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The Affordable Housing Study Commission

FINAL REPORT

1995

THE AFFORDABLE HOUSING STUDY COMMISSION
Dedicated to Promoting Affordable Housing in Florida Since 1986

December 31, 1995

The Honorable Lawton Chiles
Governor of Florida
The Capitol, Suite PL05
Tallahassee, Florida 32399-0001

The Honorable Jim Scott, *President*
Florida Senate
Senate Office Building, Room 308
Tallahassee, Florida 32399

The Honorable Peter Rudy Wallace, *Speaker*
Florida House of Representatives
The Capitol, Room 420
Tallahassee, Florida 32399

Dear Governor Chiles, President Scott and Speaker Wallace:

It is with pleasure that I submit to you the *1995 Final Report* of the Affordable Housing Study Commission. The Commission adopted the report to fulfill the requirements of Section 420.609, *Florida Statutes*. The report presents the results of the deliberations of the Commission during 1995 to improve the delivery of Florida's affordable housing programs in order to provide safe, affordable shelter to Floridians.

The Commission's recommendations address programs under the William E. Sadowski Affordable Housing Act of 1992, the Florida Housing Finance Agency's competitive process of scoring and selecting loan and tax credit applications, and the housing needs of low-income elders and frail elders. Fourteen recommendations require legislative consideration, and 19 can be implemented through administrative action.

In general, the Commission was pleased to note the continuing success of the many programs supported by the dedicated funding source for affordable housing created by the 1992 Sadowski Act. *The Commission believes it is essential that the Sadowski Act funding remain intact with its full appropriation, and that the Legislature make no adjustments between the percentage of funds appropriated to the Local Housing Trust Fund and the State Housing Trust Fund.* Full funding under this Act is the only practicable opportunity for Florida to fulfill the Legislature's 1988 statutory declaration that, by 2010, every Floridian shall have decent and affordable housing (Section 420.003 (2), *Florida Statutes*). This funding may become even more important as a result of changes at the federal level that will affect Florida.

Thank you for the opportunity to serve the citizens of Florida, and we look forward to continuing our work in 1996.

Sincerely,

Clifford B. Hardy

Clifford B. Hardy, *Chairman*

CBH/nam

Enclosure

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The Affordable Housing Study Commission 1995 Membership

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Citizen of the state

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* Resigned October 1995

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Contents

Mission Statement

of the Affordable Housing Study Commission

The Affordable Housing Study Commission recommends improvements to public policy to stimulate community development and revitalization and to promote the production, preservation and maintenance of safe, decent and affordable housing for all Floridians.

Strategies for Accomplishing the Mission

The Affordable Housing Study Commission implements its mission through the following strategies:

- encouraging public-private partnerships and governmental coordination;
- identifying opportunities to streamline state, regional and local regulations affecting the affordability of housing;
- advocating development strategies which comprehensively address the housing, economic and social needs of individuals;
- advocating the provision of increased technical and financial resources;
- promoting research on affordable housing issues; and
- educating the public and government officials to understand and appreciate the benefits of affordable housing.

Executive Summary

The *1995 Final Report* of the Affordable Housing Study Commission presents recommendations for improving the delivery of affordable housing programs and services to Floridians. Each recommendation in this report was unanimously supported by the Commission.

The report provides recommendations in three major areas: the William E. Sadowski Act of 1992; the Florida Housing Finance Agency's competitive process of scoring and selecting loan and tax credit applications; and the housing needs of low-income elders and frail elders. Thirty-three recommendations are provided, with background information and supporting comments which expound the Commission's intent in making the recommendations.

The report also summarizes the Commission's 1996 plans to review Florida's current affordable housing statutes, policies and programs, considering current trends and conditions at the federal, state and local levels. This review will be the basis for the development of a comprehensive state housing policy for Florida, which the Commission believes would increase the state's overall effectiveness in meeting its affordable housing needs and responding to changing conditions.

The recommendations in this report are provided below.

Recommendations Related to the William E. Sadowski Act of 1992

- The Commission recommends that Sadowski Act funding remain intact with its full appropriation, and that the Legislature make no adjustments between the percentage of funds appropriated to the Local Housing Trust Fund and the State Housing Trust Fund.
- The Florida Housing Finance Agency should amend the administrative rule governing the Predevelopment Loan Program (PLP) (Chapter 9I-38, *Florida Administrative Code)* to sever predevelopment loan grants from the loan portion of the program and create two separate funding processes with complementary technical assistance provided through the Catalyst Program.
- The PLP grant funds should be distributed on a first-come, first-serve basis to eligible sponsors after meeting threshold requirements relative to staff and board capacity.
- Any portion of PLP funds remaining after the grants are awarded should be placed in an acquisition and development loan fund to be accessed by nonprofit organizations that have previously received technical assistance and predevelopment grant funds.
- The Florida Housing Finance Agency, through its rulemaking and policies, should implement the State Housing Initiatives Partnership (SHIP) Program in a manner that maximizes local government autonomy and ability to respond to local needs.
- The Legislature should amend Section 420.9071(3), *Florida Statutes*, to permit exceptions to the definition of "affordable" in instances where a first institutional mortgage lender is satisfied that the family can afford a higher

mortgage payment than is currently permitted by statute.

- The SHIP Program should not mandate compliance with U.S. Housing and Urban Development (HUD) regulations.

- The Legislature should strengthen the following provisions of the SHIP Program related to the planning and implementation of local strategies of regulatory reform and streamlined permitting for affordable housing:

  —The requirement for expedited permitting in the Housing Incentive Plans (HIPs) should be clarified to include all permitting associated with the affordable housing development, such as that required by government engineering and public works departments.

  —The HIP should be incorporated as a strategy of the local government's Housing Assistance Plan.

  —The Advisory Committee provided for in Section 420.9076, *Florida Statutes*, should have an expanded role in developing and monitoring local Housing Assistance Plans to ensure that regulatory reform is effectively implemented and to provide for greater citizen input in the area of regulatory reform.

  —The Advisory Committee should serve as a standing citizens' review board (rather than a one-time planning committee). Its responsibilities should include: holding public meetings on local housing assistance plans, monitoring the effectiveness of incentive strategies, and preparing an annual report on the implementation status of regulatory reform in the SHIP program. The Committee's report and accompanying record of the public comments should be transmitted as part of the local government's annual report to the Florida Housing Finance Agency.

- The Florida Housing Finance Agency should revise the SHIP report format to clarify the instructions on Form 6 to require that local governments quantify and itemize reductions in housing costs for each department involved in the development process (i.e., building, planning, zoning, engineering, public works, etc.).

- The Florida Housing Finance Agency should amend the Housing Assistance Plan rule to narrowly define the circumstances in which local governments are required to submit plan amendments for review and approval by the state.

- Greater flexibility should be provided to local governments in the use of recycled monies in SHIP Trust Fund accounts. Local governments should be relieved of SHIP program requirements for recycled funds, with the exception of income eligibility and the prohibition on use of funds for ongoing rent subsidies.

- Local governments receiving an annual SHIP allocation of less than $300,000 should be entitled to use up to 10 percent of the recycled funds for administration of their SHIP programs.

- The Florida Housing Finance Agency should clarify SHIP Program Rule 9I-37.008, *Florida Administrative Code*, to allow nonprofit eligible sponsors of SHIP loans to revolve loan proceeds of SHIP-generated funds for pre-approved SHIP activities.

- The Legislature should require that local government annual reports on SHIP Program accomplishments be submitted on or before August 30, instead of November 15, of each year.

- The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that:

  —The Department of Community Affairs should contract with third parties for the training and technical assistance provided by the Catalyst program;

  —The request for proposals should heavily weigh the experience and qualifications of the contractor as well as cost effectiveness of the services provided; and

—The services sought should be related to the SHIP Program and other current and relevant state housing programs, deleting the Homeownership Opportunities for People Everywhere (HOPE) program.

- The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that the training and technical assistance provided to all partners in the public-private partnership (e.g., local government, lenders, for-profit and nonprofit developers) should focus on production, "dealmaking," leveraging of funds, use of all available resources, banking, bringing institutional lenders to the table to the greatest extent possible, reduction in duplicative activities, and implementation of regulatory reform.
- The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that Catalyst technical assistance should take the form of direct on-site assistance with follow-up and ongoing telephone technical assistance.
- The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that the technical assistance available to local governments should include conflict resolution.
- The Department of Community Affairs should redirect funding to reinitiate training and technical assistance pursuant to Section 420.606(3), *Florida Statutes*. In the future, the Department should ensure that funding is requested and used strictly for this purpose.
- The Legislature should revise Section 420.5092, *Florida Statutes*, to increase the Florida Housing Finance Agency's authority to obtain an investment grade rating for claims paying ability under the Florida Affordable Housing Guarantee Program.
- The Legislature should revise Section 420.5092, *Florida Statutes*, to increase the Florida Housing Finance Agency's authority to issue revenue bonds from $75 million to $200 million under the Florida Affordable Housing Guarantee Program.

Recommendations Related to the Florida Housing Finance Agency's Competitive Process of Scoring and Selecting Loan and Tax Credit Applications

- Specific to the process of scoring and selecting applications, the Commission finds that the Florida Housing Finance Agency's selection criteria and scoring process complies with the original intent of the legislation. The Commission recommends that administrative procedures remain in place throughout the process to ensure that scoring decisions continue to be fair and objective.
- The Commission believes that all expectations by the Commission and the Legislature for the Florida Housing Finance Agency's success have been met and exceeded. At the same time, the Commission believes the development of a comprehensive state housing policy for Florida would increase the state's overall effectiveness in meeting its affordable housing needs and responding to changing conditions. Therefore, the Commission recommends it undertake a comprehensive review of Florida's affordable housing statutes, including policy and program intent language, in cooperation with the Florida Housing Finance Agency. This review should consider whether the changes in federal housing program and funding priorities, market conditions, and financing options require taking new directions in the allocation of state housing funds.
- In developing a comprehensive state affordable housing policy, the Commission is concerned that per unit site development costs are not further increased by myriad rules and regulations. Therefore, the Commission recommends that, whenever possible, rules and regulations

be modified to reduce per unit site development costs and thereby make housing more affordable.

Recommendations Related to the Housing Needs of Low-Income Elders and Frail Elders

- The Florida Housing Finance Agency should restrict competition for funding under the State Apartment Incentive Loan (SAIL) Program's elderly set-aside to developments in which 80 percent of the units serve persons aged 62 or older. Proposals reserving higher percentages of units for elders should receive additional incentive points.
- The Florida Housing Finance Agency should revise the SAIL scoring process to counteract the disincentives for developers proposing projects that serve elderly and frail elderly tenants. To ensure that the costs per unit are comparable among elderly set-aside projects, elderly housing projects should be restricted to efficiencies, and one and two bedroom apartments (with preferably no more than 25 percent of the units having two bedrooms). In addition, the Agency's recommended revisions to Form 12 of the SAIL application, which now combines the elderly and homeless, should be changed to separate elders and homeless, making each a specific target group on this form.
- The Florida Housing Finance Agency should develop separate tenant program forms for SAIL Program elderly set-aside projects that focus on the special service needs of elders, including a section addressing frail elderly needs.
- For new construction projects under the SAIL Program elderly set-aside, the Florida Housing Finance Agency should require as a threshold all developments over one story to have elevators (floors with frail elderly units or services must have level floors throughout [i.e., no steps] or ramps must be provided). However, if the applicant shows that all units set aside for elders and the common/service areas are available on the first floor, no elevator is required.
- The Florida Housing Finance Agency should require that the management plan for the SAIL Program 10 percent elderly set-aside address how threshold services will be provided to elders and frail elders.
- In SAIL Program elderly set-aside projects, the Florida Housing Finance Agency should require all units set aside for elders to meet certain thresholds for design accessibility and assistance, with incentives available for the provision of other design features. Under the elderly set-aside, 20 percent of the units in a development should be required to be developed with higher assistive and accessability standards in order to meet *frail* elderly needs.
- The Florida Housing Finance Agency should require that, for people over the age of 62, the income certification process include an assessment of whether an asset transfer has been made to meet the income eligibility test.
- The Florida Legislature should seek to provide low-income, frail older Floridians with the choice to receive care in the least restrictive setting possible by increasing residential options, such as the Florida Elders Enhanced Living (FEEL) model described in this report, that will delay or eliminate the need for costly institutional care for a segment of frail elders.
- The Department of Community Affairs and the Florida Housing Finance Agency should explore applications of the FEEL model to improve existing housing programs serving frail elders.

Recommendations

The William E. Sadowski Affordable Housing Act of 1992

The Commission's highest priority for the 1995 Legislative Session was to encourage the full funding and implementation of the William E. Sadowski Affordable Housing Act of 1992. Thanks to the effectiveness of Florida's housing programs and the endorsement of the Legislature, an additional ten cents per $100 dollar valuation in existing documentary stamp tax revenues was transferred into the state and local government affordable housing trust funds for appropriation in July 1995.

With the transfer of the additional revenue, Florida's commitment to affordable housing is expected to increase to a level of $120 million annually. Now that the Sadowski Act is fully implemented, the Commission intends to study its effectiveness and identify opportunities to improve the legislation, related administrative rules, and the design and operation of housing production programs.

This year, the Committee on State Housing Programs Supported by the Sadowski Act focused on issues related to the implementation of four programs. They are: the Predevelopment Loan Program (PLP), the State Housing Initiatives Partnership Program (SHIP), the Catalyst Program for technical assistance and training, and the Florida Affordable Housing Guarantee Program. Recommendations for legislative changes and program improvements are listed below for each program area. Preceding these is a general recommendation to the Florida Legislature regarding the Sadowski Act.

RECOMMENDATION # 1:

The Commission recommends that Sadowski Act funding remain intact with its full appropriation, and that the Legislature make no adjustments between the percentage of funds appropriated to the Local Housing Trust Fund and the State Housing Trust Fund.

Comment: *Full funding under the Sadowski Act is the only practicable opportunity for Florida to fulfill the Legislature's 1988 statutory declaration that, by 2010, every Floridian shall have decent and affordable housing* (Section 420.0003 (2), *Florida Statutes).*

A dilution of the state's portion of Sadowski Act funds will have its most direct negative impact upon the State Apartment Incentive Loan (SAIL) program. The SAIL program began as a demonstration program proposed by the 1987 Affordable Housing Study Commission. Its success has been evident, and that success was instrumental in garnering Legislative confidence in support of the SHIP program and its administration by the Florida Housing Finance Agency. The SAIL program has been the state's most important and effective means of producing affordable rental housing. To date, this program has over 13,000 units either completed or under construction for families with annual average incomes of approximately $15,000. The SAIL program leverages public dollars five to one.

The bipartisan coalition of diverse interest groups, including home builders, real estate professionals, local government, state government, and low income housing advocates, continues to support full funding of the Sadowski Act. Specifically, this entails the continued distribution of approximately 30 percent to the State Housing Trust Fund and 70 percent to the Local Housing Trust Fund from the full appropriation of the ten cent increase in documentary stamp taxes and equivalent value from existing documentary stamp revenue.

A. The Predevelopment Loan Program (PLP)

The PLP provides grants and loans for site acquisition and development of land for affordable housing projects that serve a target population of individuals or families with very low- and low-incomes. The funds are allocated based on an established need for housing for the target population; however, at least 40 percent of the total funds available are reserved for an initial six months for sponsors of farmworker housing.

The program was first established in 1988, and is currently authorized under Section 420.529, *Florida Statutes*. It was administered by the Division of Housing and Community Development from its inception until 1992 when the program was amended and transferred to the Florida Housing Finance Agency (FHFA). The Sadowski Act amended the program, changing its name to the Predevelopment Loan Program, and increased its funding to an estimated $2 million per year.

The original purpose of the program was to encourage and support nonprofit organizations in the production of affordable housing in rural areas, with an emphasis placed on meeting the demand for farmworker housing. Difficulties in the program's early administration led to numerous failed attempts to obtain construction financing and, consequently, the foreclosure of loans on property. It was expected that by transferring the program to the FHFA, the predevelopment loans could be linked to other housing production programs.

Program eligibility was more broadly defined by the FHFA in subsequent rule amendments. In addition to not-for-profit organizations, eligibility for PLP grants and loans was extended to units of local government, housing authorities (pursuant to Chapter 420, *Florida Statutes*), or limited partnerships if the general partner is a not-for-profit organization and has at least 51 percent ownership interest in the organization. In addition, the FHFA applied the stringent conditions applicable to other construction loan programs to its selection and approval of PLP grants and loans. Because the receipt of a PLP grant is contingent on an applicant's approval of a loan request under the program, neither can be awarded without first going through the FHFA's system of underwriting.

Although the transfer of the program has eliminated loan defaults, the added provisions run counter to the original intent of the PLP. The idea behind "predevelopment" money is to assist applicants who have not yet reached the development stage nor have the financial commitments and other indicia of ability to proceed which are so heavily weighted in the FHFA's process of awarding production loans.

After studying the history, legislative intent, and current administration of the PLP, the Affordable Housing Study Commission offers the following recommendations.

RECOMMENDATION # 2: The Florida Housing Finance Agency should amend the administrative rule governing the Predevelopment Loan Program (Chapter 9I-38, *Florida Administrative Code*) to sever PLP grants from the loan portion of the program and create two separate funding processes with complementary technical assistance provided through the Catalyst Program.

Comments:

a. *An opportunity exists in a redesign of the PLP for the state to assist local governments and nonprofit organizations in the earliest stages of housing development to address the needs of very low- and low-income persons. Separation of grants from loans will enable the intended beneficiaries of the PLP to better access predevelopment dollars.*

b. *Direct technical assistance to nonprofits is needed to assess what resources are required, both financial and technical, to ensure a project's success. Often agencies have the capacity in terms of staff and board expertise to develop affordable housing, yet lack the experience and funds for predevelopment activities, such as site selection and feasibility studies. Newly-formed agencies may require more general assistance in how to structure a deal, leverage funds, or com-*

plete a funding application. In either case, hands-on direct technical assistance through the Catalyst Program will allow for the effective use of PLP funds.

RECOMMENDATION # 3: The PLP grant funds should be distributed on a first-come, first-serve basis to eligible sponsors after meeting threshold requirements relative to staff and board capacity.

RECOMMENDATION # 4: Any portion of PLP funds remaining after the grants are awarded should be placed in an acquisition and development loan fund to be accessed by nonprofit organizations that have previously received technical assistance and predevelopment grant funds.

Comment: The acquisition and development loan funds should be used for those activities that are beyond predevelopment and would be subject to the same underwriting criteria currently used by the FHFA for all other loan programs, including the requirement that the loan be leveraged with other sources of financing.

B. The State Housing Initiatives Partnership (SHIP) Program

The participation of local governments and the early successes of the SHIP Program are extraordinary. Every eligible local government is producing affordable housing and implementing the housing elements in their comprehensive plans. This is a tremendous feat for many communities which heretofore had no programs to produce affordable housing.

As the cornerstone of the Sadowski Act, the SHIP Program received bipartisan and almost unanimous support by the Florida Legislature at the time of its inception and again this year, with the authorization of additional revenues. This is due in large part to the diverse support of home builders, real estate professionals, low-income housing advocates, state and local government.

The sustained involvement and support of these diverse interests are vital to the program's continued success. Recognizing the importance of their input in making revisions to the Sadowski Act, the Commission solicited public comment from all SHIP administrators in the state and from representatives of the coalition that supported the passage of the Act. After consideration of the input received, the Commission makes the following recommendations for the SHIP program.

RECOMMENDATION # 5: The Florida Housing Finance Agency, through its rulemaking and policies, should implement the SHIP program in a manner that maximizes local government autonomy and ability to respond to local needs.

Comment: The SHIP program is a local government program administered by the state through the FHFA. The SHIP program was intended to provide funds to local governments as an incentive for the production of public-private partnerships to implement locally designed housing strategies and to implement the housing elements of local comprehensive plans. To best do this, local governments should be free from FHFA rules or policies that go beyond statutory restrictions in the enabling legislation. The following two examples address rules and policies respectively.

The rule requirement in Section 9I-37.015 (1), Florida Administrative Code, *calls for advertisements for funding availability to include an excessive amount of information. These requirements can cost local governments as much as $1,000 dollars per advertisement. This requirement could be alleviated, and the money spent on the longer advertisement could be otherwise used for delivering affordable housing.*

In addition, the FHFA creates policies via verbal and written opinions from Agency staff in response to questions from local government SHIP administrators. Many of these questions are not addressed in the SHIP statute. When statutory guidance for an issue is nonexistent, the FHFA should defer the answer to the question to the local government. For example, FHFA staff has instructed local government that a rehab inspector's time spent on houses which are ultimately not rehabilitated must be charged to program administration costs and not to program delivery expenses. This opinion finds no basis in statute or rule and runs contrary to the reality of housing rehabilitation. Hous-

ing rehabilitation should not be undertaken without thorough inspections. These inspections often reveal that the rehabilitation will cost more money than is currently available.

RECOMMENDATION # 6: The Legislature should amend Section 420.9071(3), *Florida Statutes*, to permit exceptions to the definition of "affordable" in instances where a first institutional mortgage lender is satisfied that the family can afford a higher mortgage payment than is currently permitted by statute.

Comments:

a. *The definition of "affordable" as defined in the SHIP statute, and further clarified in the administrative rule, is too restrictive as it relates to home ownership. It limits eligibility to households with:*

b. *". . .monthly rents or monthly mortgage payments, including taxes and insurance, [that] do not exceed 30 percent of an amount representing the percentage of the area median income limits Adjusted for Family Size for the household... However, it is not the intent to limit a household's ability to devote more than 30 percent of its income for housing as long as the amount spent does not exceed 30 percent of the area median income limits Adjusted for Family Size for the income categories defined in subsection (26), (27), or (36)."*

c. *Adherence to the 30 percent rule often causes families who would otherwise qualify for an affordable loan to be disqualified. The practical effect of this is that the family remains in rental housing, usually paying as much as 50 percent or more for housing costs.*

d. *If the first institutional lender is satisfied that the family can afford mortgage payments exceeding the 30 percent benchmark, the SHIP program requirements should not stand in the way of that family's chance for home ownership.*

e. *The definition of affordability in regard to rent payments should remain intact.*

RECOMMENDATION # 7: The SHIP program should not mandate compliance with Housing and Urban Development (HUD) regulations.

Comments:

a. *In many jurisdictions, especially in rural areas, local SHIP programs are unnecessarily burdened by onerous or duplicative income eligibility and verification processes.*

b. *Administration of SHIP monies necessarily involves determination of income eligibility and income verification. But in circumstances where SHIP monies are not combined with other monies under HUD regulations, the eligibility and verification process can be simplified by reasonable reliance upon the first institutional lender's underwriting or a locally designed process which has been pre-approved for reasonableness by the FHFA.*

c. *For projects that involve federal funds and, therefore, invoke HUD regulations, a SHIP administrator should defer to the federal regulations, rather than SHIP rules, in determining income eligibility.*

d. *Implementation of this recommendation may require the deletion of all references to "annual anticipated gross income" from SHIP statute and rule.*

RECOMMENDATION # 8: The Legislature should strengthen the following provisions of the SHIP program related to the planning and implementation of local strategies of regulatory reform and streamlined permitting for affordable housing.

- **The requirement for expedited permitting in the Housing Incentive Plans (HIPs) should be clarified to include all permitting associated with the affordable housing development, such as that required by government engineering and public works departments.**
- **The HIP should be incorporated as a strategy of the local government's Housing Assistance Plan (HAP).**
- **The Advisory Committee provided for in Section 420.9076, *Florida Statutes*, should have an expanded role in developing and monitoring local Housing Assistance Plans to ensure that regulatory reform is effectively imple-**

mented and to provide for greater citizen input in the area of regulatory reform.

- **The Advisory Committee should serve as a standing citizens' review board (rather than a one-time planning committee). Its responsibilities should include: holding public meetings on local housing assistance plans, monitoring the effectiveness of incentive strategies, and preparing an annual report on the implementation status of regulatory reform in the SHIP program. The Committee's report and accompanying record of the public comments should be transmitted as part of the local government's annual report to the Florida Housing Finance Agency.**

Comments:

a. *Early review of the implementation of the requirement that affordable housing permits be expedited has revealed that there is some confusion about the extent of the requirement's application. Some local governments have expedited building permits, but the balance of the local government permitting requirements remain burdensome and time consuming.*

b. *There is a perception that local HIPs are shelved once developed and approved. By incorporating regulatory reform as a strategy of the HAP, it will be subject to routine updates and more frequent public review.*

c. *Oversight by the advisory committee, including regular meetings and reports, will result in greater citizen input into implementation of the HAP, including monitoring of administrative monies.*

RECOMMENDATION # 9: The Florida Housing Finance Agency should revise the SHIP report format to clarify the instructions on Form 6 to require that local governments quantify and itemize reductions in housing costs for each department involved in the development process (i.e., building, planning, zoning, engineering, public works, etc.).

RECOMMENDATION # 10: The Florida Housing Finance Agency should amend the Housing Assistance Plan rule to narrowly define the circumstances in which local governments are required to submit plan amendments for review and approval by the state.

Comment: Local governments should have flexibility in responding to local needs by making plan amendments as needed so long as such amendments are not inconsistent with the statutory requirements of the SHIP program. For example, unless a new strategy is created or an existing one is deleted, a local government should not be required to resubmit its plan to the FHFA.

RECOMMENDATION # 11: Greater flexibility should be provided to local governments in the use of recycled monies in SHIP Trust Fund accounts. Local governments should be relieved of SHIP program requirements for recycled funds, with the exception of income eligibility and the prohibition on use of funds for ongoing rent subsidies.

Comment: The SHIP program is intended to assist local governments in meeting their local needs as identified in the housing elements of their local comprehensive plans. The SHIP program requirements may not coincide with those needs. For example, the need for rental construction may be greater than that allowed under SHIP. By removing all SHIP restrictions from recycled funds (other than eligibility and the rent subsidy prohibition), these funds would not be subject to the 65 percent home ownership rule and could be used entirely for rental construction.

RECOMMENDATION # 12: Local governments receiving an annual SHIP allocation of less than $300,000 should be entitled to use up to 10 percent of the recycled funds for administration of their SHIP programs.

Comment: Approximately 30 of the 67 counties receive the minimum threshold of $250,000 or slightly more. Many of these local governments are finding that $25,000 is inadequate to administer the program as well as it should be administered.

RECOMMENDATION # 13: The Florida Housing Finance Agency should clarify SHIP Rule 9I-37.008, *Florida Administrative Code*, to allow nonprofit eligible sponsors of SHIP loans to

revolve loan proceeds of SHIP generated funds for pre-approved SHIP activities.

Comments:

a. *Funds returned to a local government SHIP trust fund costs the local government time and money to process. Allowing a nonprofit eligible sponsor to reuse the loan funds would avoid unnecessary expenses, and would benefit SHIP recipients.*

b. *The nonprofit should be required to submit a copy of its annual audit and periodic reports to the local government to facilitate monitoring of the sponsor as well as the SHIP loans.*

RECOMMENDATION # 14: The Legislature should require that local government annual reports on SHIP accomplishments be submitted on or before August 30, instead of November 15, of each year.

Comment: This will enable the Florida Housing Finance Agency to include current program year information on the SHIP program in its Annual Legislative Report.

C. The Catalyst Program of Training and Technical Assistance

The Florida Legislature showed great insight in offering local governments technical assistance along with SHIP funding. The Catalyst Program for Technical Assistance and Training, known as the Catalyst program, has received an annual appropriation of $250,000 for statewide assistance in partnership development, leveraging of resources, and program administration. The success of the program is evident.

The enabling legislation, Section 420.606(4), *Florida Statutes*, stipulates that Catalyst training address the SHIP, Home Investment Partnership Program (HOME), and HOPE programs under the administration of the Department of Community Affairs. It has been the Department's practice to issue an annual Request for Proposal (RFP) proposal to contract out the provision of technical assistance for all three programs. However, the HOPE program was a federally funded program that is no longer funded, and the HOME program for participating jurisdictions is accompanied by significant amounts of technical assistance under HUD contracts.

In addition to the Catalyst Program, the Legislature has provided funding to implement Section 420.606(3), *Florida Statutes*, which requires the Department to secure the necessary expertise to provide community-based organizations and staff of local and state governments with the necessary training and technical assistance to meet the needs of very low-, low-, and moderate-income persons for standard, affordable housing. From Fiscal Years 1990-91 through 1994-95, this responsibility was carried out through an agreement with Miami-Dade Community College, which offered the AHOME (Affordable Housing Management Education) Program. This program was not funded by the Department in Fiscal Year 1995-96.

RECOMMENDATION # 15: The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that:

- **The Department of Community Affairs should contract with third parties for the training and technical assistance provided by the Catalyst program;**
- **The request for proposals should heavily weigh the experience and qualifications of the contractor as well as cost effectiveness of the services provided; and**
- **The services sought should be related to the SHIP program and other current and relevant state housing programs, deleting the HOPE program.**

Comments:

a. *The Department has historically contracted the Catalyst program to third parties based on proviso language in the appropriations bill. This contract has occurred under an RFP process. It would be in the best interests of the beneficiaries of the program if the delivery of the program technical assistance was more reliably and definitively in the hands of qualified contractors.*

b. *The HOPE program never materialized as the important federal program that had been anticipated in 1992. It is now unfunded. The HOME program is an active, important federal program that is accompanied by federal contracts for technical assistance in the State. Currently, HUD has four different technical assistance providers covering Florida. Technical assistance is available for free to participating jurisdictions and to Community Housing Development Organizations (CHDOs).*

RECOMMENDATION # 16: The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that the training and technical assistance provided to all partners in the public-private partnership (e.g., local government, lenders, for-profit and nonprofit developers) should focus on production, "dealmaking," leveraging of funds, use of all available resources, banking, bringing institutional lenders to the table to the greatest extent possible, reduction in duplicative activities, and implementation of regulatory reform.

Comment: Production and regulatory reform were key to the Sadowski Act Coalition's broad-based bipartisan support, and will be key to the Sadowski Act's continued support.

RECOMMENDATION # 17: The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that Catalyst technical assistance should take the form of direct on-site assistance with follow-up and ongoing telephone technical assistance.

Comment: The workshop setting does not meet the project development and partnership building needs of the technical assistance beneficiaries. Workshops and guidebooks are, by nature, generalized. Every community's needs are different from every other's needs. The differences among local government staff, elected officials, local nonprofit organizations, bankers, the cost of land, and other aspects are so variable that it is imperative to assist each individually.

RECOMMENDATION # 18: The Legislature should amend Section 420.606(3), *Florida Statutes*, to provide that the technical assistance available to local governments should include conflict resolution.

Comment: Partnership development between local governments, the private sector, nonprofit organizations, for-profit organizations, and others often requires mediation skills.

RECOMMENDATION # 19: The Department of Community Affairs should redirect funding to reinitiate training and technical assistance pursuant to Section 420.606(3), *Florida Statutes*. In the future, the Department should ensure that funding is requested and used strictly for this purpose.

Comment: The Department of Community Affairs Legislative Budget D-3A for Fiscal Year 95-96 requests $375,000 for the Catalyst Program, representing that a portion of those funds will be used for "the community college affordable housing training curriculum." This curriculum was originally provided through the AHOME (Affordable Housing Management Education) Program, a comprehensive training program for community-based organizations sponsored by Miami-Dade Community College. The program included the nuts and bolts of real estate development, construction, and financing of affordable housing. It was funded between Fiscal Years 1990-91 and 1994-95 to address the requirements of Section 420.606(3), Florida Statutes, *which were adopted prior to the 1992 Sadowski Act's adoption.*

The D-3A also represents that the $375,000 Catalyst Program funding is "to continue contract consultant services to maintain the training and technical assistance efforts initiated under the Sadowski Act...," of which the training curriculum is not a part. Although the Department's final Legislative Budget represented that funding was appropriated for the "training curriculum" in the 1995-96 appropriation, the Department chose not to renew the contract with Miami-Dade Community College for the AHOME program. Instead, the Department used approximately $40,000 to fund a fair housing impediments report required by the federal government. Approximately $32,200 was used to pay Department OPS staff salaries to coordinate with banker *groups. To date, the balance of the $125,000 appears to be unexpended.*

The Affordable Housing Study Commission favors training and technical assistance to community-based organizations, and in its last report recommended increasing programs of this nature. The Department of Community Affairs should redirect its activities to carry out its statutory charges and to support training and technical assistance for community-based organizations and implement section 420.606(3), Florida Statutes.

D. The Florida Affordable Housing Guarantee Program

The 1992 William E. Sadowski Act created the Florida Affordable Housing Guarantee Program to: 1) stimulate creative private sector lending activities to increase the supply and lower the cost of financing or refinancing eligible housing; 2) create security mechanisms to allow lenders to sell affordable housing loans in the secondary market; and 3) encourage affordable housing lending activities that would not have taken place or that serve persons who would not have been served but for the creation of this program. Initial efforts are focusing on multi-family housing, particularly in the area of construction gap equity and permanent financing.

RECOMMENDATION # 20: The Legislature should revise Section 420.5092, *Florida Statutes*, to support the efforts of the Florida Housing Finance Agency to obtain an investment grade rating for claims paying ability under the Florida Affordable Housing Guarantee Program.

Comment: Obtaining this rating will allow the Guarantee Program to better fulfill the purpose for which it was established. By lowering the cost of financing and increasing the liquidity of affordable housing transactions, a greater number of lenders and investors will be interested in participating in the affordable housing arena. This rating will also facilitate a broader secondary market.

RECOMMENDATION # 21: The Legislature should revise Section 420.5092, *Florida Statutes*, to increase the Florida Housing Finance Agency's authority to issue revenue bonds from $75 million to $200 million under the Florida Affordable Housing Guarantee Program.

Comment: The $200 million authority will afford the Guarantee Program sufficient capacity to build a portfolio that is both large and varied enough in terms of project location, loan size and type, and developer to diversify the risks to the program. The increased bond authority is calculated based on the anticipated flow of funds into the State Housing Trust Fund in each of the next seven years. The authority to issue additional bonds would be viewed by the national rating agencies as an indication of state government's support for and commitment to the Guarantee Program. The FHFA believes that the $200 million level is a minimum to command the favorable attention of these rating agencies.

The Florida Housing Finance Agency's Competitive Process of Scoring and Selecting Loan and Tax Credit Applications

The Affordable Housing Study Commission reviewed two decision-making processes of the FHFA. The impetus for this assessment came from a request by Lieutenant Governor Buddy MacKay to: 1) assess the effects of increased competition for FHFA incentives in the production of affordable housing; and 2) review the agency's procedures for selecting bond underwriters.

In responding to this request, the Commission's Committee on State and Federal Housing Programs was careful to understand its capacity and, as a result, set limits on the scope and purpose of its review. The overall objective of this study was for the Commission to serve as an outside observer of these processes, to understand the history and accomplishments of the FHFA, and to describe the agency's procedures for its decision-making.

As with any study, the Commission looks to inform key decision-makers on matters of policy and to recommend improvements that will further the State's housing goals and strategies pursuant to Section 420.003, *Florida Statutes*. Therefore, in this interim report of findings and observations, the Committee's focus was to describe the processes and, in the case of how the FHFA scores and selects loan and tax credit applications, to identify the policy implications of the FHFA's current practices.

Unfortunately, due to timing of the appointments process, the 1995 Commission did not hold its organizational meeting until September. This left an inadequate amount of time to address both of these assignments. Therefore, the Committee decided to focus its efforts on the FHFA's scoring and selection procedures and offer suggestions for further study in 1996. A limited review of bond underwriter selection procedures was also undertaken. The work of the Committee and the results of the two reviews are described below.

A. The Process of Scoring and Selecting Loan and Tax Credit Applications

From the FHFA's inception and involvement in administering state and federal housing programs, it has made allocation decisions and selected projects for funding based on a competitive scoring process that is required by the applicable *Florida Statutes* and implemented by administrative rules. Projects that meet minimum program requirements are scored, ranked and funded in order of their ranking until the yearly allocation of program funds is committed.

In recent years, the participation of developers and lenders in FHFA programs has grown substantially. This is particularly evident in two programs that provide developer incentives for the construction or renovation of low cost rental apartments: the SAIL program and the federal Low-Income Rental Housing Tax Credit (LIHTC) program. While funding for SAIL loans doubled in the past four years, the number of project applications more than tripled. Likewise, even though the state's allocation of tax credits remained fairly stable up until this year, with approximately 60 applicants being funded each year from 1992 through 1994, the number of LIHTC applicants increased by 60 percent over this period.

The increased popularity of FHFA programs has led to intense competition among developers. Some obvious benefits to this competition are that FHFA program goals and production schedules are being met. There is a higher leverage of private dollars and fewer proposals are found to be inadequately capitalized or fiscally unsound at the time of credit underwriting. In fact, projects funded have exceeded original expectations of what developers could reasonably provide in relation to longer lengths of set-asides (i.e., 30-year versus 15-year terms), and higher proportions of units set aside for very low-income persons.

On the other hand, the consequences of the escalating competition can be seen in the rising incidence of appeals and cross appeals. Appeals of SAIL scoring decisions have more than doubled in three years, growing from 20 percent in Fiscal Year 1992-93 to 45 percent in 1994-95. In 1994, 75 percent of all LIHTC applicants filed appeals or cross appeals. Moreover, the contentious attitude that now prevails among competing developers delays funding decisions and diverts valuable staff time from program administration to working on developer appeals.

Background on the Competitive Process

The Committee studied the origin and the history of changes to the FHFA's competitive funding process to serve as a basis for comparing Florida's process to that of other states. In the Commission's 1987 Final Report, criteria for the competitive ranking of applications were first recommended as part of its legislative proposal to create the SAIL program. It was anticipated that competition for the flexible, low-interest loans would be strong. Therefore, the Commission recommended that a scoring system be established which would set minimum criteria for program eligibility and assign points to reward applicants who best carry out the program's goals.

When the SAIL program was enacted in 1988, the FHFA was required by Section 420.5087(6)(c), *Florida Statutes*, to "establish by rule a scoring system for evaluation and competitive ranking of applications." After Congress authorized the establishment of the LIHTC program in the Tax Reform Act of 1986 and the HOME Investments Partnerships Act in the National Affordable Housing Act of 1990, Florida amended Chapter 420, *Florida Statutes*, to require that similar scoring processes and criteria guide decisions for the allocation of federal tax credits, grants and loans.

Recently, the FHFA made a significant change in this process by combining the applications and funding cycles for multifamily rental and single-family home ownership programs. The first combined rental housing application was released in 1994 for the SAIL and LIHTC programs. The agency also "decoupled" the award of tax credits from SAIL awards in 1994. Continuing to innovate, the 1995 FHFA application combines the competitive scoring process for the SAIL, LIHTC and HOME programs. The effect of these changes cannot yet be fully assessed and may be reviewed by future Commissions.

The Study Approach

In addition to reviewing the history of the FHFA's application process, Commission staff analyzed applicant scores for the past three competitive cycles of SAIL and the LIHTC programs (not including the current 1995 cycle). The purpose of this assessment was to understand the implications of the growing intensity of funding competition. After all, the scores and the importance of maximizing scores are part of the state's incentive structure for encouraging the development of affordable housing.

The scoring analysis was restricted to a review of the allocation of the federal tax credits for Fiscal Years 1992, 1993 and 1994 under the LIHTC program, and the award of state loans for Cycles V, VI and VII of the SAIL program. Tables 1 and 2 illustrate the increase in LIHTC and SAIL applications and the proportion of applicants filing appeals for these years and the most recently completed funding cycle. A full report on this statistical analysis is available on request.

TABLE 1
Low Income Housing Tax Credit Program Applications and Appeals, 1992-95

LIHTC Program Years	Number of LIHTC Applications			Number of Appeals	
	Total	Funded	% Funded	Total	Percent
FY 1992	95	51	54%	36	37%
FY 1993	103	57	55%	55	53%
FY 1994	131	40	30%	99	75%
FY 1995	30	—	—	6	20%

Source: Data were obtained from the Florida Housing Finance Agency.

TABLE 2
State Apartment Incentive Loan Program Applications and Appeals, 1993-96

SAIL Program Years	Number of SAIL Applications			Number of Appeals	
	Total	Funded	% Funded	Total	Percent
Cycle V (1993)	45	7	17%	9	20%
Cycle VI (1994)	42	12	29%	14	33%
Cycle VII (1995)	64	15	23%	29	45%
Cycle VIII (1996)	39	—	—	16[a]	89%

[a] In addition to the 16 direct appeals, 19 cross appeals were filed.
Source: Data were obtained from the Florida Housing Finance Agency.

Conclusions from an Initial Review of the Competitive Scoring Process

There is no question that the FHFA is effectively administering the state's housing production programs. The agency is entering its fifteenth year, which is young in comparison with most state housing finance agencies, and it ranks among the most successful. Over 300,000 Floridians are living in affordable housing produced by FHFA programs.

Based on an analysis of the scores and scoring decisions for those cycles studied, the top ranked applications maximized points on nearly every item where points were awarded for incentives. For example, added points are provided for such things as a project's quality of design and general features, the number of tenant programs offered, holding a deed to the property, and having firm commitments for financing. Overall, those factors found to be of importance in the selection of a proposal for funding consistently related to crucial items that demonstrate that a proposal is economically viable, has the ability to proceed in a timely manner to production, and has achieved the approval and, in most instances, the financial support of the local government.

In nearly every year since the inception of these programs, the FHFA has refined its application forms to either respond to undesirable trends noted during preceding cycles or to emphasize the importance of certain application criteria. The Commission commends the FHFA for its efforts to continually keep pace with the marketplace and trouble shoot problems early in the process.

Finally, the Commission sent notices to developers who applied for multifamily loans or tax credits for the last two funding cycles to request their comments on the scoring and selection process used by the FHFA. The developers were encouraged to submit comments in writing or provide public testimony at each Commission meeting. No responses or testimony were received relative to this assessment.

RECOMMENDATION # 22: Specific to the process of scoring and selecting applications, the Commission finds that the Florida Housing Finance Agency's selection criteria and scoring process complies with the original intent of the legislation. The Commission recommends that administrative procedures remain in place throughout the process to ensure that scoring decisions continue to be fair and objective.

Comment: Several key features of the process are that:

- *No applicants are excluded from consideration for funding if they meet minimum threshold criteria.*
- *Each proposal is identically scored in a fair and objective manner. Decisions to fund proposals are based on quantifiable measures that are clearly outlined in the funding application. The process cannot be biased by any one individual or in any way politically influenced.*
- *The proposals are scored by independent reviewers on more than 48 separate items based on evidence contained in the application. They are then ranked by composite scores to select the top scoring proposals for funding with the amount available for that program year or cycle.*

RECOMMENDATION # 23: The Commission believes that all expectations by the Commission and the Legislature for the Florida Housing Finance Agency's success have been met and exceeded. At the same time, the Commission believes the development of a comprehensive state housing policy for Florida would increase the state's overall effectiveness in meeting its affordable housing needs and responding to changing conditions. Therefore, the Commission recommends it undertake a comprehensive review of Florida's affordable housing statutes, including policy and program intent language, in cooperation with the Florida Housing Finance Agency. This review should consider whether the changes in federal housing program and funding priorities, market conditions, and financing options require taking new directions in the allocation of state housing funds.

Comments:

a. *It has been over eight years since the 1987 Affordable Housing Study Commission created its recommended guidelines for the administration of state affordable housing programs. Many programs have been enacted since then, and needs and perspectives are changing at the local, regional and federal levels. While the FHFA has been making mid-course adjustments nearly every year to keep pace, and is commended for doing so, a comprehensive examination of state housing policy has not taken place for many years.*

b. *The FHFA has been very effective in implementing the guidance for affordable housing programs that has existed in state statutes, which is strongly oriented to housing production. Now, however, increasing competition for participation in FHFA programs, changing federal policies, and increasing local capacity have changed the affordable housing landscape.*

c. *Federal budget and program changes will have an enormous impact on Florida's affordable housing programs and ability to meet affordable housing needs. The LIHTC Program is scheduled for sunset on December 31, 1997. The Community Development Block Grant and HOME Programs are expected to have reduced funding in the near term, transition to block grants within the next several years, and be severely diminished in scope by the year 2000 as a result of the budgetary squeeze associated with achieving a balanced federal budget. The federal government is also anticipated to transfer its current responsibilities for public housing to states and/or local public housing authorities, which will have tremendous repercussions on the ability of Florida's communities to meet the needs of Florida's poorest citizens.*

d. Commission staff surveyed affordable housing production programs and allocation processes of several other states as part of its evaluation of the FHFA's scoring and selection processes. States reviewed included California, Maryland, Massachusetts, New York and Virginia. Each of these states is now modifying its programs in response to increased competition and federal program changes. The Commission believes the initiatives of these states should be considered in terms of the opportunities they may present for enhancement of the FHFA's programs and processes.

RECOMMENDATION # 24: In developing a comprehensive state affordable housing policy, the Commission is concerned that per unit site development costs are not further increased by myriad rules and regulations. Therefore, the Commission recommends that, whenever possible, rules and regulations be modified to reduce per unit site development costs and thereby make housing more affordable.

Comment: The Commission recommended several important regulatory reform measures in its 1993 Report. Readers are urged to review these recommendations [Appendix A] and to support aggressive implementation of these strategies to reduce regulatory burdens on affordable housing developers.

B. The Process of Selecting Bond Underwriters

The Commission studied the FHFA's procedures for selecting bond underwriters to the extent that it described the process and outlined the criteria and rationale for decision-making. The FHFA is currently evaluating the advantages and disadvantages of using either competitive or negotiated bond underwriting selection procedures. This action is partly in response to concerns raised by Comptroller Robert Milligan. The concern focuses on whether there is a need for oversight of the board's decisions regarding negotiated bond sales, the timing to the initial involvement of the Division of Bond Finance in FHFA bond deals, and the process of deciding whether a bond issue should be competitively bid or negotiated. Because this process may be changed, the Commission did not further pursue this latter charge. Appendix B provides a simple overview of the FHFA's current procedures for selecting bond underwriters.

The Housing Needs of Low-Income Elders and Frail Elders

One of the fastest growing segments of Florida's population is the elderly, with over 3.3 million people over the age of 60.[1] While six percent of the nation's population is over the age of 60, Florida's elderly population is over 20 percent.[2] No other state has a higher proportion of elders, and this segment of the population continues to age and expand in size.

In the past 15 years, the elderly population increased by 46 percent statewide.[3] Within this population, 30 percent are 75 years or older — and this is increasing every year.[4] These older age groups are likely to have the greatest needs for both special housing and services.

A large segment of Florida's very low-income residents (with incomes 50 percent or below the median family income) are elderly — over 354,000 homeowner households and 156,000 renter households.[5] Housing costs for over 221,000 of these households consume more than 50 percent of their household income.[6]

Information from the 1990 Census shows that 22 percent of low-income older adults studied were reported to have either mobility and/or self-care limitations.[7] With low-income seniors aged 85 and older, 48 percent reported having mobility and/or self-care limitations.[8]

The growing population of poor elders needs more adequate, affordable housing. Placement in a nursing home is often the only option for these elders when faced with a physical impairment or a difficulty in carrying out daily activities. The average cost of nursing home care exceeds $2,500 a month which, for this population, is a cost borne by Medicaid.[9] This does not even count the large segment of Florida's population with incomes slightly above the Medicaid threshold, but without the ability to pay for nursing home care. Nursing home costs for Florida's elders amounted to $1.4 billion in Fiscal Year 1995-96, and these costs are rising each year by over 14 percent.[10] Possible budget cuts make this problem worse.

A major cause for prolonged or permanent disabilities among elders is accidents. Housing can be well designed to minimize accidents, reducing medical costs and the need for supervised care and personal assistance. Developments with design features which allow elders to age in place, coupled with the provision of some support services, can be cost effective housing alternatives to very expensive institutional care. Currently available state housing programs do not meet the needs of poor elders. More resources should be targeted to provide housing with appropriate design features and access to services to begin to address the housing needs of this growing population.

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1 Donna J. Munroe *et al.*, *Aging 2000, Volume I* (North Miami: Florida International University, June 1991).

2 Ibid.

3 State of Florida, Department of Elder Affairs, *Programs and Services Resource Manual* (Tallahassee: January 1995).

4 Munroe *et al., op. cit.*

5 State of Florida, Department of Community Affairs, *Building Partnerships for a Sustainable Florida*. Proposed Agency Strategic Plan for Fiscal Years 1995-96 through 2000-01 (Tallahassee, June 1995).

6 State of Florida, Department of Community Affairs, *Affordable Housing in Florida 1994* (Tallahassee: 1994), Table 1.6, "Housing Assistance Needs of Low- and Moderate-Income Households," 10.

7 The Florida Policy Exchange Center on Aging, *Special Report to the Florida Department of Community Affairs Affordable Housing Study Commission's Task Force for the Housing and Care of the Low-Income Frail Elderly* (Tampa: University of South Florida, December 1994).

8 Ibid.

9 Florida Social Services Consensus Estimating Conference (November 1995).

10 Ibid.

A. The Elderly Set-Aside for the State Apartment Incentive Loan (SAIL) Program

In 1988 the SAIL Program was created to provide low-interest mortgage loans to developers who agree to build or rehabilitate multifamily rental housing. The program is administered by the FHFA.

Ten percent of SAIL program funds are reserved for projects targeting elders (the "SAIL elderly set-aside"). Projects are required to set aside a minimum of 20 percent of the units for a minimum of 15 years specifically for elders, with incentives given for targeting lower income people. There are no requirements or incentives for applicants to target units to *frail* elders.

The SAIL scoring process provides only limited advantages to project designs that include design and service features to minimize accidents and promote independent living for elders. No special design features or services are threshold requirements in units set aside for elders.

It is important to note that, by the time this report was finalized, the FHFA board of directors in its December 1995 rule revision process had adopted several of the recommendations below.

RECOMMENDATION # 25: The Florida Housing Finance Agency should restrict competition for funding under the SAIL elderly set-aside to developments in which 80 percent of the units serve persons aged 62 or older. Proposals reserving higher percentages of units for elders should receive additional incentive points.

Comment: Currently the SAIL elderly set-aside requires that developments reserve at least 20 percent of the units for persons aged 62 or older with incentive points given for more elders served. As a result, for the first five years of funding SAIL elderly set-aside projects, less than half of the total units built, or planned to be built, are housing elderly occupants. Many elders desire age-specific housing for security and safety reasons. In addition, with more elders living in a project, the economies of scale in service provision means the project is more competitive and/or more services can be offered.

RECOMMENDATION # 26: The Florida Housing Finance Agency should revise the SAIL scoring process to counteract the disincentives for developers proposing projects that serve elderly and frail elderly tenants. To ensure that the costs per unit are comparable among elderly set-aside projects, elderly housing projects should be restricted to efficiencies, and one and two bedroom apartments (with preferably no more than 25 percent of the units having two bedrooms). In addition, FHFA's recommended revisions to Form 12 of the SAIL application, which now combines the elderly and homeless, should be changed to separate elders and homeless, making each a specific target group on this form.

Comment: The current competitive scoring process has disincentives for developers proposing projects that serve elderly and frail elderly tenants, specifically in terms of apartment size. While the FHFA's recommended scoring revisions move towards eliminating these disincentives by separating large family targets from smaller groups and providing more points with higher set-asides for elders, these proposed changes do not go far enough. Grouping elders and homeless together as one group will not adequately meet the special needs of elders in terms of accessibility and assistance. In addition, the assumption that homeless people are only in need of smaller dwellings is inaccurate—many of the homeless targeted for housing are, in fact, families with needs that would more appropriately be taken care of in the large family target group. As a target group with their own special needs, the homeless should be a separately targeted group on Form 12.

RECOMMENDATION # 27: The Florida Housing Finance Agency should develop separate tenant program forms for SAIL elderly set-aside projects that focus on the special service needs of elders, including a section addressing frail elderly needs.

Comment: Currently there is no differentiation between tenant program forms developed for any SAIL application. While Form 2 in the draft rental application *package increases the maximum points allowable for tenant services from 50 to 75 points, two of the three parts on this form do not apply to the elderly. They are:* Part B. Financial Incentives for Home Ownership, *and* Part C. Tenants from "Work-Ready" Programs such as Project Independence. *As a result of these two items, a 25 point disadvantage occurs in meeting the particular needs of elders.*

RECOMMENDATION # 28: For new construction projects under the SAIL elderly set-aside, the Florida Housing Finance Agency should require as a threshold all developments over one story to have elevators (floors with frail elderly units or services must have level floors throughout [i.e., no steps] or ramps must be provided). However, if the applicant shows that all units set aside for elders and the common/service areas are available on the first floor, no elevator is required.

Comment: Currently, the SAIL application asks whether a proposed development has elevator access, but does not require elevators for developments under the elderly set-aside.

RECOMMENDATION # 29: The Florida Housing Finance Agency should require that the management plan for the SAIL 10 percent elderly set-aside address how threshold services will be provided to elders and frail elders.

Comment: Currently no evidence is required to be provided that a project under the 10 percent elderly set-aside has experience or has contracted with a company with experience in providing or coordinating services for elders.

RECOMMENDATION # 30: In SAIL elderly set-aside projects, the Florida Housing Finance Agency should require all units set aside for elders to meet certain thresholds for design accessibility and assistance, with incentives available for the provision of other design features. Under the elderly set-aside, 20 percent of the units in a development should be required to be developed with higher assistive and accessability standards in order to meet *frail* elderly needs.

Comment: All apartments in a facility designed to serve elders should be accessible and easily adapted to accommodate persons with mobility or physical impairments. Designing all units to be adaptable to allow more assistive features to be added as necessary not only lowers costs over time, but may allow an elder to stay in his or her unit longer than otherwise able. However, at least some units in a project should be completely ready for frail elders. Under the current elderly set-aside process, developments are not required to provide specialized units for frail elders, and the design thresholds/incentives are not specific enough.

RECOMMENDATION # 31: The Florida Housing Finance Agency should require that, for people over the age of 62, the income certification process include an assessment of whether an asset transfer has been made to meet the income eligibility test.

Comments:

a. The requirement is needed to maintain this resource for those low income persons most in need and without other resources.

b. Within the last few years, there has been a trend for some older persons and their families to consult with legal and financial counselors for strategies to divest themselves of their financial assets in order to be eligible for government support services.

B. The Florida Elders Enhanced Living (FEEL) Model

In August of 1994 the Affordable Housing Study Commission appointed a task force of eleven members to explore alternatives in housing and caring for Florida's growing population of low-income frail elders. As stated in its *1994 Final Report,* the Commission recognizes that the issues surrounding this problem are complex and require innovations in age-sensitive housing, health care, and supportive services. Therefore, persons with expertise in these very different disciplines participated on the Task Force on the Housing and Care of the Low-Income Frail Elderly and on two work teams formed to propose new solutions for serving this population. A list of these people is included in the Acknowledgments.

The task force explored various models that assist elders to age-in-place in their homes or in a "home-like" group setting. Though many exist, they are not affordable to the over one million older Floridians with low-incomes. The idea behind this model is to combine safety and design features with support services to create a housing option for low-income frail elders who need support services. Many of Florida's frail elderly poor can live longer on their own with some assistance.

Most aspects of this model are not unique. It builds on trends of other states to support *housing and services* residential models.[11] The *housing designs* promoted by this model demonstrate low-cost, practical ways to build or modify housing that are age-sensitive. It provides more accessible living than most traditionally designed living spaces, but retains a residential, aesthetically pleasing atmosphere different from the often institutional feel of nursing homes.

The *supportive services* component utilizes a full complement of existing community-based care and service programs.[12] An individual's care needs would be initially assessed, and then continually monitored, to ensure that each resident has access to an appropriate level of in-home personal care. Support services would be more accessible in this model than in most in-home situations and possibly less costly, with opportunities for sharing costs and applying other cost effective measures in contracting for medical and personal services.

This model differs from assisted living facilities and group homes for the aging, because, once again, the residents enjoy the fullest degree of autonomy. Table 3 provides a snapshot of some of the differences between living in one's home, living in an assisted living facility, living in a nursing home, and living in this model.

TABLE 3
Differences Between Elder Housing Types

One's Own Home	This Model	Assisted Living	Nursing Home
• Aging in place is the choice of elders.	• A residential, non-institutional atmosphere is provided.	• Ranges from residential to institutional.	• The setting is a medical institution.
• Structural design may increase risk of accidents and limit elder's ability to do for him/herself.	• Elders live independently in their own apartments, thus insuring privacy.	• There may be a lack of privacy with multiple occupancy and shared baths.	• Overall, there is a lack of privacy, e.g., semi-private rooms.
• Services are provided in the customer's home. • There may be difficulties accessing off-site services.	• Access to services, whether on-site or off-site, is provided, but the range of services is not as great as nursing homes. • Access to medical screening is provided, and programs fostering preventive care. • There is 24 hour on-site emergency monitoring. • Residents must make their own decisions (or work with their families) about medical care and use of other services.	• There may be medical care on-site as well as 24 hour awake supervision. • There is usually access to services off-site. • Residents have less input on decisions for their own care.	• A wide range of services must be offered on site, including 24 hour awake supervision • Highly skilled medical care is required.
• Socialization activities may be limited.	• Socialization with other residents is available.	• Socialization with other residents is available.	• Socialization with other residents is available.
• Costs are usually high if the elder is obtaining in-home health care or services.	• Costs can be lower overall.	• Costs vary subject to the level of care provided and assets available; can be costly.	• This is the most costly option.

11 Assisted Living Concepts, Inc., a private development company in Oregon, and Elder Choice, administered by the Massachusetts Housing Finance Agency, are examples of successful options for housing frail elders.

12 Possible sources of in-home and personal care assistance are the Community Care for the Elderly program and services provided locally through the Home and Community Based Care Medicaid Waiver program.

Under current law, the Florida Elder Enhanced Living Model cannot access Medicaid dollars which now require facility licensure. However, since elders living in these apartments will be managing their own care, licensing is not necessary. It is recommended that the model not be licensed in an effort to permit the greatest flexibility in staffing and brokering the care. Regulatory oversight can be accomplished by appropriate agencies and an ongoing independent assessment.

Criteria are outlined below for the elders to be served by this model, design features, services to be provided to residents, and site selection. In addition, possible sources of funding for construction and operation and maintenance are outlined. Finally, two recommendations are provided.

Elders to Be Served

The target population is very low- and low-income frail elders, but to afford the cost of care may require achieving a balance between fee-paying and Medicaid-subsidized residents. It is expected that as many as one-third of the residents would have incomes slightly above the income threshold for Medicaid eligibility, but at or below 80 percent of the area median income adjusted for family size.

- Program eligibility is restricted to persons (and their partners) age 62 and older, with one or more functional impairments, and with below-moderate incomes using HUD's definition.
- Residents must have the capacity to direct their own care and services.
- Outreach and eligibility screening will be performed to determine if residents meet the criteria for the model program. This includes an income certification process which, in part, assesses whether an asset transfer has been made to meet the eligibility test.

Characteristics of the Model's Design

A primary concern in the project's design is to preserve a home-like atmosphere. It would be small and attractively built to blend into a residential or nearby commercial area. Preferably, each project would have between 20 and 40 residential units and common areas for offices and services. However, the size would be determined by such factors as land costs and the overall cost feasibility of a proposed site.

Residents would have a choice of apartment styles and rents. There would be living areas for private visits with family and guests. Most apartment layouts would be one-bedroom/one-bath apartments with kitchens or kitchenettes (efficiencies available based on market demands). Less than 20 percent of the units would be two-bedroom suites with a connecting bath, full kitchen and larger living areas for couples (or possibly for shared living arrangements).

Through retrofitting, existing elderly housing may meet the design model criteria, and could be larger than 40 units.

Age-Sensitive Designs and Assistive Devices

The design features of the model set performance standards instead of dictating a universal design that specifies space/room criteria. Here, the functional use of space is more important than the amount of space. Minimum specifications are listed below which must be incorporated as threshold requirements of any facility under the FEEL model.

1. **Meet all federal and state standards for accessibility and, in particular:**
    - Ensure that the entire complex is accessible, including open space and parking area.
    - Ensure a continuous path of travel throughout the residential units.
    - Install vinyl and/or tight-napped, commercial carpeting without pads.
    - Make all door entrances 36" clear.

- Place all wall outlets at 18".
- Thermostat placed at 48" maximum height.
- Incorporate design features to promote adaptability for varying ages and abilities (including wheelchair use), considering adaptable sinks, counters, stove controls, wall controls, etc.
- Design closets for accessibility with an adequate reach space of 15".

2. **Use adaptive technology to assist residents with mobility and other impairments, including the following assistive living devices for the elderly:**
   - Lever action handles on doors.
   - Toggle type switches for lighting, fans, etc.
   - Accessible blinds and drapes.
   - Install slider (side-to-side) windows.
   - Functional hand rails throughout common area.
   - Motion detection light switches.
   - Use of natural light in bedroom and living areas in combination with diffused fluorescent and incandescent lights (NOT fluorescents alone) with 3-4 times more lighting than is commonly available.
   - Color contrast or differentiation with flooring and fixtures to help elders better see what they are using and where they are going (e.g., placing a tile or other strip of contrasting color on or around sinks; differentiating rooms by using different color flooring/carpet or different color strips of flooring/carpet).

   Kitchen design requirements

   - Lever action handles on faucets.
   - Side-by-side refrigerator/freezer for wheelchair units as well as accessible pantry closet.
   - Easy-to-reach stove controls.
   - Touch-type controls for appliances with audio or some form of feedback.
   - Adjustable counter heights and other accommodations (e.g., fold-back cabinet doors [pocket] under the counter for seating, pull-out trays for holding pots).

   Bedroom requirements

   - Unlockable bedroom door from outside.
   - Phone jack.
   - Adjustable shelving.
   - Plan for the easy installment of adjustable, retractable beds.
   - Bed level environmental controls and alarms.

   Bathroom requirements

   - Roll in showers with seating and/or shower chairs (NO bath tubs).[13]
   - Vertical and horizontal grab bars around shower and toilet.
   - Flexible shower nozzles on adjustable tracks.
   - Wall or pedestal sink.
   - Electrical outlet above commode.
   - Lever action handles on faucets.

3. **Require that life safety, security and fire safety features be installed to protect the residents and prevent accidents:**
   - Hard wire security systems to central facility dispatch. Security systems should include visual and audible alarm systems, smoke detectors, personal emergency wearable alarms, and panic buttons in bedrooms and bathrooms.
   - Scald control valves on shower faucet.

[13] There is some concern about the cost of roll in showers. The Commission's cost information shows regular units costing $1,500 plus and three piece portable units costing $800-1,000.

- Fire proof window treatments.
- Front/back door eye level peepholes (at two levels for wheelchair units).
- Power failure light.
- Perimeter fencing.

4. **Plan to make adaptable accommodations, when needed, to a resident's private living space.**
5. **Incorporate energy-saving and efficiency features into the overall design (e.g., insulate plumbing).**
6. **Make sprinkler systems mandatory in private living spaces and common areas.**
7. **Several exceptions are made to the above criteria for renovations to an existing structure. However, two requirements must be met: (1) install ramps instead of stairs whenever possible; and (2) in a multi-level structure, accommodate persons with mobility problems on the ground floor or install an elevator.**

Services to Residents

The unique aspect of the services component of this model is that it maximizes the use of the existing network of community assistance, both formal and informal, provided to elders living at home. Instead of requiring that frail elders enter a licensed institution at the onset of a difficulty in performing daily activities, the project assists individuals to manage self-care problems on their own.

- On-site assistance in coordinating personal and medical care services, with each elder personally assessed to determine her or his special needs.
- 24 hour supervision to respond to emergencies.
- Personal assistance with bathing, dressing and toiletry.
- Private housekeeping with an emphasis on infection control.
- On-site or delivered meals twice daily.
- Transportation and shopping assistance.
- Education and recreation services on-site or through community-based programs.
- Property maintenance.

Site Selection Criteria

- Consider counties with the greatest need as defined by such factors as a high proportion of low-income frail elderly who are living in the community and who face burdens in affording rent or home ownership expenses.
- Availability of community care services to be provided on-site.
- Located in a low crime, residentially-zoned, and attractive neighborhood.
- Close proximity to medical services.
- Close proximity to commercial, business, social and recreational activities.
- Accessibility to mass public transit or special transportation services.

Possible Financing for the Model

Construction and permanent loan financing. Loans for the model's construction or renovation might be accessed from a combination of state, local or federal sources, including:

- Florida's State and Local Affordable Housing Trust Funds.
- Available federal funding through the LIHTC, HOME, Community Development Block Grants (CDBG), and Farmer's Home programs.
- Bond financing.

On-going costs for the operation and maintenance of the model. The primary source of funding for the in-home medical treatments and health care is Medicaid or private insurance. Possible ways to expand these services and subsidize boarding and care costs are:

- Create a reserve fund as a 3-year pilot demonstration with general revenue funding or, with statutory revisions, use Florida's Optional State Supplementation program.

- Explore the option of Medicaid Waiver funding, possibly securing additional state funding for dedicated slots under the existing Home and Community Based Medicaid Waiver.
- Target dollars from state and federal programs for elders.
- Secure a State of Florida general revenue appropriation.

RECOMMENDATION # 32: The Florida Legislature should seek to provide low-income, frail older Floridians with the choice to receive care in the least restrictive setting possible by increasing residential options, such as the model described above, that will delay or eliminate the need for costly institutional care for a segment of frail elders.

Comments:

a. *The Aging 2000 Report indicates that of individuals 60 years of age or older, 27 percent are likely to be moderately or severely impaired, over 50 percent receive an income of less than $14,000 annually and nearly 34 percent live alone.*[14]

b. *Nursing home costs for Florida's elderly amounted to $1.4 billion in Fiscal Year 1995-96, and these costs are rising each year by over 14 percent.*[15] *Congress recently adopted a budget resolution that cuts the Medicaid budget by an average of 30 percent. If it passes the financing alternatives being discussed, the gap between nursing home costs and available funds will widen.*

RECOMMENDATION # 33: The Department of Community Affairs and the Florida Housing Finance Agency should explore applications of this model to improve existing housing programs serving frail elders.

Comments:

a. *A growing population of elderly poor needs more adequate, affordable housing. For many, especially frail elders, the only alternative available is placement in a nursing home at great public expense. Available state housing programs do not meet the needs of the elderly poor. More resources should be targeted to provide housing with appropriate design features and access to services to begin to address the housing needs of this growing population.*

b. *Developments with design features which allow elders to age in place, coupled with the provision of some support services, can be cost effective housing alternatives to very expensive institutional care.*

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14 Munroe *et al., op. cit.*

15 Florida Social Services Consensus Estimating Conference, *op. cit.*

Future Direction

of the Affordable Housing Study Commission

In 1987, the Affordable Housing Study Commission created its recommended guidelines for the administration of state affordable housing programs. Many programs have been enacted since then. Florida's commitment to affordable housing was strengthened in 1992 with the passage of the William E. Sadowski Affordable Housing Act.

Florida and the nation are at a point of change in 1995. While the Florida Housing Finance Agency has been making mid-course adjustments in programs nearly every year to keep pace with many changes, a number of trends are occurring to suggest that a more comprehensive examination of state housing policy may be needed. These trends include the increasing competition for participation in FHFA programs, changing federal policies, and increasing local capacity.

The Commission believes that the development of a comprehensive state housing policy for Florida would increase the state's overall effectiveness in meeting its affordable housing needs and responding to changing conditions. As a beginning point, in early 1996 the Commission will undertake a comprehensive review of Florida's current affordable housing statutes, policies and programs, considering trends and conditions at the federal, state and local levels. This review will be done in cooperation with the Florida Housing Finance Agency, the Florida Department of Community Affairs, and local governments.

APPENDIX A

Regulatory Reform Recommendations

Excerpted from The Affordable Housing Study Commission 1993 Final Report

RECOMMENDATION # 1:

The Department of Community Affairs should comprehensively review all Department rules and practices for the purpose of reconciling those that conflict with the provision of safe, affordable housing to assure that all Department policies consistently support a common sense approach to balancing people's housing and economic needs with the need to protect the environment.

RECOMMENDATION # 2:

The Department of Community Affairs, in conjunction with the Shimberg Center for Affordable Housing, National Association of Homebuilders Research Center, and other appropriate parties, should develop typical Florida housing unit models (detached and attached) and a standard methodology for analyzing the impact of proposed regulations on the cost of the models.

RECOMMENDATION # 3:

In order to understand substate variations, Florida's regional planning councils should document and publicize the development review and approval costs being placed on the housing industry. It should be determined when the regulatory costs created by environmental permitting, land development regulations, developments of regional impact processes, and similar programs become obstacles to the delivery of housing that is affordable to very low-, low- and moderate-income households.

RECOMMENDATION # 4:

The Legislature should amend Section 420.0003(4), *Florida Statutes* (the implementation section of the State Housing Strategy Act), to direct the Department of Community Affairs, in cooperation with the Florida Housing Finance Agency, affected parties and recognized housing experts, to prepare a housing impact statement prior to the adoption, amendment, or repeal of any rule.

RECOMMENDATION # 5:

The Legislature should amend Section 120.54, *Florida Statutes*, to require that all agencies, prior to adopting, amending or repealing any rule, determine the impact of the proposed action on the affordability of housing; require agencies that determine their rulemaking activities will adversely impact housing affordability to provide notice to the Department of Community Affairs; and require agencies to adopt impact-reducing alternatives recommended by the Department of Community Affairs.

RECOMMENDATION # 6:

The Department of Community Affairs and the Florida Housing Finance Agency should include a "housing impact statement" in the fiscal impact portion of all bill analyses they prepare.

RECOMMENDATION # 7:

The Legislature should establish a dedicated funding source and annual appropriations to provide administrative and staff support to the Board of Building Codes and Standards.

APPENDIX B

Overview of the Florida Housing Finance Agency's Bond Underwriting Selection Process

Purpose and Scope of Review

In April 1995 Lieutenant Governor Buddy MacKay requested that the Commission review the Florida Housing Finance Agency's (FHFA's) procedures for selecting bond underwriters. Commission Chairman Cliff Hardy requested information on how the bond underwriter selection occurs and the criteria used in the selection process. What follows is a simple list of procedures currently used by the FHFA in its selection process.

Relevant Legal References

Specific to Underwriter Selection:

- Rule 9I-1, *Florida Administrative Code*
- Rule 9I-16, *Florida Administrative Code*

Specific to Bonding Activities:

- Section 16, Article VII, State Constitution
- Section 215.57, *Florida Statutes* (State Bond Act)
- Sections 420.507-420.509, *Florida Statutes* (FHFA powers and bond requirements)
- Section 420.512(3), *Florida Statutes* (FHFA conflicts of interest)

Background

The FHFA's statutes authorize the agency to issue revenue bonds to finance rental and single-family housing. Revenue bonds are different from general obligation bonds in that they are backed by the income from the development rather than the full faith and credit of the state. Housing issues require intricate bond structures to ensure that the revenues produced by the mortgage loans, reserve funds and investment securities are sufficient to repay the indebtedness. The FHFA's present procedures have evolved over time and through the issuance of a myriad of financing structures in a variety of economic climates.

The competitive aspects of the Agency's bond transactions involve the investment banking team selection. This is a competitive process in which the FHFA's board of directors analyzes written proposals and listens to oral presentations by the bankers. The selection is based on the content of the written proposals, oral presentations and good financing ideas. By statute, the board must select a minimum of four teams of senior co-managing underwriters, and by rule, each of the teams must include one national underwriter and one regional, state or minority underwriter. The minority pool of investment bankers is used in order for a minority banker to be assigned to each transaction, allowing them to work with a variety of investment bankers and participate in more transactions than being assigned to one specific team. Currently, the FHFA has six teams, each comprised of a national and a regional investment banking firm, and a minority pool of four firms.

The teams are selected annually and the list of approved managing underwriters must be updated at least every three years. To remain on the list, all managing underwriters must provide annual updates of information submitted in their original applications. Section 9I-16.004(7), *Florida Administrative Code* [FAC], allows the board to remove managing underwriters for cause or loss of eligibility.

Annual Development of List of Approved Underwriters

1. Investment bankers apply for participation as an approved underwriter [Section 9I- 16.004(1), *FAC*].
2. The FHFA staff reviews application for completeness [Section 9I-16.004(2), *FAC*]. If the application complies with rule requirements, application proceeds to Step 3.
3. The FHFA staff reviews all applications and recommends a list of underwriters [Section 9I-16.004(3) and (4), *FAC*].
4. The FHFA board of directors considers staff recommendation and approves a list according to the criteria in Section 9I-16.004(4), *FAC*.
5. The FHFA staff solicits applications for senior managing underwriters [Section 9I-16.005(1), *FAC*] using a questionnaire approved by the FHFA Board. Solicitation is made by advertising in investment journals, publication of notice in the *Florida Administrative Weekly*, and direct mail from lists maintained by the FHFA and the Florida Department of Management Services.
6. The FHFA staff reviews questionnaires and, using the criteria in Sections 9I-16.005(5) and (6), *FAC*, prepares a recommended short list of senior co-managing underwriters for the FHFA Board's Professional Services Selection Committee.
7. The FHFA Board's Professional Services Selection Committee receives oral presentations from those managing underwriters who have been recommended by the FHFA staff.
8. The Professional Services Selection Committee recommends its short list to the Board for approval. (The 1995 list includes six teams and a pool of four minority firms.)
9. Steps 5-8 are repeated annually [Section 9I-16.005(7), *FAC*].

Assignment of Individual Bond Issues

The underwriting team for each bond issue is assigned by the FHFA's board of directors in an open, public meeting. The investment banking fees, or "spreads," on the transaction of a bond issue are approved by the Division of Bond Finance and normally reviewed by the Division's Financial Advisor to ensure that fees are competitive. The division of banking fees, or "spread-splits," among underwriting team members is approved by the FHFA board of directors.

The FHFA accomplishes its financing on a negotiated basis mainly for the types of issues listed below. Following the list, the process for the first three issues is further described.

- Issuance of private placements for multi-family financing;
- Issuance of private placements for single family financing;
- Use of proprietary ideas;
- Refundings of troubled projects; and
- Issuance of floating rate bonds.

Issuance of Private Placements for Multi-Family Financing

Since 1986, the FHFA has financed fewer and fewer multi-family developments through the issuance of bonds. This is mainly due to the almost non-existence of banks, insurance companies, and other institutions that offer some form of credit enhancement for these developments. Credit enhancement is a third party guarantee of real estate debt sufficient to achieve an investment grade bond rating, which is required before the FHFA can publicly issue bonds.

The only multi-family developments the FHFA has financed with unrated bonds are those that have been privately placed with a sophisticated investor/bondholder. Developments financed with privately placed bonds are brought to the FHFA by the developer. In these cases, the real estate risk becomes that of the bondholder.

Once an investor is found, the developer signs a preliminary commitment with the investor contingent upon the FHFA issuing bonds. The investor then begins its credit underwriting and due diligence, which determines whether the project is credit worthy and will repay the investor its bond interest. The investor is the one taking the risk because there is no credit enhancement or insurance on the bonds/mortgage. The FHFA does its own credit underwriting on the deal based on the interest rate in the preliminary commitment to determine project feasibility.

Issuance of Private Placements for Single Family Bonds

The FHFA privately places single family mortgage bonds with sophisticated investors such as the Federal National Mortgage Association (FNMA). Private placements are used for single family transactions to substantially reduce the underwriters fees and to save money through reduction or elimination of negative arbitrage and lower interest rates. The savings have been passed on to home owners through lower commitment fees paid by the home buyers.

Use of Propriety Ideas

For both the multi-family and single family bond financing structures, the FHFA typically receives solicited and unsolicited proposals from investment bankers on new and complicated financing structures that would ultimately enable a renter to pay lower rents or home buyers to have lower mortgage payments.

These financing structures are proprietary information from an investment banker and cannot be put up for competitive bids.

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