

**STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS**

**MILTON JONES DEVELOPMENT
CORPORATION,**

Petitioner,

vs.

Case No.

**FLORIDA HOUSING FINANCE
CORPORATION,**

Respondent.

**PETITION FOR ADMINISTRATIVE DETERMINATION
OF INVALIDITY OF PROPOSED RULE**

Pursuant to Section 120.56(1) and (2), Fla. Stat., Milton Jones Development Corporation (“Petitioner” or “MJDC”), hereby challenges proposed amendments to the 2011 Universal Cycle Rules, and to Instructions and Forms proposed to be incorporated by reference into Rules 67-21.003 and 67-48.004, Fla. Admin. Code, as invalid exercises of delegated legislative authority. In support of this Petition, Petitioner states as follows:

Parties

1. Petitioner is Milton Jones Development Corporation, a Florida corporation. Petitioner’s address is 540 North West 4th Avenue Fort Lauderdale, Florida 33311. For purposes of this proceeding, Petitioner’s address is that of its undersigned counsel, M. Christopher Bryant, Oertel, Fernandez, Cole & Bryant, P.A., P.O. Box 1110, Tallahassee, Florida 32302-1110, telephone number 850-521-0700, facsimile number 850-521-0720, email cbryant@ohfc.com.

2. The Respondent is the Florida Housing Finance Corporation (“FHFC”), a public corporation created by Section 420.504, Fla. Stat., to administer the governmental function of

financing or refinancing housing and related facilities in Florida. FHFC's address is 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329. To the best of Petitioner's knowledge, FHFC has not assigned a particular file number or docket number to this rulemaking effort, but the rules affected are in Rule Chapters 67-21 and 67-48, Fla. Admin. Code, and documents incorporated therein by reference, known as the 2011 Universal Application, the 2011 Universal Application Instructions, and the 2011 Universal Cycle application exhibits.

Notice and Rule Development

3. In the July 1, 2011, Florida Administrative Weekly ("FAW"), Volume 37, No. 26, pages 1831 through 1872, FHFC gave notice of proposed amendments to Rule Chapter 67-48, Fla. Admin. Code, and to certain documents incorporated by reference into the above-referenced rules. Rule Chapter 67-48 and the incorporated documents govern certain funding programs administered by FHFC, including the Federal Low Income Housing Tax Credit Program, the State Apartment Incentive Loan Program, and the HOME Investment Partnerships Program. Portions of the online version of the FAW for that date, containing identifying information for the proposed amendments, and including the amendment to Rule 67-48.004(1)(a) which incorporates other documents, are attached hereto as Exhibit "A."

4. In the July 1, 2011, FAW, Volume 37, No. 26, pages 1807 through 1831, FHFC also gave notice of proposed amendments to Rule Chapter 67-21, Fla. Admin, Code, governing the Multi-family Mortgage Revenue Bond Program, and incorporating the same materials incorporated into Rule Chapter 67-48. Portions of the online version of the FAW for that date, containing identifying information for the proposed amendments, and the amendment to Rule 67-21.003(1)(a) incorporating other documents, are attached as Exhibit "B."

5. The documents incorporated by reference include an Application Form, numerous Exhibits Forms, and lengthy Instructions for completing the Application. A copy of portions of the Application Form, including (at pages 5 through 7 of the excerpt) questions or instructions soliciting the information that is the subject of this rule challenge, is attached hereto as Exhibit "C." A copy of the Exhibit Form for "Developer or Principal of Developer Certification Form," showing proposed changes, is attached to this Petition as Exhibit "D." A copy of excerpts of the 2011 Universal Application Instructions, marked as "6-2-11 Draft," and including the proposed changes to the Developer Experience threshold and scoring requirements, are attached as Exhibit "E."

6. The July 1, 2011 notice of the proposed rules indicated that a public hearing would be held at FHFC's office in Tallahassee, Florida, on Tuesday, July 26, 2011, at 10 a.m. A separate Notice was posted on FHFC's website also announcing a public hearing for July 26, 2011; a copy of that Notice is attached as Exhibit "F." In addition, Petitioner submitted a letter dated July 21, 2011 specifically requesting a public hearing pursuant to Section 120.54(3)(c)1, Fla. Stat. A copy of Petitioner's letter requesting a public hearing is attached hereto as Exhibit "G."

7. The July 26 public hearing was conducted as scheduled. Undersigned counsel for MJDC submitted documents into the record and spoke against the subject rule amendments. By filing this Petition within 10 days of the final public hearing, this Petition is timely pursuant to Section 120.56(2), Fla. Stat.

Substantial Interests Affected

8. Petitioner's substantial interests are affected because it is a Developer of affordable housing in Florida. Petitioner has previously submitted applications for financing to

FHFC or its predecessor, the Florida Housing Finance Agency (“FHFA”). Petitioner has previously received funding through two financing programs administered by FHFC or FHFA, including a competitive award of Housing Credits and a low interest State Apartment Incentive Loan. Petitioner had also competed at the local level in competitive processes to acquire sites for the development of FHFC-financed affordable housing; Petitioner was unsuccessful in obtaining the sites, but in two instances the Developers who acquired the sites subsequently applied for and received FHFC funding and developed affordable rental housing on those sites. Petitioner has also developed affordable rental developments and affordable home-ownership developments through local funding sources. Petitioner intends to submit an application to FHFC for funding in the 2011 Universal Application Cycle, but, as explained more fully in this petition, Petitioner would not meet threshold requirements as a Developer under the rules as currently proposed. Despite not meeting the proposed new threshold requirements, Petitioner possesses the requisite skill, experience, and credit worthiness to successfully produce affordable housing.

9. Petitioner is a “Developer” as that term is defined by current FHFC Rule 67-48.002(29), Fla. Admin. Code. (proposed to be renumbered as 67-48.002(30)). As a Developer, Petitioner is entitled to earn a Developer Fee that generally cannot exceed 16 to 18% of the Development Cost, depending on the programs from which funding is provided. The proposed changes to the rules would deprive Petitioner of the ability to be considered for funding, and to earn a Developer Fee.

10. As an entity whose efforts in developing affordable housing financed by FHFC are subject to regulation by FHFC as a Developer, Petitioner’s substantial interests are affected per se by FHFC rules and by the proposed rules. See, Reiff v. Northeast Florida State Hospital,

710 So. 2d 1030, 1032 (Fla. 1st DCA 1998); Coalition of Mental Health Professions v. Department of Professional Regulation, 546 So. 2d 27, 28 (Fla. 1st DCA 1989).

11. In addition, Petitioner is substantially affected by the proposed rules which would alter the process for determining which applications are selected for financing based on the recency or large scope of affordable housing development experience. As described more fully in this Petition, the proposed changes to the application scoring and selection process would result in developers who do not have such recent or large scope of experience being unable to compete for such financing with any realistic opportunity for success. This would prevent or impair Petitioner's ability to develop affordable housing and to earn a Developer's fee from such development activities, and would impair its ability to obtain the more current experience that FHFC now seeks to require.

Background – FHFC's Application Process

12. FHFC is an agency of the State of Florida that distributes various forms of financing to applicants to construct affordable multi-family rental housing. Its statutory authority and mandates appear in Part V of Chapter 420, Florida Statutes, at Sections 420.501 through 420.55. Among the programs administered by FHFC to accomplish this are the Multi-Family Mortgage Revenue Bond ("MMRB") program and the federal low income housing tax credit, or "housing credit" ("HC"), program.

13. The MMRB program awards a portion of FHFC's tax exempt bond allocation from the State of Florida to applicants through a competitive process. The proceeds of the sale of such tax exempt bonds are loaned to the applicants on repayment terms that are economically feasible for affordable rental housing developments. The lower rental revenue generated by affordable rental housing is inadequate to repay loans from conventional financing sources, so

lower cost funding sources such as tax exempt bonds or the award of housing credits are necessary to make such rental development feasible.

14. The HC program consists of the award of credits against future federal income tax liability. Applicants who are successful in applying for funding receive an award of such tax credits in an amount calculated as a percentage of the cost of the development, and they receive that amount each year for ten years. This future stream of tax credits is sold to investors who enter into a limited partnership agreement with the successful applicant, with the limited partner typically receiving a 99% or greater ownership interest in the partnership (and, thus, entitlement to 99% or more of the housing credits). Housing credits come in two types: “9% credits,” which are competitively awarded and which equal roughly 9% annually of the allowable development costs each year; and “4% credits,” which are, generally, automatically awarded to recipients of MMRB upon application for such credits, which equal roughly 4% annually of allowable development costs.

15. FHFC administers these two programs through a single, combined competitive process known as the Universal Cycle. In some ways, the Universal Cycle is like an annual competitive bidding process, in which applicants compete against other applicants to be selected for funding. Applicants must submit detailed applications by a set deadline. The total amount of dollars requested by all applicants routinely far exceeds the funding available to FHFC to distribute, so the majority of applicants are not funded. In the most recent Universal Cycle conducted by FHFC, in 2009, over 165 applications were initially submitted by applicants for FHFC financing. Only 32 of those (less than 20%) were initially selected for funding.

16. Typically, FHFC amends its Universal Cycle rules, forms, and instructions each year, with such amendments adopted to take effect prior to an established Application Deadline.

The rules governing the 2011 Application process were noticed for adoption in the July 1, 2011, FAW, at Volume 37, Number 26. The Application Deadline was set at September 8, 2011. A copy of a “timeline” posted on FHFC’s website for the 2011 Universal Cycle is attached to this Petition as Exhibit “H.”

17. Applications then undergo a review, scoring, and amendment process, ultimately resulting in a final score and tiebreaker score for each application. Final scores, tiebreaker scores, and other considerations are then used to generate “final rankings” for the applicants.

18. Final rankings are used to determine which applications are preliminarily selected for funding. Some applications are selected to meet certain targeting goals that address housing needs of particular demographic groups (such as the homeless and the elderly) or specific geographic needs (such as the Florida Keys or inner city areas). The proposed 2011 rules also set as goals the funding of certain minimum numbers of revitalization, preservation, and “transit oriented” developments, and developments proposed by non-profit applicants.

19. Those Applications preliminarily selected for funding are then invited into the credit underwriting process. This process involves third party financial consultants described as “credit underwriters” selected by FHFC undertaking, at the Applicant’s expense, the detailed review of all aspects of the proposed development, not limited to the information provided in the Application. The credit underwriter ultimately makes a recommendation as to whether the proposed development can be built within the Applicant’s total budget, including the amount of FHFC subsidy and other funding sources, as well as whether the development can be reasonably expected to achieve long term stabilized occupancy and financial feasibility.

Application Selection Process – Current Provisions and Proposed Changes

20. FHFC's selection process involves evaluating each application to make sure it meets certain threshold requirements to demonstrate the proposed development's ability to move forward. One of the threshold requirements is for the proposed Developer of the development to have a certain amount of experience developing affordable housing. The rules currently in effect (without the proposed amendments that are the subject of this challenge) require a Developer to have developed at least two affordable housing developments, with at least one such development having 50% or more of the units proposed in the Developer's application. The proposed changes to the application requirements increases that requirement to three affordable housing developments, and requires that at least one such development must have been completed since January 1, 2001. These increased requirements are not supported by facts, are arbitrary and capricious, and work to the detriment of smaller developers like Petitioner.

21. Applications that meet threshold requirements are assigned a numerical score, based on the content of their applications. Points are awarded for such features as programs for tenants, amenities of the development as a whole and of the tenants' units, local government contributions to the specific development, and local government ordinances and planning efforts that support affordable housing in general. The maximum points that an application can receive in the scoring process for the 2011 Universal Cycle is 79 points.

22. Included within the maximum total of 79 points available to applicants in the 2011 Universal Cycle are three points for "HC development experience." The Instructions describe only three ways a Developer can receive the three points for HC development experience.

23. First, a Developer, or a Principal of a Developer, must have completed at least three “HC developments” since January 1, 2007. An “HC development” is defined at current Rule 67-48.002(63) [proposed to be renumbered as 67-48.007(65)] as a Development for which housing credits have been applied for or received. A Developer with fewer than three HC developments in its recent experience cannot satisfy this first criterion, even if it has demonstrated HC experience (by successfully closing a tax credit partnership) and successfully completed construction on HC developments prior to January 1, 2007; or has completed affordable housing developments financed with other sources since January 1, 2007. Petitioner has not closed a tax credit partnership or completed construction on any HC developments since January 1, 2007.

24. While the proposed rule does allow a Developer who cannot demonstrate such recent project completion experience (as set out in this first criterion) to achieve this experience by joining into a Co-Developer arrangement with another Developer who can demonstrate such experience, this assumes that there are such “qualified” Developers available and willing to enter into such Co-Developer arrangements on commercially reasonable terms. Petitioner has not found this to be true, as experienced Co-Developers typically demand from the “primary” Developer a portion of the allowable Developer Fee that is not commensurate with the Co-Developer level of participation, and require indemnification by the “primary” Developer so as to eliminate any shared risk by the Co-Developer in the proposed Development.

25. The second way that the proposed rules allow a Developer to achieve the three points for HC development experience is for the Principals of such Developer or Co-Developer to have commenced construction on an HC development in Florida since January 1, 2007. For such “commenced” developments, the rule requires that FHFC-awarded loans associated with

that Development must have closed, and a partnership agreement or operating agreement associated with the HC award to that Development must have closed. Petitioner has not commenced construction on any HC developments since January 1, 2007. As with the first means of establishing HC Development experience, Co-Developer arrangements are allowed, but Petitioner has not found a fair and commercially reasonable Co-Developer arrangement.

26. The third means by which the proposed rules allow a Developer to achieve the three points for HC development experience is to have completed at least 1000 HC-financed units in Florida, at any point in time. This criterion applies regardless of when such units were constructed, suggesting that FHFC in fact recognizes that truly “recent” HC experience (since January 1, 2007) is not actually required in order to assure adequate HC experience. Petitioner has not constructed 1000 HC-financed developments in Florida; it has constructed slightly over 400 HC-financed units in Florida. Again, Co-Developer arrangements are allowed but are not available on fair and commercially reasonable terms.

27. Generally, an Application submitted to FHFC in its Universal Application Cycle must achieve a “perfect score” of 79 in order to compete for an award of HC funding. In the most recent FHFC Universal Cycle, conducted in 2009, of the 32 applications initially selected for funding, 31 had a “perfect score” (which, in 2009, was 70 points). (The one funded applicant with a score of less than 70 was located in the Florida Keys, and FHFC had created a special set aside of funding for Florida Keys development that allowed lesser scores to be successful, due to extreme difficulties with developing affordable housing in the Florida Keys.) Of the remaining 130+ applications that were not selected for funding in 2009, over 100 of them also had perfect scores. In short, then, an Applicant receiving less than a perfect score is generally considered to have a non-competitive application, and is virtually assured it will not receive a funding award.

As a result, the proposed rule changes which make 3 of the available 79 points available only to developers with recent HC experience (or with 1000 units of HC experience) has a disproportionate impact on smaller developers such as MJDC, and shuts them out of the application process.

28. Because of the likelihood that so many applications will achieve a “perfect score” of 79, FHFC has also built into the selection process a series of “six tiebreakers” to allow for an objective process for selecting applications for funding. The tiebreakers are written into the Application Instructions, which are incorporated by reference into FHFC’s rules. Two of the tiebreakers are numerical scores described as “proximity” points and “ability to proceed” points. The proximity tiebreakers include location near transit services, grocery stores, public schools or senior centers, medical facilities, public parks, community centers, pharmacies, and public libraries. Proximity tiebreaker points are also awarded for distance from other FHFC-financed developments. The last of six enumerated tiebreakers is a randomly-assigned lottery number.

Grounds for Invalidity of Proposed Amendments to Selection Process

29. The current proposed rulemaking effort seeks to amend the Application Instructions which are incorporated by reference into Rules 67-21.003 (for the MMRB program) and 67-48.004 (for the HC program), Fla. Admin. Code, both captioned “Application and Selection Procedures for Developments.”

30. The proposed rules which increase the number and recency of affordable housing experience for Developers are arbitrary and capricious, and are not supported by the facts. Some Developers, including Petitioner, who have developed two affordable housing developments are just as qualified to successfully develop an affordable housing development as some Developers who have completed more than two such developments. Excluding Developers such as

Petitioner from the process will reduce competition and will not necessarily result in more successful development efforts.

31. Likewise, some Developers, including Petitioner, who have not completed an affordable housing development since January 1, 2001, are just as qualified to successfully develop an affordable housing development as some Developers who have completed such a Development since that date. Excluding Developers such as Petitioner from the process is arbitrary and capricious, will reduce competition, and will not necessarily result in more successful development efforts.

32. The proposed rules awarding points for prior or recent HC development experience are invalid because they lack a factual basis and thus are arbitrary and capricious. The proposed rule provisions appear to be based on an assumption that only developers with recent HC experience can successfully construct a development financed with housing credits. This assumption is not supported by facts.

33. The assumption that only Developers with recent HC experience can successfully develop affordable housing is also undermined by the “third option” for obtaining the “HC experience” points: the construction of over 1000 HC-financed units in Florida, regardless of how recently such developments were financed and constructed. As noted above, Petitioner constructed a development containing 408 units in the mid-1990’s that was financed primarily through an award of 9% housing credits. Had Petitioner constructed an additional two developments of that size using HC financing in the mid-1990’s, or even earlier, it would satisfy the “HC experience” requirement, as long as it also satisfied the other proposed changes to the more general “Developer Experience” requirements, which can be satisfied with non-HC-financed affordable housing.

Disputed Issues of Material Fact

34. Petitioner has initially identified the following disputed issues of material fact, or mixed questions of law and fact, which it reserves the right to supplement as additional facts become known to it.

- a. Whether the proposed rules are supported by facts and logic. Petitioner contends that they are not.
- b. Whether the proposed rules are arbitrary and capricious. Petitioner contends that they are.
- c. Whether some Developers, including Petitioner, who have developed two affordable housing developments since 1991 are as qualified as some Developers who have developed three or more affordable housing developments since that time. Petitioner contends that they are.
- d. Whether some Developers, including Petitioner, who have not completed an affordable housing development since January 1, 2001, are as qualified as some Developers who have completed a development since that date. Petitioner contends that they are.
- e. Whether the three additional HC development experience points are necessary for all applicants achieving threshold to receive in order to be competitive, such that the failure to receive those three points essentially eliminates an Application from consideration. Petitioner contends that they are.
- f. Whether a Developer, such as Petitioner, who has not completed an HC development since January 1, 2007, is as qualified to successfully develop

an HC development as a Developer who has completed an HC Development since that date. Petitioner contends that it is.

- g. Whether the proposed HC experience requirement described in the preceding subparagraph is supported by facts and logic, or is arbitrary and capricious. Petitioner contends the requirement is not supported by facts and logic, and is arbitrary and capricious.
- h. Whether a Developer, such as Petitioner, who has not commenced construction on an affordable housing development since January 1, 2007, and will not have done so as of the end of the cure period for the 2011 Universal Application Cycle, is as qualified to develop an affordable housing development as a Developer who has commenced construction since January 1, 2007, (or will have commenced construction as of the end of the cure period). Petitioner contends that it is.
- i. Whether the proposed HC experience requirement described in the preceding subparagraph is supported by facts and logic, or is arbitrary or capricious. Petitioner contends that it is not supported by facts or logic, and that it is arbitrary or capricious.
- j. Whether a Developer, such as Petitioner, who has not completed at least 1000 HC units in Florida is as qualified to develop an affordable housing development as a Developer who has completed over 1000 HC units. Petitioner contends that it is.
- k. Whether the proposed HC experience requirement described in the preceding subparagraph is supported by facts and logic, or is arbitrary or

capricious. Petitioner contends that it is not supported by facts or logic, and that it is arbitrary or capricious.

1. Whether Petitioner has standing to challenge the proposed rules.
Petitioner contends that it does.


Concise Statement of Ultimate Facts

35. Petitioner contends that the proposed rules lack a valid factual basis and are arbitrary and capricious. Petitioner contends the assumptions relied upon by FHFC as to the necessity of recent or extensive affordable rental housing experience, and especially recent or extensive HC experience, are not assumptions that are supported by facts or logic. Petitioner contends that its own experience is sufficient to enable it to successfully construct and operate an affordable housing development, and the exclusion of it from competing for financing by operation of the proposed rules is arbitrary and capricious.

Request for Relief

36. Petitioner requests the assignment of this Petition to an administrative law judge who, after affording the parties reasonable time for discovery and case preparation, will conduct a formal evidentiary hearing. Petitioner seeks entry of a final order determining that the proposed amendments constitute an invalid exercise of rulemaking authority as defined in Section 120.52(8), Fla. Stat. Petitioner is entitled to this relief by Section 120.56(1) and (2), Fla. Stat. Petitioner also seeks the award of its reasonable costs and attorneys' fees pursuant to Section 120.595(2), Fla. Stat., as there was no reasonable basis in law or fact for the proposed rules.

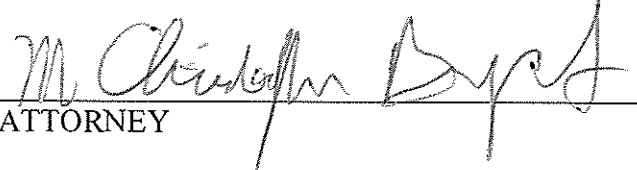
FILED this 4th day of August, 2011.



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that the original has been filed via Electronic Transmission with the Clerk, Division of Administrative Hearings, The DeSoto Building, 1230 Apalachee Parkway, Tallahassee, Florida 32301-3060; and a copy via Email and U.S. Mail to Wellington Meffert, General Counsel, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, this 4th day of August, 2011.



ATTORNEY

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**Exhibits to Petition for Administrative Determination of Invalidity
of Proposed Amendments to Rule Chapters 67-21 and 67-48**

- A. Excerpts of online version of July 1, 2011, FAW publication of proposed amendments to Rule Chapter 67-48, F.A.C.
- B. Excerpts of online version of July 1, 2011, FAW publication of proposed amendments to Rule Chapter 67-21, F.A.C.
- C. Excerpts of proposed revised 2011 Universal Application Form
- D. Proposed revised “Developer or Principal of Developer Certification Form”
- E. Excerpts of proposed revised 2011 Universal Application Instructions
- F. Notice of Public Hearing on proposed rule amendments
- G. Petitioner’s letter date July 21, 2011, requesting a public hearing
- H. Timeline for 2011 Universal Application Cycle

Notice of Proposed Rule

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-48.001: Purpose and Intent

67-48.002: Definitions

67-48.004: Application and Selection Procedures for Developments

67-48.005: Applicant Administrative Appeal Procedures

67-48.007: Fees

67-48.0072: Credit Underwriting and Loan Procedures

67-48.0075: Miscellaneous Criteria

67-48.009: SAIL General Program Procedures and Restrictions

67-48.0095: Additional SAIL Application Ranking and Selection Procedures

67-48.010: Terms and Conditions of SAIL Loans

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

67-48.013: SAIL Construction Disbursements and Permanent Loan Servicing

67-48.014: HOME General Program Procedures and Restrictions

67-48.015: Match Contribution Requirement for HOME Allocation

67-48.017: Eligible HOME Activities

67-48.018: Eligible HOME Applicants

67-48.019: Eligible and Ineligible HOME Development Costs

67-48.020: Terms and Conditions of Loans for HOME Rental Developments

67-48.0205: Sale, Transfer or Refinancing of a HOME Development

67-48.022: HOME Disbursements Procedures and Loan Servicing

67-48.023: Housing Credits General Program Procedures and Requirements

67-48.027: Tax-Exempt Bond-Financed Developments

67-48.028: Carryover Allocation Provisions

67-48.029: Extended Use Agreement

67-48.030: Sale or Transfer of a Housing Credit Development

67-48.031: Termination of Extended Use Agreement and Disposition of Housing Credit Developments

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

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

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, Florida Statutes. The intent of this Rule Chapter is to encourage public-private partnerships to invest in residential housing; to stimulate the construction and rehabilitation of residential housing which in turn will stimulate the job market in the construction and related industries; and to increase and improve the supply of affordable housing in the state of Florida.

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule, Application and/or QAP. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply in the 2011 Application Cycle.

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

by the agency.

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

RULEMAKING AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

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

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Jean Salmonsens, (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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

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

(2) Administer the Application process, determine Housing Credit amounts and implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and Section 420.5099, F.S.
Rulemaking Authority 420.507 FS. Law Implemented 420.5087, 420.5089(2), 420.5099 FS. History—New 7-22-96, Amended 12-23-96, 1-6-98, Formerly 9I-48.001, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, Amended 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, Amended 3-30-08, Repromulgated 8-6-09, Amended _____.

67-48.002 Definitions.

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

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

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

(4)(3) “Adjusted Income” means, with respect to a HOME Development, the gross income from wages, income from assets, regular cash or noncash contributions, and any other resources and benefits determined to be income by HUD, adjusted for family size, minus the deductions allowable under 24 CFR § 5.611, which is adopted and incorporated herein by reference and available on the Corporation’s Website under the 2011 2009 Universal Application link labeled Related References and Links.

(5)(4) “Affiliate” means any person that, (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant or Developer, (ii) serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer, (iii) directly or indirectly receives or will receive a financial benefit from a Development except as further described in Rule 67-48.0075, F.A.C., or (iv) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i), (ii) or (iii) above.

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

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

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

67-48.004 Application and Selection Procedures for Developments.

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

(a) The Universal Application Package or UA1016 (Rev. ~~2-11-09~~) is adopted and incorporated herein by reference and consists of the forms and instructions, ~~obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329,~~ or available, without charge, on the Corporation's Website under the ~~2011~~ ~~2009~~ Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the HOME and HC Program(s).

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

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

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

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant's Application will be provided a time period for filing a written Notice of Possible Scoring Error (NOPSE). Such time period will be no fewer than three (3) Calendar Days from the date the preliminary scores are sent by overnight delivery by the Corporation. The deadline for filing a NOPSE will be provided at the time the preliminary scores are issued. Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application's score. Any NOPSE that seeks the review of more than one Application's score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation's staff will review each written NOPSE Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOPSE. The Corporation will not consider any NOPSE submitted via facsimile or other electronic transmission.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation's decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant, which may include financial obligations for which an Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate ("cures") to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. The time period for submitting the "cures" will be no fewer than three (3) Calendar Days from the date the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation. Such notice will provide the deadline for submitting the "cures." A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant's Application. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where revised or additional information submitted by the Applicant creates an inconsistency with another item in that Application, the Applicant shall also be required in its submittal to make such other changes as necessary to keep the Application consistent as revised. To be considered by the Corporation, the Applicant must submit one (1) original hard copy and three (3) photocopies of all additional documentation and revisions, and such revisions, changes and other information must be Received by the deadline set forth herein. Any subsequent revision submitted prior to the deadline shall include a written request from the Applicant for withdrawal of any previously submitted revision(s).

adopted and incorporated herein by reference.

(2) All information contained in a Qualified Contract Package request is subject to independent review, analysis and verification by the Corporation or its agents. The Corporation shall request additional information to document the qualified contract price calculation or other information submitted, if the submitted documentation does not support the price indicated by the certified public accountant (CPA) hired by the owner. The Corporation shall then engage its own CPA to perform a qualified contract price calculation. Cost of such service shall be paid for by the owner. Following the Corporation's receipt and complete review of the completed Qualified Contract Package, the Corporation shall have one year to present a "qualified contract", as defined in Section 42(h)(6)(F) of the IRC, for the Development. The one year time period shall commence upon the Corporation's receipt and final review of all of the accompanying information required by the Qualified Contract Package and the Corporation and the owner have agreed to the qualified contract price in writing.

(3) The Corporation shall not agree to the qualified contract price in writing until the Applicant or Developer has satisfied any financial obligations for which the Applicant or Developer, or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation.

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

(5) At the conclusion of the review process established by Rule 67-48.031, F.A.C., each Applicant will be provided with its qualified contract price calculation and notice of rights.

(6) Written arguments to any recommended order entered pursuant to a Section 120.57(2), F.S., proceeding concerning its qualified contract price calculation shall be typed and double-spaced with margins no less than one inch in either Times New Roman 14-point or Courier New 12-point font and may not exceed five (5) pages, excluding the caption and certificate of service. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, no later than 5:00 p.m., Eastern Time, no later than five (5) Calendar Days from the date of issuance of the recommended order. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. The one year time period the Corporation has to present a "qualified contract" will toll upon the filing of a petition to contest a qualified contract price calculation and will recommence upon the issuance of the Board's final order.

(7) The Applicant shall cooperate with the Corporation and its agents with respect to the Corporation's efforts to present a "qualified contract" for the purchase of the Applicant's interest in the Housing Credit Set-Aside portion of the Development and the Applicant's failure to cooperate will toll the one year time period the Corporation has to present a "qualified contract". The Corporation shall actively seek to obtain a qualified buyer for acquisition of the Housing Credit Set-Aside portion of the building for an amount not less than the Applicable Fraction as specified in the Extended Use Agreement of:

- (a) The sum of the outstanding indebtedness secured by the building;
- (b) The adjusted investor equity in the building; and
- (c) Other capital contributions not reflected in the amounts above, and reduced by cash distributions from the Development.

(8) If the Corporation presents a "qualified contract" and the Applicant fails to enter into a bona fide contract to acquire the Development, as defined in Section 42(h)(6)(F) of the IRC, the Applicant shall irrevocably waive any right to further request that the Corporation present a "qualified contract" for the purchase of the Applicant's interest in the Housing Credit Set-Aside portion of the Development and the Development will remain subject to the requirements of the Extended Use Agreement.

(9) In the event no buyer is found to acquire the Housing Credit Set-Aside portion of the building within one year as described herein, the Housing Credit Extended Use Period shall be terminated, and the units converted to market-rate.

(10) Pursuant to Section 42(h)(6)(E)(ii) of the IRC, the termination of an Extended Use Agreement shall not be construed to permit the termination of a tenancy, the eviction of any existing resident of any set-aside unit, or any increase in the gross rent with respect to any set-aside unit before the close of the three-year period following such termination. In no case shall any portion of a Housing Credit Development be disposed of prior to the expiration of the Extended Use Agreement.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.5099 FS. History--New 7-22-96, Repromulgated 12-23-96, 1-6-98, Formerly 9I-48.031, Amended 11-9-98, Repromulgated 2-24-00, 2-22-01, 3-17-02, 4-6-03, 3-21-04, Amended 2-7-05, 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

227 North Bronough Street, Suite 5000, Tallahassee, Florida 32031-1329, (850)488-4197

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

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

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

Notice of Proposed Rule

FLORIDA HOUSING FINANCE CORPORATION

RULE NO.: RULE TITLE:

67-21.002: Definitions

67-21.003: Application and Selection Process for Developments

67-21.0035: Applicant Administrative Appeal Procedures

67-21.004: Federal Set-Aside Requirements

67-21.0045: Determination of Method of Bond Sale

67-21.006: Development Requirements

67-21.007: Fees

67-21.008: Terms and Conditions of MMRB Loans

67-21.009: Interest Rate on Mortgage Loans

67-21.010: Issuance of Revenue Bonds

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

67-21.014: Credit Underwriting Procedures

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

67-21.017: Transfer of Ownership

67-21.018: Refundings and Troubled Development Review

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

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

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

SUMMARY: Prior to the opening of an Application Cycle, the Corporation (1) researches the market need for affordable housing throughout the state of Florida and (2) evaluates prior Application Cycles to determine what changes or additions should be added to the Rule and/or Application. The proposed amendments to the Rule and adopted reference material include changes that will create a formulated process for selecting Developments that will apply in the 2011 Application Cycle.

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

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

RULEMAKING AUTHORITY: 420.507, 420.508 FS.

LAW IMPLEMENTED: 420.507, 420.508, 420.509 FS.

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

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

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

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

(Voice).

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

THE FULL TEXT OF THE PROPOSED RULE IS:

67-21.002 Definitions.

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

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

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

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

(5)(4) “Affiliate” means any person that (i) directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant or Developer, (ii) serves as an officer or director of the Applicant or Developer or of any Affiliate of the Applicant or Developer, (iii) directly or indirectly receives or will receive a financial benefit from a Development, or (iv) is the spouse, parent, child, sibling, or relative by marriage of a person described in (i), (ii) or (iii) above.

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

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

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

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

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

(11)(10) “Application Period” means a period during which Applications shall be accepted, as posted on the Corporation’s website and with a deadline no less than 21 Calendar Days from the beginning of the Application Period.

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

(13)(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.

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

(15)(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.

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

(17)(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.

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

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

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

the Florida Community Redevelopment Act of 1969, or the proposed Development is located in a Qualified Census Tract and the development of which contributes to a concerted community revitalization plan, and (ii) in a site which is located in an area that is already developed and part of an incorporated area or existing urban service area.

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

Rulemaking Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.502, 420.503, 420.503(4), 420.507, 420.508, 420.5099 FS. History—New 12-3-86, Amended 2-22-89, 12-4-90, 11-23-94, 2-6-97, 1-7-98, Formerly 9I-21.002, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, 4-6-03, 10-5-03, 3-21-04, 2-7-05, 1-29-06, 4-1-07, 3-30-08, 8-6-09, _____.

67-21.003 Application and Selection Process for Developments.

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

(a) The Universal Application Package or UA1016 (Rev. ~~2-11-09~~ 2-11-09) is adopted and incorporated herein by reference and consists of the forms and instructions, ~~obtained from the Corporation, for a fee, at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or available, without charge, on the Corporation’s Website under the 2011 2009 Universal Application link labeled Instructions and Application, which shall be completed and submitted to the Corporation in accordance with this rule chapter in order to apply for the MMRB Program.~~

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

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

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

(4) Applicants who wish to notify the Corporation of possible scoring errors relative to another Applicant’s Application will be provided a time period for filing a written Notice of Possible Scoring Error (NOPSE). Such time period will be no fewer than three (3) Calendar Days from the date the preliminary scores are sent by overnight delivery by the Corporation. The deadline for filing a NOPSE will be provided at the time the preliminary scores are issued. Each NOPSE must specify the assigned Application number of the Applicant submitting the NOPSE, the assigned Application number of the Application in question and the scores in question, as well as describe the alleged deficiencies in detail. Each NOPSE is limited to the review of only one Application’s score. Any NOPSE that seeks the review of more than one Application’s score will be considered improperly filed and ineligible for review. There is no limit to the number of NOPSEs that may be submitted. The Corporation’s staff will review each written NOPSE Received timely. To be considered Received timely, the Applicant must submit one (1) original hard copy and three (3) photocopies of each NOPSE. The Corporation will not consider any NOPSE submitted via facsimile or other electronic transmission.

(5) The Corporation shall transmit to each Applicant the NOPSEs submitted by other Applicants with regard to its Application. The notice shall also include the Corporation’s decision regarding the NOPSE, along with any other items identified by the Corporation to be addressed by the Applicant, which may include financial obligations for which the Applicant or Developer or Principal, Affiliate or Financial Beneficiary of an Applicant or a Developer is in arrears to the Corporation or any agent or assignee of the Corporation as of the due date for NOPSE filing as set forth in subsection (4) above.

(6) Each Applicant shall be allowed to cure its Application by submitting additional documentation, revised pages and such other information as the Applicant deems appropriate (“cures”) to address the issues raised pursuant to subsections (3) and (5) above that could result in failure to meet threshold or a score less than the maximum available. The time period for submitting the “cures” will be no fewer than three (3) Calendar Days from the date the notice set forth in subsection (5) above is sent by overnight delivery by the Corporation. Such notice will provide the deadline for submitting the “cures.” A new form, page or exhibit provided to the Corporation during this period shall be considered a replacement of that form, page or exhibit if such form, page or exhibit was previously submitted in the Applicant’s Application. Pages of the Application that are not revised or otherwise changed may not be resubmitted, except that documents executed by third parties must be submitted in their entirety, including all attachments and exhibits referenced therein, even if only a portion of the original document was revised. Where

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

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

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

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

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

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

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

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

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

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

Rulemaking Authority 420.507(12), 420.508(3)(a) FS. Law Implemented 420.507, 420.508 FS. History--New 1-7-98, Formerly 9I-21.018, Amended 1-26-99, 11-14-99, 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, Amended 2-7-05, Repromulgated 1-29-06, 4-1-07, 3-30-08, 8-6-09,_____.

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

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

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

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

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

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

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

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

Rulemaking Authority 420.507(12) FS. Law Implemented 420.502, 420.507(14), (24), 420.508 FS. History--New 11-14-99, Amended 2-11-01, 3-17-02, Repromulgated 4-6-03, 3-21-04, 2-7-05, 1-29-06, Amended 4-1-07, Repromulgated 3-30-08, 8-6-09,_____.

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

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

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

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

Exhibit B

**2011 ~~2009~~ Universal Application
Multifamily Mortgage Revenue Bonds (MMRB) Program
HOME Investment Partnerships (HOME) Rental Program
Housing Credit (HC) Program**

Part I. Applicant Certification / ~~Related and Priority I Applications~~

A. ~~Applicant Certification:~~

The Applicant must provide the properly completed and executed Applicant Certification and Acknowledgement form behind a tab labeled **“Exhibit 1.A.”**.

B. ~~Related Applications and Priority I Application Designation (Applies only to Competitive HC Applications):~~

1. ~~Is this Application a Related Application?~~

~~Yes~~ ~~No~~

~~If “Yes”, answer the applicable question at B.2. below.~~

~~If “No”, the Application will automatically be considered to be designated by the Applicant as a Priority I Application and the Applicant is not required to provide the Declaration of Priority I Related Applications form.~~

2. ~~Indicate which one of the following applies to this Related Application and, if the Applicant selects Item 2.a., 2.b. or 2.c. below, provide the Declaration of Priority I Related Applications form behind a tab labeled “Exhibit 1.B.”:~~

~~a. This is a Non Joint Venture Application designated as a Priority I Application.~~

~~b. This is a Joint Venture Application designated as a Priority I Application and the Applicant is a Joint Venture Public Housing Authority Applicant.~~

~~c. This is a Joint Venture Application designated as a Priority I Application and the Applicant is a Joint Venture Non-Profit Applicant. The questions at Part II.A.2.e. of the Application must be answered and the required documentation must be provided.~~

~~⊖~~ d. This Application is not designated as a Priority I Application.

Part II. Applicant and Development Team

A. Applicant

1. Indicate the Corporation program(s) applied for in this Application (see Application Instructions for permitted program combinations):

- Competitive HC Only
- Competitive HC and HOME
- Non-competitive HC Only
- Tax-Exempt MMRB and non-competitive 4% HC
- Tax-Exempt MMRB without non-competitive 4% HC
- Tax-Exempt MMRB and Taxable Bonds and non-competitive 4% HC
- Tax-Exempt MMRB and Taxable Bonds without non-competitive 4% HC

- ~~Tax Exempt Multifamily Mortgage Revenue Bonds (Corporation Issued MMRB)~~
- ~~Taxable Multifamily Mortgage Revenue Bonds~~
- ~~Housing Credits (HC) [Competitive 4% and/or 9%]~~
- ~~Housing Credits (HC) [non-competitive 4%]~~
- ~~HOME Investment Partnerships (HOME) Rental~~

2. Applicant Information:

a. Name of Applicant: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Facsimile: _____

E-Mail Address (optional): _____

b. Federal Employer Identification Number: _____

If not yet obtained, provide a copy of the completed, submitted application for the Federal Employer Identification Number behind a tab labeled “**Exhibit 2**”.

- c. Is Applicant a legally formed entity qualified to do business in the state of Florida as of the Application Deadline?

Yes No

Provide required documentation behind a tab labeled “**Exhibit 3**”.

- d. If applying for HC: Is the Applicant a limited partnership or limited liability company?

Yes No

- e. Is the Applicant applying as a Non-Profit organization?

Yes No

If “Yes”, the Applicant must respond to questions (1) and (2) below. If “No”, skip Non-Profit status questions and proceed to question 3. below.

- (1) Provide the following documentation for each Non-Profit entity:

- (a) attorney opinion letter behind a tab labeled “**Exhibit 4**”; and
(b) IRS determination letter behind a tab labeled “**Exhibit 5**”.

- (2) Answer the following questions:

- (a) Is the Applicant or one of its general partners or managing members incorporated as a Non-Profit entity pursuant to Chapter 617, Florida Statutes, or similar state statute if incorporated outside Florida?

Yes No

If “No”, is the Applicant or one of its general partners or managing members a wholly-owned subsidiary of a Non-Profit entity formed pursuant to Chapter 617,

Florida Statutes, or similar state statute if incorporated outside Florida?

- Yes No

(b) Is the Applicant or one of its general partners or managing members a 501(c)(3) or 501(c)(4) Non-Profit entity or is the Applicant or one of its general partners or managing members a wholly-owned subsidiary of a 501(c)(3) or 501(c)(4) Non-Profit entity?

- Yes No

(c) Does the Non-Profit entity have an ownership interest, either directly or indirectly, in the general partner or general partnership interest or in the managing member or the managing member's interest in the Applicant?

- Yes No

If "Yes", state the percentage owned in the general partnership or managing member interest:

_____ %

(d) Percentage of Developer's fee that will go to the Non-Profit entity: _____ %

(e) Provide the description/explanation of the role of the Non-Profit entity behind a tab labeled "Exhibit 6".

(f) Provide the names and addresses of the members of the governing board of the Non-Profit entity behind a tab labeled "Exhibit 7".

(g) For each Non-Profit entity, provide the articles of incorporation demonstrating that one of the purposes of the Non-Profit entity is to foster low-income housing behind a tab labeled "Exhibit 8".

(h) Year Non-Profit entity was incorporated: _____
(yyyy)

(i) Is the Non-Profit entity affiliated with or controlled by a for-profit entity within the meaning of Section 42(h), Internal Revenue Code?

- Yes If "Yes", state name of the for-profit entity: _____

No

3. Provide the required information for the Applicant and for each Developer behind a tab labeled "Exhibit 9".

4. Contact Person for this Application:

First Name: _____ Middle Initial: _____

Last Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Facsimile: _____

E-Mail Address (optional): _____

Relationship to Applicant: _____

5. If Applying for HOME: Is the Applicant applying as a ~~under the~~ Community Housing Development Organization (CHDO) Set-Aside?

Yes No

If "Yes", state CHDO Name: _____ and provide the required information behind a tab labeled "Exhibit 9-A ~~10~~".

B. Development Team

1. Developer or Principal of Developer:

a. Name of each Developer (include all co-Developers):

b. General Experience

(1) For each experienced Developer, provide an executed Developer or Principal of Developer Certification form, behind a tab labeled "Exhibit 10", certifying to the required

experience with three (3) completed affordable rental housing developments, as outlined in the Instructions.

(2) For each experienced Developer, provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for the three (3) completed affordable rental housing developments.

(3) For each co-Developer without the required experience, provide the requested information behind a tab labeled “Exhibit 10”.

~~b. For each experienced Developer, provide an executed Developer or Principal of Developer Certification form behind a tab labeled “Exhibit 11”. For each co-Developer without the required experience, provide the requested information behind a tab labeled “Exhibit 11”.~~

~~e. Provide the Developer’s or Principal of Developer’s Prior Experience Chart behind a tab labeled “Exhibit 11”.~~

c. Housing Credit Development Experience

(1) Has a Principal of the Developer completed at least three (3) Housing Credit developments as outlined in Part II.B.1.c.(1) of the Instructions?

Yes No

If “Yes”, provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for the three (3) Housing Credit developments.

or

(2) Does a Principal of the Developer meet the criteria regarding all Competitive Housing Credits received from Florida Housing and all non-competitive Housing Credits received from Florida Housing to be used in conjunction with SAIL or HOME, as outlined in Part II.B.1.c.(2) of the Instructions?

Yes No

If “Yes”, provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for the applicable Developments.

or

(3) Has a Principal of the Developer completed at least 1,000 Housing Credit units in the state of Florida as outlined in Part II.B.1.c.(3) of the Instructions?

Yes No

If “Yes”, provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for the applicable Developments.

- 2. Management Company Agent or principal of Management Company Agent:
 - a. Provide the executed Management Company Agent or Principal of Management Company Agent Certification form behind a tab labeled “Exhibit 11 12”.
 - b. Provide a the Management Company’s Agent’s or principal of Management Company’s Agent’s pPrior eExperience cChart behind a tab labeled “Exhibit 11 12”.
- 3. General Contractor or qualifying agent of General Contractor:
 - a. Provide the executed General Contractor or Qualifying Agent of General Contractor Certification form behind a tab labeled “Exhibit 12 13”.
 - b. Provide a the General Contractor’s or qualifying agent’s pPrior eExperience cChart, behind a tab labeled “Exhibit 12 13”, reflecting the required information for the two (2) completed developments.
 - c. Florida General Contractor Ranking Preference

(1) Domicile Category –

(a) Is the principal office of the General Contractor or qualifying agent of the General Contractor located in the state of Florida?

Yes No

**2011 Universal Application Instructions
 Multifamily Mortgage Revenue Bonds (MMRB) Program
 HOME Investment Partnerships (HOME) Rental Program
 Housing Credit (HC) Program**

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 Ranking and Selection Criteria for Applications Requesting Competitive HC
 Fees
 Supplemental MMRB Application Cycle
 4 Percent HC County HFA Bonds Application

Maximum Points:

Application Points	Maximum Points
Part II.B., Developer	
1.c. Housing Credit Development Experience	3 Points
Part III.B., Construction Features and Amenities	
3.a. Optional General Unit Features and Amenities for all new construction units and all rehabilitation units	9 Points
3.b. and 3.c. Optional Features and Amenities for Non-SRO Developments or SRO Developments	12 Points
3.d. Optional Universal Design and Visitability Unit Features	10 Points
5. Green Building	10 Points
a. For New Construction and Redevelopment Developments	
(1) Green Building Features (7 Points) or	
(2) Green Building Certification (10 Points)	
or	
b. For Rehabilitation and Preservation Developments (10 Points)	
Part III.E., Set-Aside Commitments	
1.b.(2)(b) Special Needs Households	4 Points
1.b.(2)(c) Total Set-Aside Commitment	3 Points
3. Affordability Period	5 Points
Part III.F., Resident Programs	
1., 2., or 3. Qualified Resident Programs for Non-Elderly/Non- Homeless Developments, or Qualified Resident Programs for Homeless Developments, or Qualified Resident Programs for Elderly Developments	6 Points
4. Qualified Resident Programs for All Applicants	8 Points
Part IV.A., Local Government Contributions	5 Points
1.a.(1) – (4) Grant, Fee Waiver, Loan and/or Fee Deferral	
Part IV.B., Local Government Incentives	
1. Expedited Permitting Process	1 Point
2. Contributions to Affordable Housing	1 Point
3. Modification of Fee Requirements	1 Point
4. Consideration of Impact of Policies, etc., on Cost of Affordable Housing	1 Point
Total Maximum Application Points:	
<u>79 Points</u>	

Proximity Tie-Breaker Points	Maximum Points
Part III.A., Proximity	
10.a.(2)(a) Transit Services	7 Points
(i) Public Bus Stop (Maximum 2 Points)	
(ii) Public Bus Transfer Stop (Maximum 6 Points)	
(iii) Public Bus Rapid Transit Stop (Maximum 6 Points)	
(iv) Public Rail Station (Maximum 7 Points)	
10.a.(2)(b) Tier 1 Services	12 Points
(i) Grocery Store (Maximum 4 Points)	
(ii) Public School – Non-Elderly Only (Maximum 4 Points)	
(iii) Senior Center – Elderly Only (Maximum 4 Points)	
(iv) Medical Facility (Maximum 4 Points)	
10.a.(2)(c) Tier 2 Services	8 Points
(i) Public Park (Maximum 2 Points)	
(ii) Community Center (Maximum 2 Points)	
(iii) Pharmacy (Maximum 2 Points)	
(iv) Public Library (Maximum 2 Points)	
10.b. Proximity to closest Development on the Proximity List	<u>10 Points</u>
Total Maximum Proximity Tie-Breaker Points:	<u>37 Points</u>

Ability to Proceed Tie-Breaker Points	Maximum Points
Part III.C., Ability to Proceed	
1. Site Plan/Plat Approval	1 Point
3.a. Availability of Electricity	1 Point
3.b. Availability of Water	1 Point
3.c. Availability of Sewer Service	1 Point
3.d. Availability of Roads	1 Point
4. Appropriate Zoning	<u>1 Point</u>
Total Maximum Ability to Proceed Tie-Breaker Points:	<u>6 Points</u>

2011 ~~2009~~ Universal Application Instructions
Multifamily Mortgage Revenue Bonds (MMRB) Program
HOME Investment Partnerships (HOME) Rental Program
Housing Credit (HC) Program

Applicants are encouraged to review Rule Chapters 67-21 and/or 67-48, F.A.C., and the following Instructions before completing and submitting the Universal Application. Unless otherwise provided in these Instructions and the Application, capitalized terms are as defined in the rule chapters. Program requirements do not necessarily meet all non-Corporation funding or allocation requirements. Applicants are responsible for ensuring that their developments meet all applicable laws and regulations.

GENERAL INSTRUCTIONS

The following instructions must be followed by Applicants in preparing, assembling, and submitting the Application:

Applications ~~may~~ must be submitted online at www.floridahousing.org. ~~and Regardless of whether an Applicant chooses to submit an Application online,~~ all Applicants must submit:

- One printed version of the completed Application, including applicable exhibits and the Applicant Certification and Acknowledgement exhibit with an original signature. The Applicant must label this printed version of the Application as the “Original Hard Copy”;
- Three photocopies of the “Original Hard Copy”;
- MMRB Applicants that anticipate participating in HUD Risk Sharing must submit one additional photocopy of the “Original Hard Copy”.

The Applicant must ensure that the online Application (~~if applicable~~), the “Original Hard Copy” and the photocopies of the Application are all identical. The Corporation will first consider the Application submitted online (~~if applicable~~). If for any reason all or part of the information in the online Application is inaccessible, the Corporation will consider the “Original Hard Copy” of the Application. The Corporation will only consider the exhibits submitted as part of the “Original Hard Copy”. Notwithstanding the foregoing, if the Corporation determines that issues substantially and adversely impact the actual or perceived efficiency, reliability, or accuracy of the online Application process, then the Corporation will consider only the “Original Hard Copy” of an Application, of a group of Applications, or of all Applications.

The Corporation will reject any competitive Application submittal and no action will be taken to score the Application if:

- The Application is not submitted online; or
- the “Original Hard Copy” of the Application fails to contain the Applicant Certification and Acknowledgement exhibit with an original signature; or

Any allowable replacement at any future date of any member of the Development Team reflected in the Application must meet the requirements that were met by the original team member.

1. Developer or Principal of Developer (Threshold)

The identity of the Developer(s) listed in this Application may not change until the construction or ~~r~~Rehabilitation work proposed in this Application of the Development is complete, unless approved by the Board as provided in Rule 67-48.004, F.A.C.

- a. Provide name of each Developer, including all co-Developers (Threshold).
- b. General Experience (Threshold)

(1) Certification of General Experience –

To meet threshold, each experienced Developer must provide a completed Developer or Principal of Developer Certification form behind a tab labeled “Exhibit 10, certifying that the Developer or Principal of Developer has, since January 1, 1991, completed at least three (3) affordable rental housing developments, at least one (1) of which was completed since January 1, 2001. At least one (1) of the three (3) completed developments must consist of a total number of units no less than 50 percent of the total number of units in the proposed Development. For purposes of this provision, completed for each of the three (3) developments means (i) that the temporary or final certificate of occupancy has been issued for at least one (1) unit in one of the residential apartment buildings within the development, or (ii) that at least one (1) IRS Form 8609 has been issued for one of the residential apartment buildings within the development. As used in this section, an affordable rental housing development, including a Housing Credit development, that contains multiple buildings is a single development regardless of the number of buildings within the development for which an IRS Form 8609 has been issued.

If providing experience acquired from a previous affordable housing Developer entity, the person signing the Developer or Principal of Developer Certification form must have been a Principal or Financial Beneficiary of that Developer entity.

(2) Prior General Experience Chart –

To meet threshold, each experienced Developer or Principal of Developer must provide, behind a tab labeled “Exhibit 10”, a prior experience chart reflecting the required information for the three (3) completed affordable rental housing developments.

The prior experience chart(s) must include the following information:

Prior General Development Experience Chart				
Name of Developer or Principal of Developer: _____				
Name of Development	Location (City & State)	Affordable Housing Program that Provided Financing	Total Number of Units	Year Completed

(3) For any co-Developer that does not have the required experience provide, behind a tab labeled “Exhibit 10”, the name, Address, telephone and facsimile numbers, e-mail address, and the relationship of the co-Developer to the Applicant.

~~b. Certification Provide a completed Developer or Principal of Developer Certification form behind a tab labeled “Exhibit 11” for each Developer with experience. Also behind a tab labeled “Exhibit 11”, provide the name, Address, telephone and facsimile numbers, e-mail address, if available, and the relationship of the co-Developer to the Applicant for any co-Developer that does not have the required experience.~~

~~e. Prior Experience Chart Each experienced Developer or Principal of Developer must demonstrate experience in the completion; i.e., the certificate of occupancy has been issued for at least one building, of at least two affordable rental housing developments, at least one of which consists of a total number of units no less than 50 percent of the total number of units in the proposed Development, by providing a prior experience chart behind a tab labeled “Exhibit 11”. If providing experience acquired from a previous affordable housing Developer entity, the person signing the Developer or Principal of Developer Certification form must have been a Principal or Financial Beneficiary of that Developer entity. The Developer experience chart must include the following information:~~

Name of Developer or Principal of Developer: _____			
Name of Development	Location (City & State)	Affordable Housing Program that Provided Financing	Total Number of Units

c. Housing Credit Development Experience (3 Points)

If a Principal of the Developer meets at least one of the three following criteria (outlined in (1), (2), and (3) below), the Application will be eligible for 3 points. If more than one applies to the Principal of the Developer, the Applicant is only required to meet the criteria for either (1) or (2) or (3) to be eligible for the 3 points.

(1) Completion of at least three (3) Housing Credit Developments since January 1, 2007-

Indicate whether a Principal of the Developer (a Principal of at least one Developer if co-Developers) has completed at least three (3) Housing Credit developments since January 1, 2007. For purposes of this provision, completed for each of the three (3) developments means (i) that the temporary or final certificate of occupancy has been issued for at least one (1) unit in one of the residential apartment buildings within the development, or (ii) that at least one (1) IRS Form 8609 has been issued for one of the residential apartment buildings within the development. As used in this section, a Housing Credit development that contains multiple buildings is a single development regardless of the number of buildings within the development for which an IRS Form 8609 has been issued.

With respect to a Principal of the Developer, if providing experience acquired from a previous affordable housing Developer entity, such principal must have been a Principal or Financial Beneficiary of that Developer entity.

To be eligible for 3 Points, the Applicant must answer “Yes” to the question at Part II.B.1.c.(1) of the Application and provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for the three (3) Housing Credit developments.

The prior experience chart must include the following information:

Prior Housing Credit Experience Chart		
Name of Principal of Developer: _____		
Name of Development	Location (City & State)	Year Completed

or

(2) Housing Credit Experience in Florida since January 1, 2007

If a Principal of the Developer (a Principal of at least one Developer if co-Developers) has, since January 1, 2007, been a Principal for any Developer involved in any Development(s), then the Development(s) must have, as of the date that signifies the end of the cure period outlined in Rule 67-48.004, F.A.C., commenced construction and each of the following criteria has been met in the case(s) where the applicable award(s) were received since January 1, 2007:

- (a) The Housing Credit equity partnership agreement or operating agreement has closed for every allocation received if the Development(s) has received any Competitive 9 percent Housing Credit Allocation for more than \$100, and
- (b) The SAIL loan has closed for every SAIL award received that was to be used in conjunction with non-competitive 4 percent Housing Credits if it has received any SAIL award(s) not de-obligated pursuant to Rules 67ER09-1 through 67ER09-5, F.A.C. (for purposes of this provision, a SAIL award received pursuant to Request for Proposals 2010-16 shall be excluded), and
- (c) The HOME loan has closed for every Corporation-issued HOME Rental award received that was to be used in conjunction with non-competitive 4 percent Housing Credits.

For purposes of Competitive 9 percent Housing Credit Allocations, received means that the Carryover Allocation Agreement has been issued. If the Carryover Allocation Agreement for any Competitive 9 percent Housing Credit Allocation was issued and the full Housing Credit Allocation was subsequently returned to the Corporation, the Applicant is not eligible for 3 points under Part II.B.1.c.(2) of the Application.

For purposes of SAIL and Corporation-issued HOME Rental, received means that the invitation to enter Credit Underwriting has been issued.

With respect to a Principal of the Developer, if providing experience acquired from a previous affordable housing Developer entity, such principal must have been a Principal or Financial Beneficiary of that Developer entity.

To be eligible for 3 points, the Applicant must answer “Yes” to question (2) at Part II.B.1.c. of the Application and provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting all of the Developments for which Competitive 9 percent Housing Credits, SAIL and/or Corporation-issued HOME Rental has been received since January 1, 2007 as outlined above.

The prior experience chart must include the following information:

<u>Competitive 9 Percent Housing Credits, SAIL and/or HOME Rental Received from Florida Housing since January 1, 2007</u>		
Name of Principal of Developer: _____		
<u>Florida Housing File No.</u>	<u>Name of Development</u>	<u>Location</u> (City and County)

or

- (3) Indicate whether a Principal of the Developer (a Principal of at least one Developer if co-Developers) has completed at least 1,000 Housing Credit units (Competitive 9 percent and/or non-competitive 4 percent) in the state of Florida. For purposes of this provision, completed for at least 1,000 Housing Credit units means (i) that the temporary or final certificate of occupancy has been issued, or (ii) IRS Form 8609 has been issued for the buildings where the Housing Credit units are located.

With respect to a Principal of the Developer, if providing experience acquired from a previous affordable housing Developer entity, such principal must have been a Principal or Financial Beneficiary of that Developer entity.

To be eligible for 3 Points, the Applicant must answer “Yes” to the question at Part II.B.1.c.(3) of the Application and provide a prior experience chart, behind a tab labeled “Exhibit 10”, reflecting the required information for at least 1,000 completed Housing Credit units.

The prior experience chart must include the following information:

<u>Total Housing Credit Units Completed in the State of Florida</u>				
Name of Principal of Developer: _____				
<u>Florida Housing File No.</u>	<u>Name of Development</u>	<u>Location (City and County)</u>	<u>Indicate Funding Source (Competitive 9% HC or non-competitive 4% HC)</u>	<u>Total Number of Housing Credit Units in Development</u>

2. Management Company Agent or principal of Management Company Agent (Threshold)
- a. Certification - Provide the completed Management Company Agent or Principal of Management Company Agent Certification form behind a tab labeled “Exhibit 11 12”.
 - b. Prior Experience Chart – The Management Company Agent or principal of Management Company Agent must demonstrate experience in the management of at least two (2) affordable rental housing properties, at least one (1) of which consists of a total number of units no less than 50

NOTICE

TO: All Interested Parties

RE: Rule Hearing for Rule Chapters 67-21 and 67-48, F.A.C.,

Florida Housing Finance Corporation will hold a Rule Hearing concerning Rule Chapters 67-21 and 67-48, F.A.C.,. The date, time and location are as follows:

Date: July 26, 2011

Time: 10.00 a.m.

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

The hearing will be accessible via phone at 1-888-808-6959, Conference Code #1374197.

The Notices of Proposed Rulemaking for Rule Chapters 67-21 and 67-48, F.A.C., and the latest draft of the 2011 Universal Application can be viewed on FHFC's web site at the following link:

http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0259

MILTON JONES DEVELOPMENT CORPORATION

540 North West 4th Avenue
Fort Lauderdale, Florida 33311
Office: (954) 467-1800
Facsimile: (954) 467-4044

July 21, 2011

Via Overnight Delivery

Mr. Kevin Tatreau
Director of Multifamily Development Programs
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329

**Re: Proposed Amendments to Rule 67-48, and Universal Application Instructions
Request for Public Hearing**

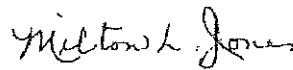
Dear Mr. Tatreau:

As President of Milton Jones Development Corporation, a successful developer of affordable housing in Florida, I request that a public hearing be scheduled on the proposed amendments to Rule 67-48, and to the Universal Application Cycle forms and instructions incorporated into the rules. Based on the notice published on Florida Housing's website, I understand that a public hearing will be held on the proposed rules at 10 a.m. on July 26, 2011, in the Seltzer Room at Florida Housing Finance Corporation's offices. We agree that that scheduled public hearing would serve as the public hearing requested in this letter.

Thank you for your attention to this request.

Sincerely,

MILTON JONES DEVELOPMENT CORPORATION



Milton L. Jones
President

Proposed Rule Time Line
Multifamily Rental Programs
HC and HOME
2011 Universal Application Cycle

TENTATIVE DATES – SUBJECT TO CHANGE

2-26-2010	Public meeting to solicit comments following Board meeting (Tallahassee)
4-29-2010	First Rule Development Workshop to solicit comments (Orlando)
6-17-2010	Second Rule Development Workshop to solicit comments (Tallahassee)
7-29-2010	Third Rule Development Workshop to solicit comments (Tallahassee)
8-17-2010	Fourth Rule Development Workshop to solicit comments (Tallahassee)
9-15-2010	Fifth Rule Development Workshop to solicit comments (Tallahassee)
6-10-2011	Board approval of 2011 Universal Application and proposed Rules
7-26-2011	Rule Hearing (Tallahassee)
8-18-2011	Open Cycle
8-25-2011	Application Workshop (Tallahassee)
9-8-2011	Cycle Closes (Applications are due to Florida Housing)
10-28-2011	Issue Preliminary Scores
11-8-2011	NOPSEs due
1-5-2012	Issue NOPSE Scores
1-12-2012	Cures due
1-20-2012	NOADs due
2-29-2012	Issue Final Scores and Notice of Rights
4-9 – 4-13-2012	Informal Appeal Hearings
5-11-2012	Board approves final ranking