to be funded. The environmental review shall evaluate the environmental significance of a proposed project and whether the planning of the project meets the requirements of this chapter. The results of the Department's environmental review for each project shall be issued as an environmental information document which shall be valid for five (5) years from the date of issue, after such time, the document is no longer valid unless a Florida Reaffirmation Notice, pursuant to subsection 62-552.680(5), F.A.C. is written by the Department. The different environmental information documents are described in subsections (2) through (5) below. A notice of availability of an environmental information document shall be published in the *Florida Administrative Register* to announce the results of the Department's environmental review. The notice of availability shall include instructions about the procedures for accessing the project information and the Department's findings. The Department shall provide a thirty (30) day period commencing as of the date of the notice of availability for public comment about the environmental impacts of proposed projects. Written comments from the public shall be considered by the Department before approving~~

a project for funding if postmarked or delivered within the thirty (30) day comment period to the Department.

(b) The project sponsor shall document cultural, historical, archaeological, and biological aspects of a project during the planning process. Conditions shall be placed on a financial assistance loan agreement to enhance the compatibility of the project with the existing environment when such conditions will satisfy environmentally based objections to the project.

(c) Review procedures, identical to those described in this subsection, shall be used when the Department amends an environmental information document to announce project changes that have potentially significant environmental impacts.

(2) Florida Categorical Exclusion Notice (FCEN). The Department shall issue a FCEN for certain projects that are not expected to generate controversy over potential environmental effects. A FCEN shall not be used when there are documented environmental objections to a project before the local governmental agency adopted the planning recommendations provided that such objections have a basis in statute, regulation, or ordinance.

(a) In issuing a FCEN, the Department shall:

1. Briefly describe the project, the justification for the categorical exclusion, and the proposed loan funding.

2. Conclude the environmental review only after the 30-day public comment period, under subsection (1) above, has expired and:

a. No information is received about adverse environmental impacts;

b. Information is received about adverse environmental impacts and the objections either are without a basis in statute, regulation, or ordinance or the objections are resolved; or

c. Information is received about adverse environmental impacts, the FCEN is rescinded, and an environmental review is undertaken according to subsection (3) or (4) below.

(b) Projects potentially eligible for categorical exclusion are:

1. Rehabilitation of existing facilities or replacement of existing structures, wells, waterlines, or equipment;

2. Facilities for the disinfection of public water supplies;

3. Facilities that will not result in more than a 50% increase of existing public water system capacity and there is no acquisition of land other than easements and rights-of-way where streets have been established, underground utilities installed, building sites excavated, or where such lands have otherwise been disturbed from a natural condition;

4. Back-up supply wells where, after disinfection, existing water quality meets drinking water standards and there is no acquisition of land; and

5. Facilities that will result solely in the provision of adequate public water system pressure.

(3) Florida Finding of No Significant Impact (FFONSI). The Department shall issue a FFONSI when a project sponsor proposes a project not categorically excluded from a detailed environmental review and not requiring a Florida Environmental Impact Statement. In issuing a FFONSI, the Department shall:

(a) Record the basis for the decision to provide financial assistance for the project, addressing:

1. The environmental consequences of the project;
2. The purpose and the need for the project;
3. The alternatives, including no action, and the cost considerations for the project;

4. Any environmental enhancement measures to be implemented;

5. The public participation process;

6. The results, if available, of the State Clearinghouse Review; and

7. Compliance with relevant rules of the Department.

(b) Consider public comments about environmental impacts of a project if the comments are received within 30 days after the date of posting of the notice of availability.

(c) Conclude the environmental review for the project only after the 30-day comment period has expired and:

1. No information is received about previously unconsidered adverse environmental impacts; and

2. Information is received about previously unconsidered adverse environmental impacts and one of the following occurs:

a. The objections are either without a basis in statute, regulation, or ordinance or the objections are resolved;

b. A re-evaluation of the project is made as a result of the comments and the Department confirms the original decision or requires environmental enhancement measures before implementing the project; or

c. The FFONSI is rescinded.

(4) Florida Environmental Impact Statement (FEIS). A FEIS and a Florida Record of Decision (FROD), as required in 40 CFR Part 35 Subparts K & L, shall be used for a project for which there is an adverse direct or indirect impact on land use and population patterns, the quality of the environment, cultural or environmental resource areas, or the habitats of endangered or threatened species. A FEIS and FROD also shall be used when there is unresolved public controversy over the environmental impacts of a project provided that the objections to the project have a basis in statute, regulation, or ordinance. A FEIS shall be prepared by the Department or, at the direction of the Department and in accordance with the Consultants' Competitive Negotiation Act, Section 287.055, F.S., by others with no conflicting interest in the outcome. In completing the environmental review, the Department shall:

(a) Issue a notice of intent to prepare a FEIS for the project;

(b) Develop a plan of study and convene a meeting of government, including EPA, and other interested parties to determine the scope of the FEIS;

(c) Identify and evaluate project alternatives;

(d) Provide for public participation and review by federal and state environmental regulatory agencies;

(e) Ensure that adverse impacts of the project are minimized or eliminated;

(f) Document the findings of the environmental review using both the FROD and FEIS;

(g) Announce the funding eligibilities using a FROD and consider public comments about environmental impacts if received during the thirty (30) day period beginning on the date of posting of the notice of availability in the *Florida Administrative Register*; and

(h) Conclude the environmental review only after a 30-day public comment period has expired without receipt of comments about adverse environmental impacts or if, after receipt of such comments, the Department takes action to:

1. Confirm the original decision;

2. Require additional analysis and environmental enhancement as a condition of confirmation of the original decision; or

3. Rescind the original decision.

(5) Florida Reaffirmation Notice (FRAN). A FRAN shall be used to establish the Department's continuing intention to make funds available for unimplemented projects, the planning for which was previously documented as accepted by the Department in a FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing that are no longer valid after five (5) years have elapsed since issuance. In issuing a FRAN, the Department shall:

(a) State the findings being reaffirmed.

(b) Consider public comments about changed conditions altering the environmental impacts since the previous FCEN, FFONSI, FROD, or analogous documents issued by EPA, or amendments to any of the foregoing. Comments shall be considered if received during the thirty (30) day period beginning on the date of posting of the notice of availability of the FRAN in the *Florida Administrative Register*.

(c) Conclude the environmental review only after the public comment period has expired and:

1. No information is received about changed conditions resulting in adverse environmental impacts; and

2. Information is received about changed conditions resulting in adverse environmental impacts and one of the following occurs:

a. The objections are resolved;

b. A re-evaluation of the project is made as a result of the comments and the Department confirms the original decision or

requires environmental enhancement measures before implementing the project; or

c. The FRAN is rescinded.

(6) State Clearinghouse. Project planning documentation shall be submitted to the state clearinghouse for review in accordance with s. 403.061(42), F.S. All comments resulting from this review shall be addressed by the Department prior to its approval of the planning documentation.

(7) Project Revision Memoranda (PRM). For a project that requires modifications to the selected alternative that does not alter its environmental effects, a PRM shall be written by the Department to document the changes.

Rulemaking Authority 403.8532 FS. Law Implemented, 403.8532, 403.061(42), FS. History-New 4-7-98, Amended 8-10-98, Repealed.

## Section IV Emergency Rules

NONE

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

### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:

61C-4.010 Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on March 27, 2017, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for a Routine Variance for Subparagraph 3-305.11(A)(2), 2009 FDA Food Code, Section 3-305.14, 2009 FDA Food Code, Section 6-202.15, 2009 FDA Food Code, Section 6-202.16, 2009 FDA Food Code, subsection 61C-4.010(1), Florida Administrative Code, and subsection 61C-4.010(6), Florida Administrative Code from Katherine #5 located in Orlando. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk time/temperature control for safety foods from an open air mobile food dispensing vehicle.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Daisy.Aleman@myfloridalicense.com, Division

of Hotels and Restaurants, 2601 Blair Stone Road, Tallahassee, Florida 32399-1011.

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Beaches and Coastal Systems

RULE NOS.:RULE TITLES:

62B-33.002 Definitions

62B-33.0051 Coastal Armoring and Related Structures

NOTICE IS HEREBY GIVEN that on February 24, 2017, the Department of Environmental Protection received a petition for variance or waiver from Petitioner, John Anderson. The petition requested a variance/waiver from the rule provisions of subsections 62B-33.002(18) and 62B-33.002(43), and subparagraph 62B-33.0051(1)(a)1, F.A.C, which require that, in order to qualify for a permit for coastal armoring, the structure proposed to be protected must be an eligible structure. The property is located at 4600 Coastal Highway, St. Augustine, Florida 32084. The petition has been assigned OGC No. 17-0111.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Celora Jackson, Department of Environmental Protection, MS 3522, 2600 Blair Stone Road, Tallahassee, Florida 32399, (850)245-7668, Celora.A.Jackson@dep.state.fl.us, during normal business hours, 8:00 a.m. – 5:00 p.m. Monday through Friday, except legal holidays. Written comments must be received by the Department of Environmental Protection no later than 14 days from the date of publication of this notice.

### DEPARTMENT OF ENVIRONMENTAL PROTECTION

Beaches and Coastal Systems

RULE NO.: RULE TITLE:

62B-33.002: Definitions

62B-33.0051: Coastal Armoring and Related Structures

NOTICE IS HEREBY GIVEN that on February 28, 2017, the Department of Environmental Protection, received a petition for variance or waiver from Petitioner, Alan Fisher. The petition requested a variance/waiver from the rule provisions of subsections 62B-33.002(18) and 62B-33.002(43), and subparagraph 62B-33.0051(1)(a)1, F.A.C, which require that, in order to qualify for a permit for coastal armoring, the structure proposed to be protected must be an eligible structure. The property is located at 4570 Coastal Highway, St. Augustine, Florida 32084. The petition has been assigned OGC No. 17-0112.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Celora Jackson, Department of Environmental Protection, MS 3522, 2600 Blair Stone Road, Tallahassee, Florida 32399, (850)245-7668, Celora.A.Jackson@dep.state.fl.us, during normal business hours, 8:00 a.m. – 5:00 p.m. Monday through Friday, except legal holidays. Written comments must be received by the

Department of Environmental Protection no later than 14 days from the date of publication of this notice.

For more information, you may contact: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

## Section VI Notice of Meetings, Workshops and Public Hearings

### DEPARTMENT OF EDUCATION

The Florida Rehabilitation Council announces a telephone conference call to which all persons are invited.

DATE AND TIME: May 18, 2017, 4:00 p.m. – 6:30 p.m., ET  
PLACE: Conference call: number: 1(888)760-3525, participant code: 7513637441

GENERAL SUBJECT MATTER TO BE CONSIDERED: Florida Rehabilitation Council Full council Call. General Business.

This conference call replaces a call that was cancelled on May 11, 2017.

A copy of the agenda may be obtained by contacting: Roy Cosgrove at (850)245-3317 or roy.cosgrove@vr.fldoe.org.

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 7 days before the workshop/meeting by contacting: Roy Cosgrove at (850) 245-3317 or roy.cosgrove@vr.fldoe.org. 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).

For more information, you may contact: Roy Cosgrove at (850)245-3317 or roy.cosgrove@vr.fldoe.org.

### DEPARTMENT OF EDUCATION

The Florida Rehabilitation Council announces a telephone conference call to which all persons are invited.

DATE AND TIME: June 8, 2017, 4:00 p.m. – 6:30 p.m., ET  
PLACE: Conference call number: 1(888)670-3525, participant code: 7513637441

GENERAL SUBJECT MATTER TO BE CONSIDERED: Florida Rehabilitation Council General Business.

A copy of the agenda may be obtained by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

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 7 days before the workshop/meeting by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org. 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).

### DEPARTMENT OF EDUCATION

The Florida Rehabilitation Council announces a telephone conference call to which all persons are invited.

DATE AND TIME: July 13, 2017, 4:00 p.m. – 6:30 p.m., ET  
PLACE: Conference call number: 1(888)670-3525, participant code: 7513637441

GENERAL SUBJECT MATTER TO BE CONSIDERED: Florida Rehabilitation Council General Business.

A copy of the agenda may be obtained by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

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 7 days before the workshop/meeting by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org. 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).

For more information, you may contact: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

### STATE BOARD OF ADMINISTRATION

The Florida Hurricane Catastrophe Fund announces a public meeting to which all persons are invited.

DATE AND TIME: April 11, 2017, 9:00 a.m. (ET) to conclusion

PLACE: Cabinet Meeting Room, Lower Level, The Capitol, Tallahassee, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is a meeting of the Trustees of the State Board of Administration to authorize the Florida Hurricane Catastrophe Fund (the Fund) to file a Notice of Proposed Rule for Rule 19-8.028, F.A.C., Reimbursement Premium Formula, and to file this rule for adoption if no member of the public timely requests a rule hearing or if a rule hearing is requested but no Notice of Change is needed. The rule and incorporated form are available on the Fund' website: www.sbafla.com/fhcf.

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 7 days before the workshop/meeting by contacting: Leonard Schulte, Florida Hurricane Catastrophe Fund, (850)413-1335, leonard.schulte@sbafla.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).

**WATER MANAGEMENT DISTRICTS**

Northwest Florida Water Management District  
 The Northwest Florida Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: April 10, 2017, 2:30 p.m., ET  
 PLACE: District Headquarters, 81 Water Management Drive, Havana, FL 32333

GENERAL SUBJECT MATTER TO BE CONSIDERED: In accordance with the timeframe set forth in section 120.525, Florida Statutes, a public opening is hereby noticed within the timeline for Invitation to Bid (ITB) 17B-011 for the 2017 DEVIL'S SWAMP SAND PINE TIMBER SALE.

A copy of the agenda may be obtained by contacting: Tyler Macmillan, (850)539-5999, Tyler.macmillan@nfwwater.com. 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 72 hours before the workshop/meeting by contacting: Division of Administration, (850)539-5999. 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).

For more information, you may contact: Tyler Macmillan, (850)539-5999, Tyler.macmillan@nfwwater.com.

**WATER MANAGEMENT DISTRICTS**

Suwannee River Water Management District  
 The Suwannee River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 11, 2017, 9:00 a.m.  
 PLACE: District Headquarters, 9225 CR 49, Live Oak, FL 32060

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board Meeting, Workshop, Public Hearing and Committee Meetings. Consider Suwannee River Water Management District business.

A copy of the agenda may be obtained by contacting: Robin Lamm at (386)362-1001 or 1(800)226-1066 (Florida only), or on the District's website: www.mysuwanneeriver.com, when published.

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 2 days before the workshop/meeting by contacting: Robin Lamm at (386)362-1001 or 1(800)226-1066 (Florida only). 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the

proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

**WATER MANAGEMENT DISTRICTS**

St. Johns River Water Management District

The Central Florida Water Initiative (CFWI) Steering Committee consists of a Governing Board member from the St. Johns River Water Management District, South Florida Water Management District, and Southwest Florida Water Management District each, and a representative from each of the following: The Florida Department of Environmental Protection, Florida Department of Agricultural and Consumer Services, and the Tohopekaliga (Toho) Water Authority. Toho's representative also represents other water supply utilities within the Central Florida Water Initiative. The CFWI Steering Committee announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, April 14, 2017, 9:30 a.m.  
 PLACE: TOHO Water Authority, 951 Martin Luther King Blvd., Kissimmee, FL 34741

GENERAL SUBJECT MATTER TO BE CONSIDERED: The CFWI Steering Committee is a collaborative effort among government agencies formed to address water resource issues in the area known as the Central Florida Water Initiative. The CFWI Steering Committee will consider matters appearing on the agenda for the meeting or matters added to the agenda as determined by the Chair of the Committee. Additional information about this effort may be found at <http://cfwiwater.com>. NOTE: One or more additional Governing Board members from each of the three districts named above may attend and participate in the meeting of the CFWI Steering committee.

A copy of the agenda may be obtained by contacting: Craig Varn, Manson Bolves and Donaldson, 204 South Monroe Street, Suite 201, Tallahassee, FL 32301, (850)583-0007, CVarn@mansonbolves.com or <http://cfwiwater.com> seven days before the meeting.

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: Nilsa Diaz, Executive Assistant to the Executive Director, Tohopekaliga Water Authority, (407)944-5000. 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).

For more information, you may contact: Mike Register, Director, Division of Water Supply Planning and Assessment, St. Johns River Water Management District, P.O. Box 1429, Palatka, FL 32178-1429, (386)329-4212, mregister@sjrwmd.com; Mark Elsner, Chief of Water Supply

Bureau, South Florida Water Management District, 3301 Gun Club Road, West Palm Beach, FL 33406, (561)682-6156, melsner@sfwmd.gov; Jason Mickel, Water Supply Manager, Southwest Florida Water Management District, 2379 Broad Street, Brooksville, FL 34604-6899, (352)796-7211, jason.mickel@watermatters.org or Craig Varn, Manson Bolves and Donaldson, 204 South Monroe Street, Suite 201, Tallahassee, FL 32301(850)583-0007,CVarn@mansonbolves.com.

**WATER MANAGEMENT DISTRICTS**

St. Johns River Water Management District

The St. Johns River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, April 10, 2017, 3:00 p.m. – 5:00 p.m.

PLACE: Meet at Sunnyhill Restoration Area (Blue House), 19561 SE Highway 42, Umatilla, FL 32784

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Sunnyhill Restoration Area site visit will focus on trails, restoration, fire management and invasive species management.

Note: This event may be attended by one or more members of the St. Johns River Water Management Governing Board.

A copy of the agenda may be obtained by contacting: St. Johns River Water Management District, Attention Lori Griffith at lgriffith@sjrwmd.com, 4049 Reid Street, Palatka, FL 32177, (386)329-4470.

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: District Clerk at (386)329-4500. 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).

**WATER MANAGEMENT DISTRICTS**

St. Johns River Water Management District

The St. Johns River Water Management District announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 11, 2017; Committee Meetings will begin at 9:00 a.m. followed by the Governing Board meeting scheduled to begin at 11:00 a.m. or following the Committee Meetings, whichever is later.

PLACE: City of Eustis Commission Chambers, 10 North Grove Street, Eustis, FL 32726

GENERAL SUBJECT MATTER TO BE CONSIDERED: Discussion and consideration of District business including regulatory and non-regulatory matters. Staff may recommend approval of external amendments which affect the adopted budget.

NOTE: One or more Governing Board members may attend and participate in the meetings by means of communications media technology.

A copy of the agenda may be obtained by contacting: St. Johns River Water Management District, Attention Lori Griffith, 4049 Reid Street, Palatka, FL 32177, by phone at (386)329-4470, or by visiting the District’s website at sjrwmd.com.

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: District Clerk at (386)329-4500. 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).

**WATER MANAGEMENT DISTRICTS**

Southwest Florida Water Management District

RULE NO.: RULE TITLE:

40D-8.624 Guidance and Minimum Levels for Lakes

The Southwest Florida Water Management District announces a workshop to which all persons are invited.

DATE AND TIME: Monday, April 17, 2017, 5:30 p.m. – 7:00 p.m.

PLACE: Lutz Branch Library, 101 W. Lutz Lake Fern Road, Lutz, FL 33548

GENERAL SUBJECT MATTER TO BE CONSIDERED: Proposed guidance and minimum levels for Deer Lake in Hillsborough County pursuant to Sections 373.042, and 373.0421, F.S.

A copy of the agenda may be obtained by contacting: Mark Hurst, Senior Environmental Scientist, SWFWMD, 2379 Broad Street, Brooksville, FL 34604, (352)796-7211, ext. 4271.

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: SWFWMD Human Resources Director, (352)796-7211, ext. 4701; 1(800)423-1476 (FL only), ext. 4701 or email to ADACoordinator@swfwmd.state.fl.us. 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).

For more information, you may contact: Mark Hurst, Senior Environmental Scientist, SWFWMD, 2379 Broad Street, Brooksville, FL 34604, (352)796-7211, ext. 4271. A2017020-1.

## AGENCY FOR HEALTH CARE ADMINISTRATION

Health Facility and Agency Licensing

RULE NO.: RULE TITLE:

59A-35.310 Comprehensive Emergency Management Plan

The Agency for Health Care Administration announces a workshop to which all persons are invited.

DATE AND TIME: March 31, 2017, 2:30 p.m. – 4:30 p.m.

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

GENERAL SUBJECT MATTER TO BE CONSIDERED:

\*\*\*WORKSHOP CANCELLED\*\*\*

Notice is hereby given that the rule workshop scheduled for March 31, 2017 as noticed in the March 13, 2017 issue (Vol. 43, No. 49) of the Florida Administrative Register, is cancelled. The workshop will be rescheduled at a later date.

A copy of the agenda may be obtained by contacting: N/A.

For more information, you may contact: Rebecca Willis, Bureau of Health Facility Regulation, 2727 Mahan Drive, MS 28A, Tallahassee, Florida, 32308, (850)412-4413, Rebecca.Willis@ahca.myflorida.com.

## DEPARTMENT OF ECONOMIC OPPORTUNITY

Division of Workforce Services

The Reemployment Assistance Appeals Commission announces a public meeting to which all persons are invited.

DATE AND TIME: April 5, 2017, 9:30 a.m.

PLACE: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151

GENERAL SUBJECT MATTER TO BE CONSIDERED:

Deliberation for cases pending before the Reemployment Assistance Appeals Commission that are ready for final review and the Chairman's report. No public testimony will be taken.

A copy of the agenda may be obtained by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

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 24 hours before the workshop/meeting by contacting the Reemployment Assistance Appeals Commission. 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).

For more information, you may contact Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

## DRMP, INC.

The Department of Transportation announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 4, 2017, 5:30 p.m. – 6:30 p.m., CT

PLACE: Lexington Terrace Community Park, 900 South Old Corry Field Road, Pensacola, Florida 32507

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Department of Transportation (FDOT) invites you to attend a public kick-off meeting concerning the Project Development and Environment (PD&E) Study for State Road (S.R.) 30 (U.S. 98/Navy Boulevard) from S.R. 295 (New Warrington Road) to the Bayou Chico Bridge in Escambia County. The meeting is being conducted to explain the study process, seek public input and provide interested persons an opportunity to get involved in the study. Maps, drawings, and other information will be on display. There will be no formal presentation; however, representatives from FDOT will be available to discuss the study, answer questions, and receive comments.

Financial Project Identification Number: 218630-2-22-01.

A copy of the agenda may be obtained by contacting: Kimberly Stephens, P.E., FDOT Project Manager, (850)415-9015, kistephens@hntb.com.

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 7 days before the workshop/meeting by contacting: Kimberly Stephens, P.E., FDOT Project Manager, (850)415-9015, kistephens@hntb.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 environmental review, consultation, and other actions required by applicable federal environmental laws for this project are being, or have been, carried out by the Florida Department of Transportation (FDOT) pursuant to 23 U.S.C. §327 and a Memorandum of Understanding dated December 14, 2016 and executed by the Federal Highway Administration and FDOT.

For more information, you may contact: Kimberly Stephens or Ian Satter, District Three Public Information Director at 1(888)638-0250, ext. 1205 (toll-free) or via email: ian.satter@dot.state.fl.us.

## VHB

The Florida Department of Transportation (FDOT) announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, April 25, 2017: 5:30 p.m. – 7:30 p.m., Open House; 6:00 p.m., Presentation

PLACE: Umatilla City Hall, 1 South Central Avenue, Umatilla, Florida 32784

GENERAL SUBJECT MATTER TO BE CONSIDERED: Financial Management No.: 439756-1-12-01.

Project Description: Corridor Planning Study - State Road (SR) 19 (North Central Avenue) from CR 450-A to Bulldog Way / Olde Mill Stream RV Resort.

This is the first public meeting to be held as part of a community-based evaluation to determine how best to meet the needs of the traveling public. The purpose of this public meeting is to present project goals and objectives, explain the study process, seek public and agency input, and provide interested persons an opportunity to get involved in the study. Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status. Persons wishing to express their concerns relative to FDOT compliance with Title VI may do so by contacting: Jennifer Smith, FDOT District Five Title VI Coordinator, (386)943-5367, Jennifer.Smith2@dot.state.fl.us.

A copy of the agenda may be obtained by contacting: Judy Pizzo, MSURP, Planning Project Manager for FDOT at 719 South Woodland Boulevard, DeLand, FL 32720, (386)943-5167, Judy.Pizzo@dot.state.fl.us.

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 7 days before the workshop/meeting by contacting: Kyle Taniguchi, Project Planner, (407)839-4006, ktaniguchi@vhb.com, at least seven (7) days prior to the meeting. 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).

For more information, you may contact: Judy Pizzo, MSURP, FDOT Planning Project Manager, (386)943-5167, Judy.Pizzo@dot.state.fl.us.

**ANN POPE CONSULTING**

The Florida Department of Transportation (FDOT), District Six announces a workshop to which all persons are invited.

DATE AND TIME: Tuesday, April 4, 2017, 6:00 p.m.

PLACE: Miami Dade College – North Campus, Building 300, 2nd Floor, Room 3201

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Florida Department of Transportation (FDOT), District Six, has scheduled a Public Workshop to discuss the NW 27th Avenue Rapid Transit Project Development and Environmental (PD&E) Study along SR 9/SR 817/NW 27th Avenue from approximately NW 38th Street to approximately NW 215th Street (at Unity Station) and from the Miami Intermodal Center (MIC) (at Miami International Airport) to NW 27th Avenue via SR 112. The Public Workshop will be held on Tuesday, April

4, 2017, at Miami Dade College – North Campus, Building 300, 2nd Floor, Room3201, located at 11380 NW 27th Avenue, Miami, FL 33167. This workshop will be held at 6:00 p.m. in an informal, open house format.

The PD&E study will focus on the implementation of a Rapid Transit service and infrastructure along SR 9/SR 817/NW 27th Avenue. The study will also include public on-street transit stations/stops as well as public and/or private facilities located adjacent to or off-corridor where potential park-and-ride and/or transit terminals (including the Miami Dade College North Campus) will be considered.

This workshop will provide an opportunity for the public to learn about the project, become familiar with the study process, and provide initial feedback.

A copy of the agenda may be obtained by contacting: Ms. Teresita Alvarez, P.E., Project Manager, at (305)640-7557 or by email at teresita.alvarez@dot.state.fl.us. Public participation is solicited without regard to race, color, national origin, age, sex, religion, disability or family status.

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 seven (7) days before the workshop/meeting by contacting: Hong Benitez, P.E. at (305)470-5219, in writing at 1000 NW 111th Avenue, Miami, Florida 33172 or via email at Hong.Benitez@dot.state.fl.us. 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). Any persons who require translation services (free of charge) should also contact Hong Benitez at least seven (7) days before the meeting. 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).

For more information, you may contact: Ann Pope, Public Information Specialist, at (305)321-6011 or nw27studyinfo@gmail.com.

**Section VII  
Notice of Petitions and Dispositions  
Regarding Declaratory Statements**

**DEPARTMENT OF HEALTH**

Board of Physical Therapy Practice

NOTICE IS HEREBY GIVEN that the Board of Physical Therapy Practice has received the petition for declaratory statement from Chris Gellert, PT. The petition seeks the agency’s opinion as to the applicability of NO specific statute or rule for which a determination is requested in this petition, as it applies to the petitioner.



A Petition for Declaratory Statement filed by Chris Gellert, PT, on January 30, 2017. Petitioner seeks a declaratory statement regarding the scope of practice for PTAs, asking what are the laws and regulations of PTAs in the state of Florida to use or not use an IASTM (Instrument Assisted Soft Tissue Mobilization) tool, and asking whether PTAs have the right to use IASTM tools in the state of Florida once they receive formal training. Except for good cause shown, motions for leave to intervene must be filed within 21 days after publication of this notice.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253, Allen.Hall@flhealth.gov.

**Section VIII  
Notice of Petitions and Dispositions  
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

Notice of Disposition of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

NONE

**Section IX  
Notice of Petitions and Dispositions  
Regarding Non-rule Policy Challenges**

NONE

**Section X  
Announcements and Objection Reports of  
the Joint Administrative Procedures  
Committee**

NONE

**Section XI  
Notices Regarding Bids, Proposals and  
Purchasing**

DEPARTMENT OF MANAGEMENT SERVICES

Division of Building Construction

MSFM-16007210-Low Bid

ADVERTISEMENT TO BID CONSTRUCTION

STATE OF FLORIDA DEPARTMENT OF MANAGEMENT SERVICES

DIVISION OF REAL ESTATE DEVELOPMENT AND MANAGEMENT

PUBLIC ANNOUNCEMENT REQUESTING BIDS FROM QUALIFIED ELECTRICAL CONTRACTORS

March 28, 2017

PROPOSALS ARE REQUESTED FROM QUALIFIED ELECTRICAL CONTRACTORS BY THE DEPARTMENT OF MANAGEMENT SERVICES.

PROJECT NUMBER: MSFM-16007210

PROJECT NAME: CCOC Central Energy Plant (CEP), Replace Exterior Switchgear

PROJECT LOCATION: Tallahassee, Florida

MANDATORY PRE-BID MEETING: April 6, 2017

BID OPENING: April 27, 2017

ESTIMATED CONSTRUCTION BUDGET: \$566,000.00

PREQUALIFIED BIDDERS: Refer to DMS website (below) for further details

The award will be made in accordance with Section 255.29, Florida Statutes, and the procedures and criteria of the Departments Division of Real Estate Development and Management.

Please visit the Department’s website [http://www.myflorida.com/apps/vbs/vbs\\_www.main\\_menu](http://www.myflorida.com/apps/vbs/vbs_www.main_menu) and click on “Search Advertisements” – “Division of Real Estate Development and Management” Look for “Opportunities for Design and Construction Firms” and click on link.

**Section XII  
Miscellaneous**

DEPARTMENT OF STATE

Index of Administrative Rules Filed with the Secretary of State

Pursuant to Section 120.55(1)(b)6. – 7., F.S., the below list of rules were filed in the Office of the Secretary of State between 8:00 a.m., Tuesday March 21, 2017 and 3:00 p.m., Monday, March 27, 2017. An improved electronic publication system is forthcoming on the Florida Administrative Rules website, FLRules.org, which will accommodate complete publication of

rules filed for adoption in the previous 7 days, including rules awaiting legislative action.

Rule No.	File Date	Effective Date
14-100.003	3/21/2017	4/10/2017
14-100.004	3/21/2017	4/10/2017
14-100.005	3/21/2017	4/10/2017
14-100.006	3/21/2017	4/10/2017
19-11.001	3/23/2017	4/12/2017
19-11.003	3/23/2017	4/12/2017
19-11.004	3/23/2017	4/12/2017
19-11.005	3/23/2017	4/12/2017
19-11.006	3/23/2017	4/12/2017
19-11.007	3/23/2017	4/12/2017
19-11.008	3/23/2017	4/12/2017
19-11.009	3/23/2017	4/12/2017
19-11.010	3/23/2017	4/12/2017
19-11.011	3/23/2017	4/12/2017
19-11.012	3/23/2017	4/12/2017
19-11.013	3/23/2017	4/12/2017
59G-6.090	3/23/2017	4/12/2017

61DER17-1	3/24/2017	3/24/2017
61G1-13.001	3/22/2017	4/11/2017
61G1-14.001	3/22/2017	4/12/2017
62-660.400	3/22/2017	3/22/2017
64B5-7.003	3/22/2017	4/13/2017
64B5-9.011	3/22/2017	4/14/2017
64B7-29.002	3/22/2017	4/15/2017
64B16-32.007	3/23/2017	4/12/2017
64B16-32.009	3/23/2017	4/12/2017
65A-1.602	3/22/2017	4/12/2017
69B-228.010	3/23/2017	4/12/2017
69B-228.020	3/23/2017	4/12/2017
69B-228.030	3/23/2017	4/12/2017
69B-228.040	3/23/2017	4/12/2017
69B-228.050	3/23/2017	4/12/2017
69B-228.060	3/23/2017	4/12/2017
69B-228.080	3/23/2017	4/12/2017
69B-228.090	3/23/2017	4/12/2017
69B-228.110	3/23/2017	4/12/2017
69B-228.120	3/23/2017	4/12/2017
69B-228.130	3/23/2017	4/12/2017
69B-228.150	3/23/2017	4/12/2017
69B-228.160	3/23/2017	4/12/2017
69B-228.180	3/23/2017	4/12/2017
69B-228.190	3/23/2017	4/12/2017
69B-228.210	3/23/2017	4/12/2017

69B-228.220	3/23/2017	4/12/2017
69B-228.230	3/23/2017	4/12/2017
69B-228.240	3/23/2017	4/12/2017
69B-228.250	3/23/2017	4/12/2017
69B-228.260	3/23/2017	4/12/2017
69B-228.270	3/23/2017	4/12/2017
69B-228.280	3/23/2017	4/12/2017i
<b>LIST OF RULES AWAITING LEGISLATIVE APPROVAL SECTIONS 120.541(3), 373.139(7) AND/OR 373.1391(6), FLORIDA STATUTES</b>		
<b>Rule No.</b>	<b>File Date</b>	<b>Effective Date</b>
40B-9.021	12/21/2016	**/**/*****
40B-9.041	12/21/2016	**/**/*****
40B-9.126	12/21/2016	**/**/*****
40B-9.131	12/21/2016	**/**/*****
40B-9.1381	12/21/2016	**/**/*****
40B-9.1411	12/21/2016	**/**/*****
40B-9.142	12/21/2016	**/**/*****
40B-9.145	12/21/2016	**/**/*****
40B-9.123	12/9/2016	**/**/*****
58M-2.009	2/9/2017	**/**/*****
60FF1-5.009	7/21/2016	**/**/*****
64B8-9.009	6/15/2016	**/**/*****
64B8-10.003	12/9/2015	**/**/*****
69L-7.100	12/19/2016	**/**/*****
69L-7.501	12/19/2016	**/**/*****

DEPARTMENT OF STATE  
 Division of Historical Resources  
 SMALL MATCHING HISTORIC PRESERVATION GRANTS  
 FORMAL SOLICITATION FOR APPLICATIONS  
 The Florida Department of State is currently soliciting applications for Small Matching Category Grant-in-Aid

assistance for historic preservation projects. Applications will be accepted online at dosgrants.com. The application submission period will open April 1, 2017, and end at 5:00 p.m. on May 1, 2017. Applications will only be accepted electronically and must be complete to be considered for evaluation. Funding availability will depend upon legislative appropriation during the 2018 Legislative Session. Recommended grant awards will not exceed \$50,000. To access the complete solicitation letter please visit DHR website: <http://dos.myflorida.com/media/697579/fy2019-sm-solicitation.pdf>. Grant Staff can be contacted at 1(800)847-7278, email: BHPgrants@dos.myflorida.com or by visiting: [www.flheritage.com/grants](http://www.flheritage.com/grants).

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 Clean Water State Revolving Fund Program  
 NOTICE OF AVAILABILITY  
 FLORIDA CATEGORICAL EXCLUSION NOTICE  
 Florida Governmental Utility Authority, Chuluota, Florida  
 The Florida Department of Environmental Protection (DEP) has determined that the Florida Governmental Utility Authority’s project to construct a reclaimed water storage tank and pump station at the existing Chuluota wastewater treatment facility site is not expected to generate controversy over potential environmental effects. The total estimated construction cost is \$1,345,500. The project may qualify for a Clean Water State Revolving Fund loan composed of federal and state funds. DEP will consider public comments about the environmental impacts of the proposed project that are postmarked or delivered at the address below within 30 days of this notice. A full copy of the Florida Categorical Exclusion Notice can be obtained by writing to: Mahnaz Massoudi, CWSRF Program, Department of Environmental Protection, 3900 Commonwealth Boulevard, MS 3505, Tallahassee, Florida 32399-3000, calling (850)245-2960 or emailing [mahnaz.massoudi@dep.state.fl.us](mailto:mahnaz.massoudi@dep.state.fl.us).

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 State Revolving Fund Program  
 NOTICE OF AVAILABILITY  
 FLORIDA FINDING OF NO SIGNIFICANT IMPACT  
 Citrus County  
 The Department of Environmental Protection (DEP) has determined that Citrus County’s proposed project for improvements of their drinking water system will not have a significant adverse impact on the environment. The project includes the installation of 46,500 linear feet (lf) of 16-inch transmission main and 11,500 lf of 12-inch distribution main. The project is estimated to cost a total of \$5,234,000. A full copy of the Florida Finding of No Significant Impact report can

be obtained by writing to: Greg Alfsen, State Revolving Fund Program, DEP, 3900 Commonwealth Blvd., Mail Station 3505, Tallahassee, Florida 32399-3000, or by calling (850)245-2983.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
NOTICE OF EXTENSION UNDER SECTION 120.74(5),  
FLORIDA STATUTES**

In accordance with Section 120.74(5), F.S., the Department of Environmental Protection (Department) extends the April 1 deadline to publish Notice of Proposed Rule for rules required by 2013-205, Laws of Florida, regarding natural gas storage facilities. The Department is continuing its technical research and review related to Florida specific issues for facilities covered by this law.

**Section XIII  
Index to Rules Filed During Preceding  
Week**

**INDEX TO RULES FILED BETWEEN  
March 20, 2017 AND MARCH 24, 2017**

Rule No.	File Date	Effective Date	Proposed Vol./No.	Amended Vol./No.
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**DEPARTMENT OF TRANSPORTATION**

14-100.003	3/21/2017	4/10/2017	43/11	
14-100.004	3/21/2017	4/10/2017	43/11	
14-100.005	3/21/2017	4/10/2017	43/11	
14-100.006	3/21/2017	4/10/2017	43/11	

**STATE BOARD OF ADMINISTRATION**

19-11.001	3/23/2017	4/12/2017	42/228	43/27
19-11.003	3/23/2017	4/12/2017	42/228	
19-11.004	3/23/2017	4/12/2017	42/228	
19-11.005	3/23/2017	4/12/2017	42/228	
19-11.006	3/23/2017	4/12/2017	42/228	43/27
19-11.007	3/23/2017	4/12/2017	42/228	
19-11.008	3/23/2017	4/12/2017	42/228	
19-11.009	3/23/2017	4/12/2017	42/228	
19-11.010	3/23/2017	4/12/2017	42/228	
19-11.011	3/23/2017	4/12/2017	42/228	
19-11.012	3/23/2017	4/12/2017	42/228	43/27
19-11.013	3/23/2017	4/12/2017	42/228	

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

59G-6.090	3/23/2017	4/12/2017	43/26	
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**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Division of Pari-Mutuel Wagering**

61DER17-1	3/24/2017	3/24/2017	43/58	
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**Board of Architecture and Interior Design**

61G1-13.001	3/22/2017	4/11/2017	43/01	43/30
61G1-14.001	3/22/2017	4/11/2017	43/01	43/30

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

62-660.400	3/22/2017	3/22/2017	43/28	
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**DEPARTMENT OF HEALTH**

**Board of Dentistry**

64B5-7.003	3/22/2017	4/11/2017	43/18	
64B5-9.011	3/22/2017	4/11/2017	43/18	

**Board of Massage**

64B7-29.002	3/22/2017	4/11/2017	43/04	
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**Board of Pharmacy**

64B16-32.007	3/23/2017	4/12/2017	42/104	42/175
64B16-32.009	3/23/2017	4/12/2017	42/104	42/175

**Division of Environmental Health**

64E-5.1203	3/24/2017	4/13/2017	43/06	
64E-5.1204	3/24/2017	4/13/2017	43/06	
64E-5.1205	3/24/2017	4/13/2017	43/06	
64E-5.1206	3/24/2017	4/13/2017	43/06	
64E-5.1207	3/24/2017	4/13/2017	43/06	
64E-5.1208	3/24/2017	4/13/2017	43/06	

**DEPARTMENT OF CHILDREN AND FAMILIES**

**Economic Self-Sufficiency Program**

65A-1.602	3/23/2017	4/12/2017	42/248	
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**FISH AND WILDLIFE  
COMMISSION**

**Marine Fisheries**

68B-24.002	3/24/2017	5/1/2017	43/11	43/33
68B-24.0055	3/24/2017	5/1/2017	43/11	43/33
68B-24.006	3/24/2017	5/1/2017	43/11	
68B-24.007	3/24/2017	5/1/2017	43/11	
68B-31.016	3/24/2017	4/13/2017	43/31	
68B-31.018	3/24/2017	4/13/2017	43/31	
68B-35.002	3/24/2017	4/13/2017	43/30	
68B-35.005	3/24/2017	4/13/2017	43/30	
68B-38.003	3/24/2017	4/13/2017	43/30	
68B-39.0045	3/24/2017	4/13/2017	43/30	
68B-39.005	3/24/2017	4/13/2017	43/30	
68B-4.011	3/24/2017	4/13/2017	43/30	
68B-4.017	3/24/2017	4/13/2017	43/30	
68B-42.0036	3/24/2017	4/13/2017	43/30	

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Insurance Agent and Agency Services**

69B-228.010	3/23/2017	4/12/2017	42/152	
69B-228.020	3/23/2017	4/12/2017	42/152	
69B-228.030	3/23/2017	4/12/2017	42/152	
69B-228.040	3/23/2017	4/12/2017	42/152	43/42
69B-228.050	3/23/2017	4/12/2017	42/152	43/42
69B-228.060	3/23/2017	4/12/2017	42/152	43/42
69B-228.080	3/23/2017	4/12/2017	42/152	43/42
69B-228.090	3/23/2017	4/12/2017	42/152	
69B-228.100	3/23/2017	4/12/2017	42/152	
69B-228.110	3/23/2017	4/12/2017	42/152	
69B-228.120	3/23/2017	4/12/2017	42/152	
69B-228.130	3/23/2017	4/12/2017	42/152	
69B-228.150	3/23/2017	4/12/2017	42/152	43/42
69B-228.160	3/23/2017	4/12/2017	42/152	43/42
69B-228.180	3/23/2017	4/12/2017	42/152	43/42
69B-228.190	3/23/2017	4/12/2017	42/152	
69B-228.210	3/23/2017	4/12/2017	42/152	
69B-228.220	3/23/2017	4/12/2017	42/152	
69B-228.230	3/23/2017	4/12/2017	42/152	
69B-228.240	3/23/2017	4/12/2017	42/152	
69B-228.250	3/23/2017	4/12/2017	42/152	
69B-228.260	3/23/2017	4/12/2017	42/152	
69B-228.270	3/23/2017	4/12/2017	42/152	
69B-228.280	3/23/2017	4/12/2017	42/152	

**DEPARTMENT OF ELDER AFFAIRS**

**Guardianship**

58M-2.009	2/9/2017	**/**/****	42/203	43/11
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**DEPARTMENT OF MANAGEMENT SERVICES**

**E911 Board**

60FF1-5.009	7/21/2016	**/**/****	42/105	
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**DEPARTMENT OF HEALTH**

**Board of Medicine**

64B8-9.009	6/15/2016	**/**/****	42/89	
64B8-10.003	12/9/2015	**/**/****	39/95	41/49

**DEPARTMENT OF FINANCIAL SERVICES**

**Division of Worker's Compensation**

69L-7.100	12/19/2016	**/**/****	42/191	42/218
69L-7.501	12/19/2016	**/**/****	42/191	42/218

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.

**LIST OF RULES AWAITING LEGISLATIVE  
APPROVAL PURSUANT TO SECTION 120.541(3), 373.139(7)  
AND 373.1391(6), FLORIDA STATUTES**

**WATER MANAGEMENT DISTRICTS**

**Suwannee River Water Management District**

40B-9.021	12/21/2016	**/**/****	42/221	
40B-9.041	12/21/2016	**/**/****	42/221	
40B-9.123	12/9/2016	**/**/****	42/221	
40B-9.126	12/21/2016	**/**/****	42/221	
40B-9.131	12/21/2016	**/**/****	42/221	
40B-9.1381	12/21/2016	**/**/****	42/221	
40B-9.1411	12/21/2016	**/**/****	42/221	
40B-9.142	12/21/2016	**/**/****	42/221	
40B-9.145	12/21/2016	**/**/****	42/221	