

29 FAR 35 | 8/29/2003 | NOTICE OF PROPOSED RULES

DEPARTMENT DEPARTMENT OF MANAGEMENT SERVICES

AGENCY FLORIDA COMMISSION ON HUMAN RELATIONS

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MEETING DATE Wednesday, September 24, 2003

MEETING TIME 9:00:00

RULE NO 60Y-9.005

TITLE Housing Exemption for Persons 55 Years of Age or Older

SPECIFIC AUTHORITY 760.06(12), 760.31(5) FS.

LAW IMPLEMENTED 760.29 FS.

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APPROVER Cecil Howard, Executive Director

PROPOSAL DATE 8/18/2003

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Purpose

The rule chapter provides for Commission's implementation of the provisions of Section 760.29(4), F.S., relating to housing for older persons.

Summary

Amendments are proposed to correct a statutory reference, adopt a federal rule, and correct the address of the Commission and its powers to impose an administrative fine.

Regulatory Costs

None. Any person who wishes to provide information regarding the statement of estimated regulatory cost, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

Notification

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:

FULL TEXT OF THE PROPOSED RULE

60Y-9.005 Housing Exemption for Persons 55 Years of Age or Older.

(1) The provisions in Sections 760.20-760.37, F.S., relating to familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing complies with 42 C.F.R. Part 100 as published in the Federal Register on Friday, April 2, 1999. ~~satisfies the requirements of this section:~~

~~(a) The housing facility has significant facilities and services specifically designed to meet the physical or social needs of older persons. "Significant facilities and services specifically designed to meet the physical or social needs of older persons" include, but are not limited to, social and recreational programs, continuing education, information and counseling, recreational, homemaker, outside maintenance and referral services, and accessible physical environment, emergency and preventive health care programs, congregate dining facilities, transportation to facilitate access to social services, and services designed to encourage and~~

~~assist residents to use the services and facilities available to them. The housing facility need not have all of these features to qualify for the exemption under this subsection.~~

~~(b) It is not practicable to provide significant facilities and services designed to meet the physical or social needs of older persons and the housing facility is necessary to provide important housing opportunities for older persons. In order to satisfy this section, the owner or manager of the housing facility must demonstrate through credible and objective evidence that the provision of significant facilities and services designed to meet the physical or social needs of older persons would result in depriving older persons in the relevant geographic area of needed and desired housing.~~

~~(2) The following factors, among others, are relevant in meeting the requirements of this section:~~

~~(a) Whether the owner or manager of the housing facility has endeavored to provide significant facilities and services designed to meet the physical or social needs of older persons either by the owner or by some other entity. Demonstrating that such services and facilities are expensive to provide is not alone sufficient to demonstrate that the provision of such services is not practicable.~~

~~(b) The amount of rent charged, if the dwellings are rented, or the price of the dwellings, if they are offered for sale.~~

~~(c) The income range of the residents of the housing facility.~~

~~(d) The demand for housing for older persons in the relevant geographic area.~~

~~(e) The range of housing choices for older persons within the relevant geographic area.~~

~~(f) The availability of other similarly priced housing for older persons in the relevant geographic area. If similarly priced housing for older persons with significant facilities and services is reasonably available in the relevant geographic area, then the housing facility does not meet the requirements of this section.~~

~~(g) The vacancy rate of the housing facility.~~

~~(2)(3) Housing intended and operated for occupancy by at least one person 55 years of age or older per unit means:~~

~~(a) Housing for which at least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly~~

constructed housing facility for first occupancy after October 1, 1989, need not comply with this subsection until 25% of the units in the facility are occupied; and (b) The owner or manager of the housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subsection:

1. The manner in which the housing facility is described to prospective residents.
2. The nature of any advertising designed to attract prospective residents.
3. Age verification procedures.
4. Lease provisions.
5. Written rules and regulations.
6. Actual practices of the owner or manager in enforcing relevant lease provisions and relevant rules or regulations.

~~(3)(4)~~ Housing satisfies the requirements of this section even though:

(a) Under 80% of the occupied units in the housing facility are occupied by at least one person 55 years of age or older per unit, provided that at least 80% of the units that are occupied by new occupants on or after October 1, 1989, are occupied by at least one person 55 years of age or older.

(b) There are unoccupied units, provided that at least 80% of such units are reserved for occupancy by at least one person 55 years of age or over.

~~(4)(5)~~ Housing satisfies the requirements of this section even though a unit is occupied by employees of the housing provider (and family members residing in the same unit) who are under 55 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History-New 8-15-90, Formerly 22T-23.005, Amended _____.