

Table of Contents

Title 16 COMMUNITY AFFAIRS

Part I. General Provisions

Chapter 1. Open Housing Act	1
§101. Rules of Procedure	1
Chapter 3. Louisiana Housing Finance Act.....	1
Subchapter A. Administration.....	1
§301. Definitions	1
§303. Persons or Families of Low or Moderate Income	1
§305. Asset Criteria	2
§307. Acceptance of Aid and Guarantees	2
§309. Hearings.....	2
§311. Bylaws	2
Subchapter B. Applications and Applicant Eligibility Rule.....	2
§315. Applications.....	2
§317. Eligible Applicants	2
Subchapter C. Feasible Housing Projects.....	3
§321. Applications.....	3
§323. Processing and Evaluation of Applications	3
§325. Determinations of Feasibility and Authorization of Loans	3
Subchapter D. Insured Mortgage Loans.....	3
§329. Applications.....	3
§331. Processing and Evaluation of Applications	4
§333. Authorization of Purchase of Insured Mortgage Loans for Housing Projects	4
§335. Conditions and Special Determinations in Authorization	4
§337. Priorities for Allocation of Moneys for Insured Mortgage Loans.....	5
Subchapter E. Mortgage Lending Institutions.....	5
§339. Invitation to Mortgage Lending Institutions.....	5
§341. Offer to Participate	5
§343. Allocation of Funds for Insured Mortgage Loan Purchases.....	5
§345. Interest Rate Notice	6
§347. Insured Mortgage Loan Amount	6
§348. Terms and Conditions of Insured Mortgage Loans.....	6
§351. Insured Mortgage Loans for Housing Units.....	6
§353. Administration and Servicing of Insured Mortgage Loans	6
Subchapter F. Agency Loan Documents.....	6
§357. Agency Loan Documents	6
§359. Remedies	7

Part II. Housing Programs

Chapter 1. HOME Investment Partnership Program.....	9
§101. Home Program Application Fees	9
§103. Aggregate Pools.....	9
§105. Selection Criteria to Award HOME Funds for Affordable Rental Housing	9
§107. Selection Criteria to Award HOME Funds to Local Governmental Units (Sub-Recipients).....	10

Table of Contents

Chapter 3. CHDO Homeownership Housing Program (Revolving Loan Pool)	11
§301. General	11
§303. Definitions	12
§305. Application Submission.....	14
§307. Application Review, Evaluation and Selection	14
§309. Maximum Home Fund Allocations	14
§311. Implementation Guidelines and Processing Restrictions and Procedures.....	15
§313. Accompanying Submissions	16
§315. Selection Criteria to Award Home Funds to CHDO Homeownership Housing Projects	16
§317. CHDO Homeownership Housing Program Home Project Summary Application and Exhibits.....	17
Chapter 5. Substandard Housing Assistance for Rural Economies (SHARE) Program	17
§501. Background.....	17
Chapter 7. Turnkey Mortgage Origination Program	18
§701. Introduction	18
§703. Definitions	18
§705. Eligible Borrowers.....	18
§707. Processing and Qualifications of Borrowers Applications.....	18
§709. Interest Rates	19
§711. Types of Assistance and Proscribed Use.....	19
Chapter 8. Mortgage Credit Certificate Program	19
§801. Introduction	19
§803. Definitions	19
§805. Eligible Borrowers.....	19
§807. Processing Qualifications of Borrowers Applications	20
§811. Types of Assistance and Proscribed Use.....	20
Chapter 9. Workforce Housing Initiative	20
§901. Introduction	20
§903. Definitions	20
§905. Eligible Borrowers.....	21
§907. Processing Qualifications of Borrowers Applications	21
§909. Interest Rates	21
§911. Types of Assistance and Proscribed Use.....	21

Part III. Consumer Protection

Chapter 1. Reserved.....	23
Chapter 3. Deceptive Pricing.....	23
§301. Definitions	23
§303. Identifying Basis of Price Comparison.....	23
§305. Comparison to Seller's Own Former Price	23
§307. Comparison to Seller's Future Prices.....	24
§309. Range of Savings or Price Comparison Claims	25
§311. Use of List Price or Similar Comparisons.....	25
§313. Comparison to Competitor's Price.....	26
§315. Bargain Offers Based on the Purchase of Other Merchandise and Use of the Word "Free"	26
§317. Use of Sale Terminology	27
§319. Use of Term Wholesale	27
§321. Reporting	27
§323. Penalties.....	27
§325. Former Regulations	28

Table of Contents

Chapter 5. Unfair and Deceptive Trade Practices	28
§501. Scope of Authority	28
§503. Multi-Level Distribution and Chain Distributor Marketing Schemes.....	28
§505. Magazine and Periodical Subscription Service Sales Practices	29
§507. Bait Advertising.....	30
§509. Deceptive Endorsements and Testimonials.....	30
§511. Misrepresentation of Old, Used, or Secondhand Goods	31
§513. Imperfections, Rejects and Distressed Goods	31
§515. Charitable Solicitations	31
Chapter 7. Database Security Breach Notification.....	33
§701. Reporting Requirements.....	33

Title 16
COMMUNITY AFFAIRS
Part I. General Provisions

Chapter 1. Open Housing Act

§101. Rules of Procedure

A. An order for a program to qualify for an exemption under the Louisiana Open Housing Act, more particularly R.S. 51:2605(C) thereof, the attorney general or his designee must determine that a program is specifically designed and operated to assist elderly persons, which determination must be consistent with the Secretary of the Department of Housing and Urban Development under Section 807(b)(2) of the Fair Housing Act.

B. Any conciliation agreement arising out of conciliation efforts by the attorney general or his designee shall be made public unless the complainant and respondent otherwise agree and the attorney general or his designee determine that disclosure is not required to further the purposes of the Louisiana Open Housing Act.

C. Final administrative disposition of a complaint by the attorney general or his designee shall take place within one year of the date of receipt of a complaint, unless it is impractical to do so at which time the attorney general or his designee shall notify the complainant and respondent in writing for the reasons of the delay.

D. Any civil action filed by the attorney general or his designee requesting relief pursuant to R.S. 51:2614(A) shall be brought only against those respondents or persons charged pursuant to R.S. 51:2611 who have been served with a copy of the complaint in accordance with law and advised of their rights and obligations under the law and only after an opportunity to conciliate.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:2610(A), as amended, and R.S. 36:702(3).

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, Public Protection Division, LR 20:439 (April 1994).

**Chapter 3. Louisiana Housing
Finance Act**

Subchapter A. Administration

§301. Definitions

A. The terms defined in the Act have the same meaning when used in these rules as are ascribed to them in the Act.

Act—Chapter 3-A of Title 40 of the Louisiana Revised Statutes of 1950, as amended.

Adjusted Family Income—the gross annual income, from all sources and before taxes or withholding, of all members of a family living in a dwelling unit or housing

unit, after deducting the following: unusual or temporary income of any family member, \$1,000 for each family member, earnings of any family member who is a minor under 18 years of age or who is physically or mentally handicapped and the lesser of \$5,000 or 10 percent of such gross annual income.

Agency—the Louisiana Housing Finance Agency created by the Act.

Agreement—the sale and service agreement, in the case of the agency's insured mortgage loan purchase program, or the lender agreement, in the case of the agency's loans to lenders program.

Applicant—a corporation, partnership, joint venture, trust, individual, public body or agency or other entity, making application to receive agency moneys or services under the Act.

Application—a request for agency assistance under the Act made on forms furnished by the agency and containing such information as the executive director requires.

Executive Director—the executive director employed by the agency who is the chief administrative officer of the agency.

Family—

- a. a person who is physically or mentally handicapped;
- b. a person who is 62 or more years of age;
- c. two or more persons living together not contrary to law; and
- d. a single person who is neither handicapped nor 62 or more years of age.

Feasible Housing Project—a proposed housing project as to which the agency has made a determination that such project can reasonably be expected to be successfully constructed on the proposed site within cost limitations acceptable to the agency and can reasonably be expected to be operated in a fiscally sound manner.

Housing Unit—living accommodations intended for occupancy by a single family (1-4 units) and which will be owned by the occupant thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:195 (April 1981).

§303. Persons or Families of Low or Moderate Income

A. With respect to a housing project or a housing unit financed by an insured mortgage loan, which insured

mortgage loan is a federally aided mortgage in whole or in part, the agency's action in authorizing such mortgage loan shall have the effect of adopting as the agency's income limitations for initial occupancy of the housing project or part thereof or housing unit, which is financed by a mortgage loan which is a federally aided mortgage, the income limitations for initial occupancy then provided in the federal program pursuant to which the mortgage loan or part thereof qualifies as a federally aided mortgage.

B. With respect to a housing project or a housing unit financed by an insured mortgage loan not federally aided in whole or in part, the agency's income limitations for initial occupancy of a housing project or part thereof or housing unit shall be an adjusted family income not exceeding \$40,000 per annum, as evidenced to the satisfaction of the agency, provided that the agency by resolution may adjust the maximum income in accordance with changes in the federal Consumer Price Index. In any event, the agency by resolution may set a lower adjusted family income maximum with respect to any particular housing project or housing unit in order to accomplish the purposes of the Act to provide housing for low and moderate income persons.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§305. Asset Criteria

A. The agency by resolution may establish asset criteria when it determines that action to be necessary to preserve the integrity of established income limitations and to effectuate the purposes of the Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§307. Acceptance of Aid and Guarantees

A. Pursuant to the Act, the agency, by resolution, may accept financial or technical assistance, including insurance and guarantees, from the federal or state governments or any person or corporations, agree and comply with any condition attached thereto, and authorize and direct the execution on behalf of the agency of any agreement which it considers necessary or appropriate to implement any such financial and technical assistance, insurance, guarantees or other aid.

B. Without limitation on the provisions of Subsection A the agency by resolution may accept any guarantee or commitment to guarantee its bonds or notes and authorize and direct the execution on behalf of the agency of any agreement which it considers necessary or appropriate with respect thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§309. Hearings

A. To inform itself and the public the agency may hold public hearings anywhere in the state and may limit the scope of such hearings.

B. A person, firm, corporation or public body or agency, aggrieved by a decision of the agency or the executive director, may request in writing that the agency hold a hearing in accordance with the Administrative Procedure Act.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§311. Bylaws

A. The bylaws of the agency shall be adopted and amended by resolution and shall be public records. The bylaws shall include the time and place of regular meetings, the manner of calling special meetings and such internal procedures as the agency requires.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

Subchapter B. Applications and Applicant Eligibility Rule

§315. Applications

A. The agency staff may provide staff services to assist an applicant in complying with the requirements of the Act and these rules. The executive director may establish a preapplication procedure.

B. Forms to be employed for applications may be prepared by the agency and shall be approved by the executive director and shall specify the information to be included therein and the supporting materials to be submitted therewith.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§317. Eligible Applicants

A. An insured mortgage loan, or part thereof, shall not be made or disbursed to an applicant until such time as the applicant is an eligible applicant.

B. An eligible applicant is an applicant satisfying the criteria established by and in accordance with the Act and these rules and regulations for eligibility to participate in a housing program of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

Subchapter C. Feasible Housing Projects

§321. Applications

A. An application for a loan to a lending institution shall require a determination that the proposed housing project is a feasible housing project and shall include information, and where required by the agency supporting materials and evidence, with respect to:

1. the status of the applicant as an eligible applicant, or that reasonable steps have been taken to become an eligible applicant;

2. the site of the proposed housing project, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements such as streets, utilities and structures, status of off-site utilities and streets, present property taxes and assessments, utility charges and liens or other charges on the land and all physical characteristics of the site that might affect construction;

3. the status and characteristics of the proposed housing project, including number and size of dwelling units, types of occupancy (ownership, rental or cooperative), rehabilitation or new construction, range of proposed rents, occupancy charges or sales prices, operating expenses, building type, federally aided mortgage or otherwise, and proposed incidental or appurtenant social, recreational, commercial and communal facilities;

4. the status of the federal, state or private mortgage loan insurance or guarantee for the proposed housing project, if any, and the security to be pledged with respect to the loan from the agency;

5. other matters as to the proposed housing project, the applicant and other parties involved in the housing project as the agency may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§323. Processing and Evaluation of Applications

A. An application for a determination that a proposed housing project is a feasible housing project shall be processed by the agency on the basis of project evaluation factors hereinafter called the "agency's evaluation factors" as to economic, physical and social characteristics developed by the agency.

B. An applicant may be required to furnish to the agency supplementary information and to amend the application to cause the proposed housing project to be fully consistent with the agency's evaluation factors.

C. Upon completion of the processing and the approval of the application by the executive director, the agency staff

analysis of the application and the executive director's recommendations with respect thereto shall be presented to the agency.

D. Notwithstanding anything in this Section to the contrary, until such time as the agency shall have an executive director and staff, the agency may process and evaluate applications without recourse to an executive director and staff.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:196 (April 1981).

§325. Determinations of Feasibility and Authorization of Loans

A. The agency shall review each analysis and recommendation and, if it determines that the application meets the requirements of the Act and these rules and is consistent with the agency's evaluation factors, by resolution, it may determine that the proposed housing project is a feasible project and a loan may be made to the lending institution to finance the same.

B. The resolution shall include determinations by the agency that:

1. the proposed housing project will provide housing for persons of low and moderate income;

2. the applicant has adequate security to secure repayment of the loan and the applicant reasonably expects the owner to achieve successful completion of the proposed housing project;

3. the proposed housing project will meet asocial need in the area in which it is to be located.

C. The resolution may include such conditions as the agency considers appropriate with respect to an application for an insured mortgage loan as to a feasible housing project.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:197 (April 1981).

Subchapter D. Insured Mortgage Loans

§329. Applications

A. An application for an insured mortgage loan for a housing project to be funded by the proceeds of the agency's notes or bonds shall include, where applicable, information, and, where required by the agency or a lending institution acting on behalf of the agency, supporting materials and evidence, with respect to:

1. the status of the applicant as an eligible applicant;

2. the site of the proposed housing project or housing unit, including location, dimensions, ownership, present zoning, present use and occupancy and relocation requirements as to present occupants, present on-site improvements such as streets, utilities and structures, status

of off-site utilities and streets, present property taxes and assessments, utility charges and liens or other charges on the land and all physical characteristics of the site that might effect construction;

3. the status and characteristics of the proposed housing project, including number and size of dwelling units, type of occupancy (ownership, rental or cooperative), rehabilitation or new construction, building type, federally aided mortgage or otherwise, and proposed incidental or appurtenant social, recreational, commercial and communal facilities;

4. identity and qualifications of the design architect, supervisory architect, applicant's attorney, housing consultant, general contractor, marketing or sales agent and management agent;

5. proposed marketing plan, reports of market surveys or analyses, schedule of proposed rents, occupancy charges or sale prices, proposed operating budget, proposed management plan, schedule of the proposed uses of the requested mortgage loan and the amounts to be allocated to each such use including the applicant's equity investment where applicable and a proposed construction schedule;

6. other matters as to the proposed housing project, the applicant and other parties involved in the housing project as the agency, the agency staff and the executive director may require.

B. Notwithstanding the foregoing Subsection, an application for an insured mortgage loan also shall include other matters as to the proposed housing project, the applicant and other parties involved in the housing project as the agency, the agency staff and the executive director may require.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:197 (April 1981).

§331. Processing and Evaluation of Applications

A. An application for the purchase of an insured mortgage loan shall be processed by the agency or by a lending institution on behalf of the agency on the basis of the agency's evaluation factors. The lending institution shall undertake such land appraisals, market surveys and analyses, reviews of the architectural design, site plan and construction costs, materials and methods, and other matters as may be determined to be appropriate to insure that the proposed housing project is consistent in all respects with the agency's evaluation factors.

B. An applicant may be required to furnish the agency and lending institution supplementary information and to amend the application to cause the proposed housing project to be fully consistent with the agency's evaluation factors.

C. Upon completion of the processing and approval of the application by the lending institution, the lending

institution's analysis of the application and recommendation with respect thereto shall be presented to the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:197 (April 1981).

§333. Authorization of Purchase of Insured Mortgage Loans for Housing Projects

A. The agency shall review each analysis and recommendation and if it determines that the application meets the requirements of the Act and these rules and is consistent with the agency's evaluation factors, by resolution, it may authorize the purchase of an insured mortgage loan made to the applicant.

B. The resolution shall include determinations by the agency that:

1. the applicant is an eligible applicant;
2. the proposed housing project will provide housing for persons or families of low or moderate income;
3. the applicant is reasonably expected to be able to achieve successful completion of the proposed housing project;
4. the proposed housing project will meet a social need in the area in which it is to be located;
5. the proposed housing project may reasonably be expected to be marketed successfully;
6. all elements of the proposed housing project, including, without limitation, the ownership, design, construction, occupancy, management and operation thereof, have been established in a manner consistent with the agency evaluation except as to any such elements as are the subject of conditions as to the authorization of the insured mortgage loan as provided in §333;
7. in light of the estimated project cost of the proposed housing project, the amount of the insured mortgage loan authorized by such resolution is consistent with such maximum limitations on the ratio of mortgage loan amount to estimated project cost as the agency by resolution may establish.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:197 (April 1981).

§335. Conditions and Special Determinations in Authorization

A. An insured mortgage loan purchase commitment of the agency, the issuance of which is authorized by an agency resolution, shall include such conditions as the agency considers appropriate with respect to the commencement of construction of the proposed housing project, the marketing and occupancy of such housing project and the use, disbursement and repayment of the insured mortgage loan

authorized. A mortgage loan purchase commitment may include a financial analysis of the subject housing project, which shall establish the initial schedule of rents or occupancy charges, the approved budget for operation of the housing project and the schedule of use of the proceeds of the insured mortgage loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:197 (April 1981).

§337. Priorities for Allocation of Moneys for Insured Mortgage Loans

A. Priorities for allocation of agency moneys available for the purchase of insured mortgage loans shall be established and reviewed by the agency. Priorities shall be based on criteria established by the agency as best effectuating the purposes of the Act including, without limitation, a determination by the agency of an area's need for housing for persons or families of low or moderate income as compared to the agency's determination of the overall housing needs of the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

Subchapter E. Mortgage Lending Institutions

§339. Invitation to Mortgage Lending Institutions

A. The agency from time to time by resolution shall approve the submission of the invitation to mortgage lending institutions to lending institutions with offices in the state. The invitation to mortgage lending institutions shall inform lending institutions of the nature and features of the agency's insured mortgage loan purchase program and shall in particular state the following:

1. the amount of the origination fee which a lending institution may charge a mortgagee;
2. the amount of the service fee which a lending institution may charge a mortgagee;
3. the definition of the lending institution commitment fee to accompany the offer to participate; and
4. the definition of the letter of credit which the agency by resolution may require each lending institution to submit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§341. Offer to Participate

A. The agency from time to time by resolution shall approve the form of the offer to participate and agreement

for submission to lending institutions with offices in the state. The offer to participate made by a lending institution in response to the Invitation shall incorporate the agreement by reference, shall be a unilateral offer and shall be a binding contract between the agency and the lending institution upon acceptance and notice of acceptance by the agency.

B. The offer to participate of a lending institution shall state the aggregate principal amount of the insured mortgage loans it offers to originate pursuant to the agency's program and the period within which such insured mortgage loans are to be originated. The lending institution shall submit its commitment fee with the offer to participate and shall state that it will deliver the letter of credit, if required, at or before the time of the purchase of the agency's bonds. In addition, the lending institution shall submit with the offer to participate a certificate of information which shall detail its historical mortgage loan origination and servicing experience.

C. The agency shall notify each lending institution which has submitted an offer to participate as to the aggregate principal balance of insured mortgage loans, if any, the agency will agree to purchase, subject to the conditions set forth in the agreement. The aggregate principal balance of insured mortgage loans which the agency will agree to purchase from any lending institution shall not exceed the aggregate principal balance of the insured mortgage loans offered for sale by the lending institution and may be in an amount less than that requested.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§343. Allocation of Funds for Insured Mortgage Loan Purchases

A. The agency shall in its sole discretion reduce the amount of each offer to participate to an amount it deems reasonable in the event that the agency receives offers to originate more insured mortgage loans than is practical. Such reduction shall be on a pro rata basis, provided that the agency may consider the historic origination experiences of the lending institutions and related factors. Priorities for allocation of agency moneys available for the purchase of insured mortgage loans may be established and reviewed by the agency. Priorities shall be based on criteria established by the agency as best effectuating the purposes of the Act including, without limitation, a determination by the agency of an area's need for housing for persons or families of low or moderate income as compared to the agency's determination of the overall housing needs of the area.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§345. Interest Rate Notice

A. The agency, by an interest rate notice, shall notify each lending institution of the interest rate it may charge on the insured mortgage loans and the date of the expected availability of bond or note proceeds to purchase insured mortgage loans.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§347. Insured Mortgage Loan Amount

A. The purchase price of each insured mortgage loan purchased by the agency shall be as is specified in the offer to participate. A lending institution may charge each mortgagor or an insured mortgage loan such fees and charges as are permitted by resolution of the agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§348. Terms and Conditions of Insured Mortgage Loans

A. Insured mortgage loans originated by lending institutions pursuant to the agency's insured mortgage loan purchase programs shall be subject to and comply with such terms and conditions as shall be established by the agreement. The mortgage loan purchase commitment shall contain such terms, conditions and requirements as the executive director considers appropriate including, without limitation, conditions establishing that the purchase price of the subject housing unit, the method of making payments after the purchase thereof, the security afforded by the interest rate and fees and charges, if any, to be paid by the eligible applicant shall at all times be sufficient to permit the agency to make the payments on its bonds and notes plus any administrative or other costs to agency in connection with the transaction.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

§351. Insured Mortgage Loans for Housing Units

A. An application by an individual or family for an insured mortgage loan, to be made with the assistance of agency moneys, for the long-term financing of a housing unit to be purchased by the individual or family, shall include information, and where required by the agency, supporting materials and evidence, with respect to the status of the applicant as an eligible applicant and to the housing unit proposed to be purchased.

B. An application for such an insured mortgage loan shall be processed by a lending institution and the lending institution's analysis of such application shall be presented to the agency.

C. The executive director or his delegate shall review each such analysis and, if he determines that the applicant is an eligible applicant and that the application meets the requirements of the act and these rules and is consistent with the agency's evaluation factors as to the housing unit to be purchased, he may purchase the insured mortgage loan pursuant to the mortgage purchase commitment to the applicant's lending institution with respect to the housing unit proposed to be purchased.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance agency, LR 7:198 (April 1981).

§353. Administration and Servicing of Insured Mortgage Loans

A. Each lending institution shall service and administer the insured mortgage loans in accordance with the agreement.

B. Without limiting the generality of the foregoing Subsection, in the event any lending institution is an institution regulated by the FSLIC or FDIC, the agency may require that such lending institution will agree to service the insured mortgage loans in the manner and according to standards required by such regulatory body and in no event at a lesser standard of service than is maintained on loans owned by such lending institution. In the event any lending institution not so regulated by FSLIC or FDIC, each such lending institution not so regulated will agree to service the insured mortgage loans in accordance with the then current loan servicing requirements of either FHLMC or FNMA relating to mortgage loans originated and serviced under programs regulated by FHLMC or FNMA, as the case may be.

C. Each lending institution, in addition, will agree to service the insured mortgage loans in such a manner that the federal, state or private mortgage loan insurance or guarantee is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:198 (April 1981).

Subchapter F. Agency Loan Documents**§357. Agency Loan Documents**

A. Forms of documents to be used with respect to insured mortgage loans and the issuance and sale of the agency's notes and bonds shall be prepared, and may be revised and amended, by the agency under direction of the executive director on behalf of the agency, subject to legal requirements.

B. The appropriate forms of such documents shall be employed with respect to all matters relating to insured mortgage loans.

Title 16, Part I

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:199 (April 1981).

§359. Remedies

A. The agency reserves the right to pursue all remedies prescribed by law or in the act for breach or violation of any provision of any agency loan document described in §357.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Urban and Community Affairs, Housing Finance Agency, LR 7:199 (April 1981).

Title 16
COMMUNITY AFFAIRS
Part II. Housing Programs

**Chapter 1. HOME Investment
Partnership Program**

§101. Home Program Application Fees

A. The following fees govern the application and reprocessing of applications for HOME funds.

1. Application Fee

1 to 4 units	\$ 200
5 to 32 units	1,000
33 to 60 units	1,500
61 to 100 units	2,500
Over 100 units	5,000

2. Analysis Fee

1 to 4 units	\$ 200
5 to 32 units	1,000
33 to 60 units	1,500
61 to 100 units	2,500
Over 100 units	5,000

3. Reprocessing Fee. A reprocessing fee of 50 percent of the application fee shall be due whenever significant revisions or changes of the contents of an application require a new feasibility and/or viability analysis.

4. Cost Certification Audit Fee*—\$2,500

*Only if applicant does not contract with independent CPA to perform cost certification audit.

AUTHORITY NOTE: Promulgated in accordance with the R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), repromulgated LR 19:1034 (August 1993), amended LR 21:959 (September 1995).

§103. Aggregate Pools

Name	Percent of Available Funds
Allocation to Jurisdictions to Become Eligible to Administer HOME Program Directly	4%
Administration Expenses	5%
CHDO Operating Support	5%
CHDO General Funds	15%
Special Needs Set Aside	24%
Rehabilitation Programs	31%
Home Buyer Assistance	16%

AUTHORITY NOTE: Promulgated in accordance with the R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993).

§105. Selection Criteria to Award HOME Funds for Affordable Rental Housing

A. Applications for HOME funds will be rated in accordance with the selection criteria (Appendix IX) for which the applicant must initially indicate that the project qualifies.

**APPENDIX IX
Selection Criteria to Award Home Funds
to Affordable Rental Housing Projects**

The Applicant hereby requests priority consideration based upon the Project satisfying one or more of the following conditions (minimum threshold of 115 points required):

- | | POINTS |
|--|---------|
| A. Project Provides Amenities (attach description of amenities to be provided) | 20 ____ |
| B. Project Provides Community Facilities | 20 ____ |
| C. Ratio of Project's Intermediary Cost to Development Costs
(See Page 5 for formula to calculate ratio) | |
| (i) Less than or equal to 10 percent | 20 ____ |
| (ii) More than 10 percent but less than or equal to 15 percent | 15 ____ |
| (iii) More than 15 percent but less than or equal to 20 percent | 10 ____ |
| (iv) More than 20 percent | 0 ____ |
| D. As indicated in Section V on Page 8, 30 percent or more of project units serve households whose incomes are at the following percentages of median income | |
| (i) 20 percent or less | 25 ____ |
| (ii) more than 20 percent but less than 30 percent | 20 ____ |
| (iii) more than 30 percent but less than 40 percent | 15 ____ |
| (iv) more than 40 percent but less than 45 percent | 10 ____ |
| E. Project will enter Extended Low Income Use Agreement years of compliance period agreement to continue low-income restrictions | |
| (i) 20 years or more | 10 ____ |
| (ii) 25 years or more | 15 ____ |
| (iii) 30 years or more | 20 ____ |
| F. Project Located in Qualified Census Tract/Difficult Development Area / RD Target Area | 25 ____ |
| G. Project Serves Special Needs Groups [Check one or more] | |
| (i) Elderly | ____ |
| (ii) Homeless | ____ |
| (iii) Handicapped | ____ |
| (a) 100 Percent of units or 50 units serve special needs group | 20 ____ |
| (b) 50 Percent or 25 units serve special needs group | 15 ____ |
| (c) 25 Percent or 15 units serve special needs group | 10 ____ |
| H. Project contains Handicapped Equipped Units | |
| (i) 5 percent but less than 10 percent | 5 ____ |
| (ii) 10 percent but less than 15 percent | 10 ____ |
| (iii) 15 percent or more | 15 ____ |

COMMUNITY AFFAIRS

I. Project Serves Large Families Percentage of Units having Four or more Bedrooms

- (i) 5 percent but less than 10 percent 5 _____
- (ii) 10 percent but less than 15 percent 10 _____
- (iii) 15 percent but less than 20 percent 15 _____

J. Project to Provide Supportive Services (attach description of Supportive Services to be provided, the costs thereof and the source of funding such services) 25 _____

K. Project is Single Room Occupancy 10 _____

L. Project is Scattered Site 30 _____

M. Developer submitted an executed Referral Agreement with Local PHA pursuant to which Developer agrees to rent low income units to households at the top of PHA's waiting list 10 _____

N. Project has RD Financing Commitment Letter 10 _____

O. Project involves New Construction in Areas with 95 percent or more residential rental occupancy 10 _____

P. Local Nonprofit Sponsor of Project 10 _____

Q. Distressed Properties (written certification from HUD or RD that property is distressed must be included in application) 20 _____

R. Project Receives Historic Tax Credits or involves Substantial Rehabilitation 25 _____

or

Project located in historic district but does not qualify for historic credits 15 _____

(Certification by local jurisdiction is required)

S. Project is an Abandoned Project 15 _____

T. Vacant Units in Project as Percentage of Total Units

- (i) Minimum of 25 percent and less than 50 percent 10 _____
- (ii) Minimum of 51 percent and less than 75 percent 20 _____
- (iii) Minimum of 76 percent and less than 100 percent 30 _____

U. Project involves Low Income Units which do not exceed:

- (i) 60 percent of the Total Project units 10 _____
- (ii) 50 percent of the Total Project units 15 _____
- (iii) 40 percent of the Total Project Units 20 _____

V. Leverage Ratio (Divide Total Dollars from Sources other than HOME Funds by HOME Funds and round to nearest whole multiple)

- 1 0 _____
- 2 5 _____
- 3 10 _____
- 4 15 _____
- 5 20 _____
- 6 25 _____
- 7 30 _____
- 8 35 _____

W. Project Involves Lease-to-Own of one unit buildings with Title Transfer to Occupant within 20 years of Placed in Service 25 _____

X. Contact Person who Attended Agency sponsored Workshop Specify Name of Contact Person: _____ 10 _____

Y. Developer Fees (including Builder Profit and Builder Overhead when there exists Identity of Interest between Builder and Developer) are 10 percent or less of Developer Fee Base 15 _____

Z. Penalty Points

- (i) Net Syndication Proceeds < 110 percent Developer Fee 15 _____
- (ii) Incomplete or Missing Exhibits, Appendices or Documents (5 - Points to be deducted per item)

- Item 1. 5 _____
- Item 2. 5 _____
- Item 3. 5 _____
- Item 4. 5 _____
- 5 or more Items: Application will be deemed incomplete 5 _____

AA. Match Certification

Matching Certification exceeds \$50,000 50 _____

AB. LDED - Economic Development Project located in a geographic area certified by the Louisiana Department of Economic Development are eligible for points as follows:

- Areas with an Empowerment Zone/Empowerment Community (EZ/EC) designation 20 _____
- Areas showing growth of 50 percent or more in economic indicators determined by LDED 15 _____
- Areas with an EZ/EC Champion Community Designation 10 _____

AC. Phase I Environmental Site Assessment prepared by qualified environmental specialist provided with application 10 _____

Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs:

- Step 1: Add following amounts from Appendix II.
- Line II.B (Land Improvements) \$ _____
- Line II.C(ii) (Demolition) \$ _____
- Line II.C(iii) (Rehab or New Construction) \$ _____
- total: \$ _____

- Step 2: Add Following Amounts from Appendix II.
- Line II.D (Subtotal) \$ _____
- Line II.F (Subtotal) \$ _____
- Line II.G (Subtotal) \$ _____
- total: \$ _____

Step 3: Divide Total of Step II by Total of Step I and specify percentage.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 19:908 (July 1993), amended LR 21:959 (September 1995), LR 22:717 (August 1996), LR 23:749 (June 1997), LR 24:1784 (September 1998).

§107. Selection Criteria to Award HOME Funds to Local Governmental Units (Sub-Recipients)

A. Jurisdiction Proposes Comprehensive and Concentrated Neighborhood Revitalization Area—25 points

B. Jurisdiction Proposes to Use Community Housing Development Organization ("CHDOs") to Own, Sponsor or Develop Units to be Rehabilitated—25 points

C. Leverage Ratio for Each HOME Dollar

Minimum Other Dollars	
\$1	5
\$2	10
\$3	15
\$4	20
\$5	25

D. Jurisdiction Proposes to Rehabilitate Substandard Housing Units to Minimum Quality Standards with Total Funds Per Unit Not Exceeding:

\$ 2,500	25
\$ 5,000	20
\$ 7,500	15
\$10,000	10
\$15,000	7
\$20,000	5
\$25,000	2

E. Jurisdiction Rehabilitate to HQS Following Percentage of Substandard Units in Rehabilitation Area:

90-100 percent	50
80-90 percent	40
70-80 percent	30
60-70 percent	20
50-60 percent	10
Less than 50 percent	0

F. Jurisdiction Proposes to Rehabilitate Housing Units of Historic or Architectural Significance—25 points

G. Jurisdiction Proposes to Rehabilitate Housing Units Serving Special Needs Groups—50 points

H. Jurisdiction Proposes to Promote Cooperative Housing—25 points

I. Jurisdiction Proposes to Commit HOME Funds by June 30, 1993—50 points

J. Jurisdiction Proposes to Establish Lease-Purchase Turnkey Program—25 points

AUTHORITY NOTE: Promulgated in accordance with the Louisiana Housing Finance Act, R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 19:908 (July 1993).

Chapter 3. CHDO Homeownership Housing Program (Revolving Loan Pool)

§301. General

A. The CHDO Homeownership Housing Program is being established by the agency to encourage Community Housing Development Organizations (CHDO) to serve as developers or sponsors in the construction, reconstruction and/or the acquisition-rehabilitation of not more than 20 buildings consisting of not more than one single-family housing unit for purchase by households at or below 80 percent of the area median income for the parish within which the housing units are located.

1. The single-family housing units are to develop in phases not exceeding five units per phase.

2. All units must be constructed or rehabilitated in accordance with the Minimum Property Standards (MPS) in 24 CFR 200.925 or 200.926.

3. Newly constructed units must meet the current edition of the *Model Energy Code* published by the Council of American Building Officials.

B. The Louisiana Housing Finance Agency (the "agency") will not accept applications for projects to be located in other participating jurisdictions as listed below:

1. city of Alexandria;
2. city of Shreveport;
3. city of Kenner;

4. East Baton Rouge Parish (with exception of cities of Baker and Zachary);
5. city of Lafayette;
6. city of Lake Charles;
7. Jefferson Parish;
8. city of Monroe;
9. St. Charles Parish;
10. city of New Orleans; and
11. Terrebonne Parish.

C. HOME funds will be made available to CHDOs in a revolving loan pool to fund up to five phases and no more than five units in any one phase.

D.1. Eligible borrowers must qualify to purchase housing units under the CHDO Homeownership Housing Program by evidencing an ability to qualify for a mortgage loan under the agency's HOME/MRB Program.

2. The HOME/MRB Program of the agency will serve as a source of take-out financing for all units under the CHDO Homeownership Housing Program. Developers will receive an appropriate reservation of funds under the HOME/MRB Program for take-out financings.

3. All housing units under the CHDO Homeownership Housing Program must qualify under FHA guidelines for minimum property standards.

E.1. The CHDO Homeownership Housing Program is available for the rehabilitation of substandard housing units for eligible borrowers who currently own their own homes only if such homes require and will undergo qualified rehabilitation.

2. If a CHDO desires to include qualified rehabilitation as part of this project summary application, evidence must be submitted prior to the commitment of any HOME funds to the rehabilitation of the housing unit that:

- a. the housing unit is substandard and will be rehabilitated to satisfy minimum HQS;
- b. the rehabilitation of the housing unit satisfies the requirements of a qualified rehabilitation; and
- c. the cost of the rehabilitation and any existing mortgage debt may be refinanced under the agency's HOME/MRB Program. All units must qualify under FHA's minimum property standards.

F. HOME funds will be allocated to projects consisting of either:

1. single-family units in which each housing unit is located on a single lot and in which each housing unit and lot may be purchased by an eligible borrower; or
2. if an eligible borrower currently occupies the housing unit, the rehabilitation of the housing unit for the eligible borrower satisfies the conditions for a qualified rehabilitation and financing under the agency's HOME/MRB Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1530 (November 1997).

§303. Definitions

Abandoned—a housing unit which has been certified by the developer/owner and the local jurisdiction within which the housing unit is located that the unit has been vacant for at least 18 months.

Accessible—a site, building, facility, or portion thereof that complies with the Uniform Federal Accessibility Standards and that can be approached, entered, and used by physically disabled people.

Adaptable—the ability of certain building spaces and elements, such as kitchen counters, sinks, and grab bars, to be added or altered so as to accommodate the needs of either disabled or nondisabled persons, or to accommodate the needs of persons with different types or degrees of disability.

Application—the CHDO Homeownership Housing Program (Revolving Loan Pool) HOME project summary.

Appraised Value—an appraisal by an individual or firm which is acceptable to FHA, VA, RECD, FNMA or the PMI insurer, as applicable, subject to the right of the issuer to further limit the pool of acceptable individuals or firms.

Builder—the general contractor or any other entity executing a contract with the developer to construct and/or rehabilitate a housing unit.

Builder Profit Fee Base—Line 49 of the estimate and certificate of actual cost certified in accordance with generally accepted accounting principles by an independent certified public accountant as having been incurred and reduced by any general overhead (Line 44).

CHDO—a Community Housing Development Organization as defined at 24 CFR 92.2 of the federal regulations.

Debarred Developer—any developer who is sanctioned or prohibited from participating in any housing program sponsored by any federal agency or by any state or local government or by any instrumentality of a federal, state or local government.

Developer—any person or entity (including persons or entities which are related to or have an identity of interest with such person or entity) which owns or develops a project, including any general partner of a partnership, any builder related to or having an identity of interest with the person or entity which owns or develops the project and any consultant receiving any fee or compensation to help develop a project.

Developer Fee—any profit or income realized by the developer in connection with the development of the project.

Developer Fee Base—the development costs of a project reduced by any acquisition costs and all developer fees (including builder profit and overhead when there is an identity of interest between the builder and the developer).

Development Costs—the capitalized costs of a building certified in accordance with generally accepted accounting principles by an independent certified public accountant as having been incurred as of the placed-in service date of the building.

Elderly Household—a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

Eligible Borrower—any person having an ownership interest in the residential housing unit:

1. who is expected to principally and permanently live in the residence being financed within a reasonable period of time (not to exceed 60 days) following the closing of the mortgage loan;

2. who is primarily or secondarily liable on the mortgage and has, in the case of a conventional mortgage loan, received home buyer training from a FNMA certified home buyer training program;

3. whose annualized monthly income does not exceed the maximum permissible household income as set forth in Exhibit III of this CHDO homeownership financing program HOME project summary application, as may be amended from time to time;

4. who is a first-time home buyer; provided, however, that for purposes of this definition, the term *eligible borrower* shall not include a mere cosigner of the mortgage loan who does not have an ownership interest in the residential housing unit being financed pursuant to such mortgage loan.

Existing Housing—housing units which have previously been occupied.

FNMA—the Federal National Mortgage Association.

First-Time Home Buyer—a mortgagor, other than a mortgagor with respect to a qualified rehabilitation loan, who has not had a present ownership interest in a residence at any time during the three-year period ending on the date the mortgage is executed, or a mortgagor who is the first resident of a residence following the completion of a qualified rehabilitation of the residence.

Governmental Assistance—includes any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit tax benefit, or any other form of direct or indirect assistance from the federal, state or local government for use in, or in connection with, a specific housing project.

Handicapped Equipped Units—units which are accessible and in which certain building spaces and elements, such as kitchen counters, sinks, and grab bars have been added or attached so as to accommodate the needs of a handicapped household.

Handicapped Household—a household composed of one or more persons at least one of whom is considered to have a physical, mental or emotional impairment which:

1. is expected to be of long-continued and indefinite duration;

2. substantially impedes the ability to live independently; and

3. is of such a nature that such ability could be improved by more suitable housing conditions. A person shall be considered handicapped if:

a. such person has a developmental disability as defined in Section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act [42 U.S.C. 60001(7)]; or

b. such person is infected with the Human Acquired Immunodeficiency Virus (HIV) who is disabled as a result of infection with the HIV; or

c. such person has a severe and persistent mental or emotional impairment that seriously limits his or her ability to live independently, and whose impairment could be improved by more suitable housing conditions.

Hard Costs—Line 49 of the estimate and certificate of actual costs.

HOME/MRB Program—the agency's program for financing mortgage loans with a combination of HOME funds and proceeds of mortgage revenue bonds.

Home Buyer Training Program—a program (other than a self-instruction program) recognized by FNMA or the agency for first-time home buyers and which is provided by independent third-party contractors or by a CHDO authorized to provide first-time home buyer training.

HQS Standards—the Housing Quality Standards promulgated in HUD regulations at 24 CFR 882.109, including the basic "performance requirements" with respect to the following:

1. sanitary facilities;
2. food preparation and storage space;
3. space and security;
4. thermal environment;
5. illumination and electricity;
6. structure and materials;
7. interior air quality;
8. water supply;
9. lead-based paint;
10. access;
11. site and neighborhood; and
12. sanitary condition.

HUD—the U.S. Department of Housing and Urban Development.

Independent Qualified Housing Consultant—a professional housing consultant who has no identity of interest with any builder or developer in any state and who, by virtue of academic training, licensing and/or experience, is a recognized expert skilled in the requirements of conducting a market survey and demand study.

Lender—a financial institution that is participating as a lender under the agency's HOME/MRB Program.

Local Nonprofit Sponsor—a Section 501(c)(3) or 501(c)(4) organization in which not more than 15 percent of the members of the governing board are domiciled outside the service area of the nonprofit and at least 75 percent of the governing board are domiciled within the market area of the project or is a state-certified Community Housing Development Organization (CHDO) with a service area encompassing the market area of the project.

Market Area—in rural areas or municipalities with a total population of less than 75,000, an area encompassing at least the parish within which the project is located; and in municipalities of 75,000 or more, an area encompassing only the municipality if the housing consultant certifies that such a limitation is appropriate in view of demographic and mobility factors permitting the limitation of the market areas only to the municipality.

Maximum Permissible Acquisition Cost Limits—the applicable amount set forth in Exhibit II of the HOME project summary application as updated from time to time by the issuer.

Maximum Permissible Household Income Limits—with respect to an eligible borrower acquiring a residential housing unit in a parish, the applicable limits for such parish set forth in Exhibit III of the HOME project summary application as updated from time to time by the issuer.

Maximum Sales Price—the FHA 203(b) mortgage insurance limits for the area within which the project is located.

Minimum HQS—

1. the Section 8 Minimum Housing Quality Standards at 24 CFR 882.109 and all applicable state and local codes (including the *Southern Building Code*), rehabilitation standards, ordinances and zoning ordinances;

2. with respect to new construction, the current edition of the *Model Energy Code*; and

3. with respect to substantially rehabilitated housing, the cost-effective energy conservation and effectiveness standards in 24 CFR part 39.

Minimum Property Standards—the minimum property standards in 24 CFR 200.925 or 200.926 or MPS.

New Construction—housing units which have not previously been occupied.

Phase—the construction of not more than the lesser of five units or 20 percent of all the units proposed in the application.

Pre-Qualified Applicant—a prospective eligible borrower who has completed a home buyer training program.

Qualified Rehabilitation—any rehabilitation of a building occupied by an owner prior to the beginning of rehabilitation and certified by a CHDO on Exhibit IV of the HOME project summary application as satisfying the following conditions:

1. there is a period of at least 20 years between the date on which the building was first used (for residential or commercial purposes) and the date on which the physical work on such rehabilitation begins;

2. in the rehabilitation process:

a. 50 percent or more of the existing external walls of such building are retained in place as external walls;

b. 75 percent or more of the existing external walls of such building are retained in place as internal or external walls; and

c. 75 percent or more of the existing internal structural framework of such building is retained in place; and

3. the expenditures for such rehabilitation are in an amount at least equal to 25 percent of the eligible borrower's adjusted basis (for federal income tax purposes) in the residence.

For purposes of Paragraph 3, the eligible borrower's adjusted basis shall be determined as of the completion of the rehabilitation or, if later, the date on which the eligible borrower acquires the residence.

RD—the Rural Development Division of the U.S. Department of Agriculture.

RD Target Area—an area designated in writing by Rural Development of the U.S. Department of Agriculture as a priority area for financing housing under the 515 Housing Program.

Replacement Cost—with respect to a project involving substantial rehabilitation, the cost of new construction of a project with identical unit and square footage configuration at the site.

Scattered Site—a project consisting of multiple buildings containing housing units provided that each building is located on a single lot and provided further that each building may not contain more than one housing unit.

Substandard—any housing unit which does not satisfy the HQS standards and which requires substantial rehabilitation.

Substantial Rehabilitation—any rehabilitation in which the hard costs equal or exceed \$15,000 per unit or in which the rehabilitation satisfies the requirements of a qualified rehabilitation.

Total Development Cost—development costs plus the cost of land.

Townhouse Units—a single-family housing unit which shares a common wall with another single-family housing unit but which is located on land to which title is transferred to the homeowner.

Vacant—a housing unit which is certified by the CHDO/owner and the local jurisdiction to have not been occupied for a period of at least 90 days, and which is reasonably expected to remain vacant for an indefinite duration because the unit is substandard.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1531 (November 1997).

§305. Application Submission

A. Applicants wishing to receive a commitment of 1998 HOME funds must submit one original HOME project summary-CHDO Homeownership Housing Program application plus two copies, along with a nonrefundable application fee computed in accordance with the fee schedule below.

1.	Application Fee	\$1,000
2.	Analysis Fee*	\$1,000
3.	Cost Certification Audit Fee**	\$2,500

*If a second analysis is necessary, only one-half of the analysis fee will be charged.

** Only if applicant does not contract with independent CPA to perform cost certification audit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1533 (November 1997).

§307. Application Review, Evaluation and Selection

A. Applications will be reviewed by agency staff only upon submission of the application (including all appendices), appropriate application fee, and accompanying submissions.

B. Applications will generally be evaluated to ensure that the application package is complete.

C. Incomplete applications will be returned to the applicant and will be processed by the agency only upon resubmission of a completed application package prior to the next application deadline and receipt of the reprocessing fee.

D. Applications must score at least 80 points to receive a commitment of HOME funds under the CHDO Homeownership Housing Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1533 (November 1997).

§309. Maximum Home Fund Allocations

A. No project will be allocated home funds under the CHDO Homeownership Program in excess of \$200,000.

B. No related persons, entities, principals thereof or agents thereof having an identity of interest shall be allocated HOME funds under the CHDO Homeownership Housing Program in excess of \$200,000.

1. Developer fees, builder's profit and builder's overhead shall not exceed the amount permitted under HUD's administrative guidelines on subsidy layering without approval of the agency.

2. The maximum amount of HOME funds allowable per project is the lesser of \$200,000 or 85 percent of total development cost of units proposed in any phase of the project proposal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1533 (November 1997).

§311. Implementation Guidelines and Processing Restrictions and Procedures

A. Implementation Guidelines. All projects must be feasible and viable. The project must satisfy the following implementation guidelines.

1. HOME funds will be allocated only to fill the gap between other sources of funds available to the project and the required uses of funds in the project. Conventional financing or equity must equal at least 15 percent of total development cost for each phase of a project.

2. Neither appraised value nor total development cost plus points and fees paid by or on behalf of the eligible borrower under the HOME/MRB Program may exceed the maximum permissible acquisition cost for single-family units for the area within which the unit is located.

3. Maximum HOME funds budgeted to develop a unit may not exceed 85 percent of the total development cost per unit during the construction period for any phase of development.

4. All projects must be scattered site or consist of townhouse units.

5. Developer fees shall not exceed 15 percent of the developer fee base. The combined builder profit and builder overhead shall not exceed 8 percent of the builder profit base.

B. Market Study

1. If the total number of units in a project consists of 16 or more units and the project involves any new construction or the conversion of an existing nonresidential building to residential rental use, a detailed market study dated as of a date no earlier than 90 days prior to the application deadline must be submitted by an independent qualified housing consultant evidencing demand for additional homeownership units in the market area.

2. The market study must:

a. specify in detail the sources of demand for new homeownership units by low income households and that such low income households will pay no more than 30 percent of their household income for PITI;

b. contain a confirmation as to the total number of rental units that have received building permits over the 24-month period ending 120 days prior to the application deadline and that the construction and placement in service of such units in the pipeline will not affect the absorption efficiency of the project;

c. document the request for points in the selection criteria for special needs groups, new construction in areas with 95 percent rental occupancy and large families occupying single-family units having four or more bedrooms.

3. In addition to the submission of the market study, the independent qualified housing consultant must execute and submit by the application deadline a certification of demand for new units.

C. Total Development Cost Limitations. No project will be reserved or allocated HOME funds if the total development cost per unit plus points deemed paid by or on behalf of an eligible borrower as specified under the agency's HOME/MRB Program exceed the FHA single-family mortgage limits for single-family units within the area which the unit is located.

D. Dollar per Square Foot Limits. No project will be reserved or allocated HOME funds if the total development cost per square foot exceeds \$75.

E. Developer Fees and Builder Profit Limits

1. Developer fees for a project shall not exceed 15 percent of the developer fee base.

2. Builder profit shall not exceed 6 percent of the builder profit fee base and builder overhead shall not exceed 2 percent of the builder profit fee base unless approved by the agency in connection with projects:

a. without an identity of interest between the developer and the builder; and

b. in which the construction contract was awarded on the basis of a competitive solicitation of qualified contractors.

F. Proposed Sale Price Per Units. No unit in project may be sold for more than the maximum sales price reduced by any fees or points deemed paid by or on behalf of an eligible borrower, as specified under the agency's HOME/MRB Program.

G. Appraisals. Appraisals establishing a project's fair market value will be required in connection with all projects financed with HOME funds.

H. Identities of Interest. An identity of interest is construed to exist when:

1. there is any financial interest of the developer in the builder or any financial interest of the builder in the developer;

2. any officer, director or stockholder or partner of the developer is also an officer, director or stockholder or partner of the builder;

3. any officer, director, stockholder or partner of the developer has any financial interest in the developer; or any officer, director, stockholder or partner of the builder has any financial interest in the developer;

4. the developer advances any funds to the builder;

5. the developer supplies and pays, on behalf of the builder, the cost of any architectural services or engineering services other than those of a surveyor, general superintendent, or engineer employed by a developer in connection with its obligations under the construction contract;

6. the developer takes stock or any interest in the builder corporation as consideration of payment;

7. there exists or comes into being any side deals, arrangements, contracts or undertakings entered into or contemplated, thereby altering, amending, or canceling any of the required closing documents, except as approved by the agency;

8. any relationship (e.g., family) existing which would give the builder or developer control or influence over the price of the contract or the price paid to any subcontractor, material supplier or lessor of equipment.

I. Cost Certifications. The agency must review the certification of the certificate of actual cost audited as of the placed-in service date in accordance with Generally Accepted Accounting Principles (GAAP) by an independent certified public accountant.

J. Subsidy Layering Review. Prior to releasing any retainage of HOME funds for a project, a subsidy layering review will be conducted in connection with any project receiving HOME funds.

K. Debarred Developer. No debarred developers may be reserved HOME funds.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1533 (November 1997).

§313. Accompanying Submissions

A. Applications must be accompanied by submissions listed below.

1. Affirmative Marketing Procedures. Applicants must indicate in Appendix XIII affirmative marketing requirements and procedures that will be adopted. Such procedures must be in accordance with HUD regulations.

2. Owner's Relocation Plan. Applicants who propose projects involving occupied buildings must include, as Appendix XIV, a relocation plan in the initial application and submit an occupied tenant list and must be in accordance with HUD regulations.

3. Appraisal

a. Applicant must include, as Appendix XV, a copy of any appraisal which was used to estimate the AS-IS and completed value of the project.

b. The appraised value of any unit within the project must be less than or equal to the maximum permissible acquisition cost.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1534 (November 1997).

§315. Selection Criteria to Award Home Funds to CHDO Homeownership Housing Projects

	Points
A. Ratio of Project's Intermediary Cost to Development Costs (See Subsection K for formula to calculate ratio)	
1. Less than or equal to 10%	20
2. More than 10% but less than or equal to 15%	15
3. More than 15% but less than or equal to 20%	10
4. More than 20%	0
B. Project Contains Handicapped Equipped Units	
1. two or fewer units	5
2. three to five units	10
3. six or more units	15
C. Project Serves Large Families Percentage of Units Having Four or More Bedrooms	
1. two or fewer units	5
2. three to five units	10
3. six or more units	15
D. Project Involves New Construction in Areas with 95% or More Residential Rental Occupancy	25
E. All Units in Project Are Vacant or Abandoned or All Units Located in a MRB Targeted Area	25
F. Project to Reconstruct or Rehabilitate Substandard Housing Units to Minimum Property Standards or to Construct New Units with Total HOME Funds per Unit not Exceeding:	
\$ 5,000	50
\$ 15,000	40
\$ 25,000	30
\$ 35,000	20
\$ 45,000	10
G. Economic Development Benefits. Project Located in Geographic Area Certified by Department of Economic Development to Benefit from Location of New Facilities or Expansion of Existing Facilities Which Will Generate Additional Jobs and Housing Needs.	50
H. Developer Fees (Including Builder Profit and Builder Overhead When There Exists Identity of Interest between Builder and Developer) are 10% or less under Subsidy Layering Review Guidelines	25
I. Matching Certification Exceeds \$50,000	50
J. Applicant Has Submitted List of Pre-Qualified Applicants	
1. At least 5 pre-qualified applicants	5
2. At least 10 pre-qualified applicants	10
3. At least 15 pre-qualified applicants	15
4. At least 20 pre-qualified applicants	20
5. At least 25 pre-qualified applicants	25
Total	
K. Formula to Calculate Ratio of Project's Intermediary Cost to Development Costs	
Step 1: Add following amounts from Appendix II	
Line II.B (Land Improvements)	\$
Line II.C(ii) (Demolition)	\$
Line II.C(iii) (Rehab or New Construction)	\$
Total	\$
Step 2: Add following amounts from Appendix II	
Line II.D (Subtotal)	\$
Line II.F (Subtotal)	\$
Line II.G (Subtotal)	\$
Total	\$
Step 3: Divide Total of Step 2 by Total of Step 1 and Specify Percentage	%

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1535 (November 1997).

§317. CHDO Homeownership Housing Program Home Project Summary Application and Exhibits

A. The CHDO Homeownership Housing Program Home Project Summary Application and the exhibits thereto (referred to in Chapter 3 of these rules) are available upon request through the Louisiana Housing Financing Agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.6.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Housing Finance Agency, LR 23:1535 (November 1997).

Chapter 5. Substandard Housing Assistance for Rural Economies (SHARE) Program

§501. Background

A. The Louisiana Housing Finance Agency (the "Agency"), as administrator of the HOME Investment Partnership Program for non-entitlement areas throughout the state, has established a Substandard Housing Assistance for Rural Economies Grant Program. The agency is making available \$3,000,000 for the SHARE Grant Program. Each local governmental unit selected to participate will receive up to \$150,000 to make grants up to \$15,000 to qualified homeowners to rehabilitate their homes. Qualified residences must be substandard single unit residences owned and occupied by very, very low income homeowners.

1. Local Government Unit Eligibility. Local governmental units must not be a part of a consortium or entitlement area currently receiving HOME funds and must complete an application in accordance with the selection criteria to qualify for the Substandard Housing Assistance for Rural Economies Grant Program. Local governmental units accepted into the program must execute an appropriate agreement with the agency to comply with federal laws and regulations.

2. Eligible Homeowners. Eligible homeowners must:

a. have income that is at or below 60 percent of the median income for the area within which the municipality is located; and

b. own the single unit residence as his principal residence.

3. Qualified Residences

a. Each residence to be rehabilitated under the SHARE Grant Program must be:

i. a one unit residence, i.e., no multi-unit buildings and no mobile homes;

ii. deficient with respect to one or more conditions which are required to be addressed in order to satisfy the Section 8 Housing Quality Standards (following completion of the rehab, the residence must satisfy the Section 8 Housing Quality Standards); and

iii. subject to an appraisal which demonstrates that the post-rehab value of the residence does not exceed HUD's 203(b) limits for the area.

b. The cost of rehabilitation of any residence may not exceed 75 percent of the replacement value of the residence.

4. Grant Awards to Eligible Homeowners. The amount of grants to homeowners under the Substandard Housing Assistance for Rural Economies Grant Program may be at least \$1,000, but not in excess of \$15,000.

5. Selection Criteria—Points

a. Jurisdiction proposes to implement a Community Involvement Program—25.

b. Jurisdiction proposes to provide homeowner training to the residents it serves under the Substandard Housing Assistance for Rural Economies Grant Program—25.

c. Jurisdiction proposes to have material participation by CHDO or local non-profit organization. (e.g., homeowner training, identification of applicants, etc.)—10.

d. Previous participation under LHFA's Health and Safety Rehabilitation Grant Programs with no outstanding findings—10.

e. Project is located in an area targeted for rehabilitation by local jurisdiction. Briefly describe the neighborhood(s) targeted to receive the HOME program assistance—15.

f. Jurisdiction proposes to serve at least three homes with dual income families—15.

g. Jurisdiction proposes to serve at least five families at 50 percent or below of area median income—20.

h. Jurisdiction proposes to rehabilitate at least five housing units serving one or more of the following special needs groups (check one or more)—20.

i. elderly/handicapped;

ii. disabled;

(a). physically;

(b). mentally;

iii. HIV/AIDS;

iv. single parent households;

v. large families (5 or more).

i. Jurisdiction proposes to rehabilitate housing units in areas within which minorities (i.e., Black, Native American, or Women) constitute a majority of the households—15.

j. Leverage ratio for each HOME dollar (monies from other sources other than the homeowner to be used in conjunction with HOME funds for rehabilitation).

Minimum Other Dollars	
\$0.50	5
\$1.00	10
\$1.50	15
\$2.00	20
Over \$2.00	25

k. Projects to be located in parishes listed below qualify for selection criteria points as shown based on the per capita income (poverty level):

i. West Feliciana, East Carroll, West Carroll, Allen—30;

ii. St. Martin, Grant, Franklin, St. Helena, Avoyelles, Catahoula, Madison, Vernon, Tensas, Evangeline, Jefferson Davis, Bienville—25;

iii. Winn, Concordia, Richland, Claiborne, LaSalle, Caldwell, Natchitoches, Red River, Cameron, Assumption, Acadia, Sabine—20;

iv. Morehouse, Washington, Jackson, Tangipahoa, Pointe Coupee, Webster, Vermillion, Beauregard, East Feliciana, St. Landry, St. Mary, Terrebonne—15;

v. Lafourche, St. James, Lincoln, Iberia, Iberville, DeSoto, Union, St. John the Baptist, Plaquemines, Livingston, St. Bernard, Ouachita—10;

vi. Bossier, Ascension, Orleans, West Baton Rouge, St. Charles, Jefferson, Calcasieu, Lafayette, St. Tammany, Rapides, Caddo, East Baton Rouge—5.

l. Jurisdiction proposes to rehabilitate housing units listed below in the following parishes in affected/disaster areas due to Tropical Storm Frances/Hurricane Georges in accordance with FEMA 1246DR-LA:

i. Acadia, Ascension, Assumption, Cameron, Evangeline, LaFourche, Livingston, Plaquemines, St. Bernard, St. James, St. John, St. Tammany, Vermillion, Washington, Tangipahoa—15.

m. Total points.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Housing Finance Agency, LR 25:100 (January 1999).

Chapter 7. Turnkey Mortgage Origination Program

§701. Introduction

A. The Turnkey Mortgage Origination Program is designed to provide citizens of the state of Louisiana additional opportunities to obtain funds for down payment and closing costs toward the purchase of single family homes in the state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1996 (August 2012).

§703. Definitions

A. Notwithstanding the definitions set forth in LAC 16:I.301, the following terms, when used in this Chapter, are defined as follows.

Annual Family Income—the gross annual income, from all sources and before taxes or withholding, of all members of a family living in a housing unit.

Borrower—an individual or family applying to receive down payment assistance under the Turnkey Mortgage Origination Program.

Housing Unit—living accommodations intended for occupancy by a single family, consisting of one to four units, and which will be owned by the occupant thereof.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1996 (August 2012).

§705. Eligible Borrowers

A. Borrowers will be determined to be eligible for assistance if they meet the following criteria.

1. The applicant is seeking assistance towards the purchase of a housing unit in the state, whether purchasing as a first time homebuyer or a non-first time homebuyer.

2. The applicant will occupy the property as his primary residence. Applicants seeking to purchase properties for use as recreational homes, second homes, vacation homes, and/or investment properties are not eligible to receive assistance.

3. The applicant's annual household income must not exceed established income limits as defined by the provisions set forth in the LAC 16:I.303.B, which limit is currently a maximum of \$99,000 per year.

4. The applicant meets the minimum credit score determined by the lender as based upon the product selected for assistance, but in no instance shall be lower than 620.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1996 (August 2012).

§707. Processing and Qualifications of Borrowers Applications

A. An application for a mortgage loan shall be processed by a lending institution on behalf of the agency on the basis of the agency's evaluation criteria. The lending institution shall undertake its own due diligence and other matters as may be determined to be appropriate to insure that the proposed loan is consistent in all respects with the agency's evaluation factors.

B. When processing mortgage loan applications lenders must adhere to the published acquisition cost limits and or maximum loan sizes as defined by the Federal

Housing Administration, Veterans Administration, Rural Development.

C. Upon completion of the processing and approval of the application, the lending institution shall initiate a loan closing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1996 (August 2012).

§709. Interest Rates

A. The interest rates charged by the lending institution for a borrowers mortgage loan shall be monitored and adjusted as needed based on the current market rates.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1997 (August 2012).

§711. Types of Assistance and Proscribed Use

A. Down payment assistance will be available at loan closing by the mortgage lender.

1. The maximum down payment assistance is 5 percent.

2. Borrowers will pay a 1 percent origination fee and 1 percent discount point.

B. The assistance will be in the form of a non-repayable grant with no cash back to the borrower.

C. Assistance may be applied toward down payment, closing costs and pre-paid items.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 38:1997 (August 2012).

Chapter 8. Mortgage Credit Certificate Program

§801. Introduction

A. The LHC MCC Program is designed to assist citizens of the state of Louisiana that:

1. are first time homebuyers or persons who have not owned a principal residence in the past three years;

2. are purchasing a residence in certain areas of the state, called "targeted areas;"

3. are using a 30-year fixed rate and term mortgage which does not involve mortgage revenue bonds; and

4. are purchasing a property to be used as their primary residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Corporation, LR 41:1773 (September 2015).

§803. Definitions

A. Notwithstanding the definitions set forth in the LAC 16:I.301, the following terms, when used in this Chapter, are defined as follows.

Annual Family Income—annual income from all sources before taxes or withholding of all members of the family living in the housing unit. Family annual income may not exceed 115 percent or less of the applicable median family income except in the case of a targeted area residence, in which instance the family annual income may not exceed 140 percent or less of the applicable family income.

Borrower(s)—an individual or family applying to receive mortgage funding under the LHC MCC Program.

Eligible Property—single family residence, planned unit development, condominium, or manufactured housing on a permanent foundation which is owned or being purchased and qualifying as real estate.

Housing Unit—living accommodations intended for occupancy by a single family, consisting of one unit, and which will be owned by the occupant thereof; or, one unit principal residences that are detached structures, condominiums, townhomes or planned unit development subject to Fannie Mae/Freddie Mac guidelines.

Program Type—FHA, VA, Rural Development, Fannie Mae or Freddie Mac Programs. Fixed rate and 30-year term required.

Purchase Price Requirements—the acquisition cost of the principle residence may not exceed 90 percent of the average area purchase price except in the case of a targeted area residence wherein the acquisition cost may not exceed 110 percent of the average area purchase price.

Targeted Area—that part of the eligible loan area that has been designated as a qualified census tract or an area of chronic economic distress in accordance with section 143(j)(3) of the *Internal Revenue Code* or as a qualified census tract in accordance with section 143(i)(2) of the *Internal Revenue Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Corporation, LR 41:1773 (September 2015).

§805. Eligible Borrowers

A. Borrowers will be determined to be eligible to participate in the LHC MCC Program if they meet the following criteria.

1. The borrower is a first time home buyer or has not owned a principal residence in the past three years, or is purchasing in a targeted area.

2. Household annual income does not exceed established income limits.

3. Borrower will occupy the property as his or her primary residence.

4. Borrower is using a fixed rate, 30-year mortgage that is not financed through the use of a mortgage revenue bond.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Corporation, LR 41:1773 (September 2015).

§807. Processing Qualifications of Borrowers Applications

A. An application for a LHC MCC shall be processed by the Louisiana Housing Corporation. Borrowers may apply through any LHC approved lender. The lending institution shall undertake its own due diligence and other matters as may be determined to be appropriate to insure that the proposed loan and mortgage credit certificate is consistent in all aspects of the Louisiana Housing Corporation's evaluation factors. The Louisiana Housing Corporation will also underwrite the application.

B. Borrowers who obtain an LHC MCC can still claim 60 percent of their total year mortgage interest as a tax deduction. LHC MCC will allow homebuyers to convert 40 percent of their mortgage interest deduction to a life of loan tax credit, not to exceed \$2,000 per year. The tax credit is available each year for the life of the original loan.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Corporation, LR 41:1774 (September 2015).

§811. Types of Assistance and Proscribed Use

A. Borrowers will pay a 1 percent origination fee to the LHC for the issuance of an LHC MCC and a \$75 compliance fee.

B. Lenders will be allowed to charge up to \$500 per MCC application.

C. Maximum loan amount is based upon applicable program guidelines (i.e. conventional, FHA, VA or rural development).

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Louisiana Housing Corporation, LR 41:1774 (September 2015).

Chapter 9. Workforce Housing Initiative

§901. Introduction

A.1. The Workforce Housing Initiative Program is designed to provide citizens of the state of Louisiana that have:

a. a demonstrated good credit history with a minimum credit score of at least 660;

b. accumulation of borrower's own funds for a substantial down payment. There is a minimum down payment requirement of 20 percent of the purchase price. Borrower must also have minimum of 2 months principal, interest, taxes and insurance in reserve after paying down payment, pre-pays and closing costs. No gift funds allowed;

c. consistent employment history of at least 2 years in current profession; and

d. stated income at a level that is typical of the borrower's profession;

2. to purchase a home for primary residence occupancy utilizing the Workforce Housing Initiative Program.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:401 (February 2015).

§903. Definitions

A. Notwithstanding the definitions set forth in the LAC 16:I.301, the following terms, when used in this Chapter, are defined as follows.

Annual Family Income—stated annual income as reported by the borrower, not to exceed those incomes typical of the borrower's profession. Borrower(s) annual income as reported in the last two years complete tax returns may not exceed \$99,000. Income will be from all sources and before taxes or with-holding, of all members of a family living in a housing unit.

Borrower—an individual or family applying to receive mortgage funding under the Workforce Housing Initiative Program.

Housing Unit—living accommodations intended for occupancy by a single family, consisting of one to two units, and which will be owned by the occupant thereof; one-two unit principal residences that are detached structures, condominiums, town homes/planned unit development or duplexes subject to Fannie Mae/Freddie Mac guidelines

AUTHORITY NOTE: Promulgated in accordance with R.S. 40.600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:401 (February 2015).

§905. Eligible Borrowers

A. Borrowers will be determined to be eligible to participate under the Workforce Housing Initiative Program if they meet the following criteria.

1. The borrower is seeking a first mortgage loan for the purchase of a housing unit in the state, whether purchasing as a first time homebuyer or a non-first time homebuyer.

2. The borrower will occupy the property as the primary residence. Borrower seeking to purchase properties for use as recreational homes, second homes, vacation homes, and/or investment properties are ineligible to participate in the program.

3. The borrower's annual household income must not exceed established income limits as defined by the provisions set forth in the LAC 16:I.303.B, which limit is currently a maximum of \$99,000 per year.

4. The borrower meets the minimum credit score determined by the program guidelines but in no instance shall be lower than 660.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:401 (February 2015).

§907. Processing Qualifications of Borrowers Applications

A. An application for a mortgage loan shall be processed by a Louisiana Housing Corporation designated preferred lending institution on behalf of the Louisiana Housing Corporation and on the basis of the Louisiana Housing Corporation's evaluation criteria. The lending institution shall undertake its own due diligence and other matters as may be determined to be appropriate to insure that the proposed loan is consistent in all respects with the Louisiana Housing Corporation's evaluation factors. The Louisiana Housing Corporation will also underwrite the application.

B. When processing mortgage loan applications lenders must adhere to the published acquisition cost limits and or

maximum loan sizes as defined by Fannie Mae and Freddie Mac.

C. Upon completion of the processing and approval of the application but not prior to the Louisiana Housing Corporation's approval, the lending institution shall initiate a loan closing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:401 (February 2015).

§909. Interest Rates

A. The interest rates charged by the lending institution for a borrower's mortgage loan shall be monitored and adjusted as needed based on the current market rates. The corporation will post to its website at www.lhc.la.gov daily rates for the Workforce Housing Initiative Program as long as funds are available for participation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:402 (February 2015).

§911. Types of Assistance and Proscribed Use

A. Down payment and closing costs assistance is not available for the Workforce Housing Initiative Program.

B. Borrowers will pay a 1.5 percent origination fee and 1 percent discount point.

C. Borrower will pay reasonable and customary fees and closing costs.

D. Sellers concessions up to 3 percent of the sales price is permitted.

E. Maximum loan amount is \$300,000 based upon current appraisal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 40:600.86 et seq.

HISTORICAL NOTE: Promulgated by the Department of Treasury, Louisiana Housing Corporation, LR 41:400 (February 2015).

Title 16
COMMUNITY AFFAIRS
Part III. Consumer Protection

Chapter 1. Reserved

Chapter 3. Deceptive Pricing

§301. Definitions

A. For purposes of this rule the following definitions shall apply.

Advertisement—includes statements and representations contained on any label, tag, or sign attached to, printed on, or accompanying merchandise offered for sale or printed in a catalog or any other sales literature.

Clearly and Conspicuously—the statement representations, or terms being disclosed is reasonably understandable, is in such size, color contrast, or audibility, and is so placed and presented as to be readily noticeable, and is in close proximity to the information it modifies.

Comparable Merchandise—merchandise that is substantially similar in composition, style, design, model, kind, variety, service, or performance characteristics to the merchandise to which it is compared in any advertisement.

Comparative Price—the price or other description of the value of merchandise to which a seller compares its current price in any advertisement.

List Price—a price given to a retailer by a manufacturer or other supplier as a suggested retail price for the merchandise and includes the term *manufacturer's suggested retail price*.

Price Comparison—an expressed or implied comparison in any advertisement (whether or not expressed wholly or in part in dollars, cents, fractions, or percentages) of a seller's current price for merchandise with any other price or statement of value, whether or not the price is actually stated in the advertisement.

Seller—any person who offers any merchandise for sale at any location and who disseminates advertisements for that product in Louisiana. Seller may include any officer, agent, employee, sales person, or representative of seller, and any advertising agency employed by a seller.

Trade Area—the geographic area where the seller's outlets are located or where the seller's advertisements are disseminated.

B. This Section defines words used frequently in these rules. Remember, when we talk about ads, we don't just mean radio, TV, and newspaper ads. We mean fliers, catalogs, brochures, in-store displays, price tags, and any other labels or signs that contain information about your products and prices.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:32 (January 1995).

§303. Identifying Basis of Price Comparison

A. It is a deceptive act or practice for a seller to make a price comparison or claim a savings as to any merchandise offered for sale unless the seller clearly and conspicuously discloses the basis for or source of the price comparison or savings claim. However, a seller may make a price comparison or claim a savings without the required disclosure if the price comparison or savings claim is based on the seller's own former price as subscribed in §305. Terms such as *regular*, *regularly*, *formerly*, *originally*, *was*, or words of similar meaning may be used by the seller to identify the seller's own former price.

B. Unless your savings claims or price comparisons are based on your own former prices, you must explain the basis of any savings claim or price comparison you make in your ads. For example, both of these ads comply with this rule.

Sale	Save \$10
Acme's Price:	\$29.99
Our Price:	\$19.99

1. This ad explains that the \$10.00 savings claim is based on a comparison to Acme's price.

Sale
All Merchandise reduced 33%!

2. This ad doesn't need any explanation because it is clear that the 33 percent reduction is from the seller's own former price.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:33 (January 1995).

§305. Comparison to Seller's Own Former Price

A. It is a deceptive act or practice for a seller to compare the seller's current price with the seller's former price for any merchandise unless:

1. the former price is a price at which a substantial number of sales were made by the seller during the three months immediately preceding the price comparison;

2. the former price is a price at which a substantial number of sales were made by the seller and the seller clearly and conspicuously discloses the dates during which substantial number of sales were made by the seller at the former price;

3. the former price is a price at which the seller offered the merchandise for reasonably substantial period of time in the recent, regular course of its business, openly, actively, and in good faith, with an intent to sell the merchandise at that price.

B.1. This rule gives you three alternatives for supporting savings claims or price comparisons that are based upon your own former prices. You may make claims or comparisons based upon your own former prices if you can show that you either:

a. sold a substantial number of goods at your former price during the three months before your ad; or

b. sold a substantial number of goods at your former price but during some other period that the three months before the ad and have identified that period in the ad; or

c. made an honest and realistic offer over a reasonably substantial period to sell goods at that price. In other words you weren't just marking your goods up to an unrealistically high "promotional" price so you could later advertise an exaggerated mark down.

2. We purposely used the words "substantial" and "reasonably substantial" in the rules to allow you some flexibility in supporting your savings claims or price comparisons. You must be able to establish that your former price is "real" and not exaggerated. We understand that what is necessary to establish this will vary depending upon each seller's circumstances. What is substantial for one seller may not be for another. For example, three sales of a \$1,000 sofa may say as much about the reality of that price as 100 sales of a \$15 wall mirror or a \$50 computer software package. Three sales may be a substantial number for a small seller, but may be insubstantial for a larger one.

3. An important factor that we will consider is the proportion of your total sales that are made at the advertised former price. If you are making over half your sales at a price advertised as your "regular price," you shouldn't have any trouble showing that the advertised regular price is, in fact, your regular price. On the other hand, if sales at your advertised "regular price" make up less than 25 percent of your total sales, you may find it hard to support your claim that this price is really your regular price.

4. If you fail to make substantial sales at your former price, the absence of sales raises the question of whether it was realistic to expect substantial sales at the former price. In that case, you will need to be able to show that you were making an honest and realistic effort to sell the goods at the former price. This can be done by showing that you offered the goods for a "reasonably substantial period of time" at a price realistically intended to actually sell the goods and not just to establish an inflated comparison price.

5. What is a "reasonably substantial period of time" will depend on the normal selling patterns in your industry or in your particular business. Goods that are offered at a former price for more than half the typical selling period for those goods will almost certainly meet the reasonably substantial standard. Goods that are offered for less than a

quarter of the typical selling period will almost certainly not meet that standard.

6. An important factor in determining whether your former price was realistic is how it compares with your average retail mark up on the goods you do sell. If your goods sell, on average, at a 50 percent markup over cost, it is probably unrealistic to expect substantial sales of similar goods at a price based upon a 100 percent markup.

Example:

Sale	
Regularly:	\$29.99
Sale Price:	\$19.99

a. This price tag is permitted as long as you can support the claim that \$29.99 was your regular price. You can do that by showing that either:

i. you had substantial sales of this item at \$29.99 during the three months before it went on sale; or

ii. you offered it for sale at \$29.99 for a reasonably substantial period before the sale in an honest and realistic effort to sell the item.

*Substantial sales in some other period will not support the claim in this ad because the tag does not disclose a different selling period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:33 (January 1995).

§307. Comparison to Seller's Future Prices

A. It is a deceptive act or practice for a seller to make an introductory offer or to compare its current price for merchandise with the price at which the merchandise will be offered in the future, unless:

1. the future price takes effect within a reasonable time after the introductory offer or price comparison is published; and

2. the future price of the merchandise is, subsequent to the end of the introductory sale, properly established as the seller's regular and customary price.

B. Sometimes you may want to use ads that compare your current prices with a price you plan on charging at some time in the future. For example, you may want to run an introductory offer on some new products or the manufacturer may have announced a wholesale price increase that you intend to pass on to consumers after you sell out your existing stock.

1. Under this rule, it is okay to compare your current price with your future price as long as both of the following conditions are met:

a. the advertised future price actually takes effect within a reasonable time; and

b. when it does take effect, the future price becomes your regular and customary price.

2. Unless there are special circumstances, a reasonable time is probably not more than 90 days.

Example:

\$10 Off!	Introductory Price \$19.99
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a. To back up this ad, you need to be able to show that your regular price for this product actually became \$29.99 within a relatively short time after this ad appeared. Phrases such as "Introductory Offer," "Advance Sale," "Pre-season Sale," and "Will Be" alert your customers to the temporary nature of this low price offer.

b. Be careful that you don't confuse consumers when you advertise an introductory price on the price tag. Normally, when a price tag has two prices on it, consumers will assume that the higher price is the old price. But that is not the case with introductory offers. You will want to make it clear that the higher price is the new one; that is, the one about to go into effect.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:34 (January 1995).

§309. Range of Savings or Price Comparison Claims

A. It is a deceptive act or practice for a seller to state or imply that any merchandise is being offered for sale at a range of prices, or at a range of percentage or fractional discounts, unless the highest price or the lowest discount in the range is clearly and conspicuously disclosed in the advertisement and a reasonable number of the items in the advertisement are offered with the largest advertised discount or the lowest advertised price. If at least 5 percent of the items in the advertisement are offered with the largest advertised discount or the lowest advertised price, a rebuttable presumption exists that a reasonable number were offered with at least the largest advertised discount or the lowest advertised price.

B. Any time you advertise a range of savings, as in "ALL BEDROOM FURNITURE 10% TO 25% OFF!", you must show both ends of the range in your ad. You can't just show the largest savings available. In addition, you may not exaggerate the savings by offering the biggest discount on only a tiny fraction of sale items. The largest discounts must apply to a reasonable number of the sale items.

1. The rule assumes that a reasonable number of times is at least 5 percent of the items on sale. In other words, if you offer at least 5 percent of the sale items at the largest discount in the range, you don't have to worry about proving that the discount applies to a reasonable number. If we disagree and think that more than 5 percent is necessary to be a reasonable number, it would be up to us to prove it. On the other hand, you are still free to show that some number less than 5 percent of the sale items is a reasonable number.

Example:

(Correct)	(Incorrect)
Sale	Sale
"Save from 10% to 50% off"	"Save up to 50% off"
"Save \$9 to \$29"	"Savings as much as \$100"

2. The two examples labeled as incorrect fail to show the low end of the range of savings or discounts offered in the sale. The correct examples are correct as long as you are offering at least 5 percent of the sale merchandise at 50 percent off, in the first example, and at a \$29 savings in the second example.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:34 (January 1995).

§311. Use of List Price or Similar Comparisons

A. It is a deceptive act or practice for a seller to make a price comparison or to claim a savings, expressed or implied, from a list price or term of similar meaning, unless:

1. the list price does not exceed the highest price at which substantial sales of the merchandise have been made in the seller's trade area;

2. the list price is the price at which the seller offered the merchandise for a reasonably substantial period of time in the recent, regular course of its business, openly, actively, and in good faith, with an intent to sell the merchandise at that price;

3. the list price does not exceed the highest price at which the product is offered by reasonable number of sellers in the seller's trade area for a reasonably substantial period of time in the recent, regular course of business; or

4. the list does not exceed the seller's cost plus the percentage markup regularly used by the seller in the actual sale of such merchandise or merchandise of a similar class or kind, in the seller's recent, regular course of business.

B. The problem with comparisons to a manufacturer's suggested price or to a list price is that most consumers tend to lump list prices in with all other types of price comparison. As a result, price comparisons with phony list prices are every bit as misleading as comparisons with phony regular prices. These rules don't prevent you from using comparisons to list price in your ads. But as with all price comparisons, if you use them, you must be able to show that the list price is a real price. You can't avoid responsibility for using a phony price just because it was the manufacturer's idea. You can substantiate a list price in any one of four possible ways.

1. List price comparisons comply with the rule if you can show that either:

a. the list price is the same as or lower than the highest price at which substantial sales have been made in your trade area; or

b. the list price is the price at which you have offered the goods for sale for a reasonably substantial period. This is the same requirement as in §305.A.3 regarding use of your own former price (§305); or

c. the list price is equal to or less than the price at which the same goods are currently being offered by a reasonable number of sellers in your trade area. This means that the goods must be offered by more than one or two isolated sellers and for at least 60-90 days; or

d. the list price does not exceed the price you would charge if you applied your usual markup to your cost of the product.

Example:

ABC Department Store	
Men's Wear Department	
Men's Wool Blend Slacks	
Manufacturer's List Price	\$74.99
ABC Sale Price	\$39.99

2.a. Here, ABC can compare its sale price with the manufacturer's list price as long as it can show that either:

- i. a substantial number of the slacks have been sold in the area for \$74.99 or more; or
- ii. a reasonable number of area seller's are currently offering them at a price of \$74.99 or more; or
- iii. ABC has offered them for sale at \$74.99 for a reasonably substantial period in an honest and realistic effort to sell them at that price.

b. If ABC cannot show any of the above to be true, it may still compare its sale price with the list price but only if its cost plus normal retail markup equals at least \$74.99.

Example:

ABC cost	\$25.00
ABC normal markup	50%

c. In this example, ABC cannot compare its sale price to the list price. This is because cost plus 50 percent markup would only be \$50, not \$74.99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:34 (January 1995).

§313. Comparison to Competitor's Price

A. It is a deceptive act or practice for a seller to compare the seller's price with a price currently being offered by another seller for merchandise unless the merchandise is comparable merchandise and the comparative price is at or below the price at which the comparable merchandise is currently being offered in the seller's trade area by a reasonable number of other sellers in the same trade area, or another identifiable seller.

B.1. If you compare your prices with those of the competition, you must either:

- a. identify the specific competitor in your ad; or
- b. be able to show that a reasonable number of area competitors are offering the product at the advertised comparison price.

2. In addition, in either case the product must be of comparable quality, grade, material, and craftsmanship. Private label and generic brand items are generally not considered comparable to name brand items. Therefore, if you make a price comparison between a private label or

generic brand item and name brand item, you must make it clear that the comparison is between name brand and non-name brand items.

Example:

Slacks \$21.99	Compare at \$29.99
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3. This ad is okay if the slacks are comparable in quality, grade, material and craftsmanship, and a reasonable number of area sellers charge a least \$29.99. Otherwise, this ad is deceptive.

Example:

House Brand Suits \$99	Equal to \$159 Name Brand Suits Sold Elsewhere
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4.a. This ad complies with the rule if the suits are comparable and if a reasonable number of sellers charge at least \$159 for the name brand suits. Of course, in a real ad, the advertiser would use the name of its particular house brand as well as the actual brand names sold elsewhere.

Example:

Our Price \$69	Compare at Jones Hardware, \$99
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b. Products must be comparable but only Jones Hardware needs to currently be charging \$99.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:35 (January 1995).

§315. Bargain Offers Based on the Purchase of Other Merchandise and Use of the Word "Free"

A. It is a deceptive act or practice to use the word free, or words of similar meaning, or to represent bargain offers, including "Buy One—Get One Free", merchandise to be given to a customer who purchases other merchandise, if the seller recovers, in whole or in part, the cost of the free or bargain merchandise by marking up the price of the item which must be purchased, by substituting an inferior item or service, or otherwise. It is a deceptive act or practice to represent that other merchandise is being offered free or at a bargain price with the sale if the advertised merchandise can be purchased from the advertiser at a lesser price without the free or bargain merchandise, particularly if the merchandise is usually sold at a price arrived at through bargaining.

B. So-called free merchandise offers are another problem area which these rules address. If you advertise an item as free, it must be available to the consumer at no extra cost, whether that cost is in dollars or in a reduction in quality or service.

1. Moreover, the word "free" loses its meaning in cases where the selling price of the product is usually negotiated. This is because there is no way of knowing whether the seller would have negotiated a different price if the "free" item wasn't included.

2. The language of this rule is drawn from the Federal Trade Commission's "Guide concerning the use of the word 'free' and similar representations."

Example:

Buy One Suit—Get One Free \$399

3. Whether this ad is deceptive depends on the several underlying facts. The ad is deceptive if:

- a. the regular selling price of a single suit is less than \$399; or
- b. the store regularly offers a free shirt and tie or free alterations with each suit purchased and the buy one—get one free offer doesn't include the extra merchandise or service; or
- c. the consumer can buy the suit for \$299 if he or she gives up the "free" suit; or
- d. these suits regularly sell for as low as \$299 or for as much as \$499, depending on the bargaining ability of the customer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:35 (January 1995).

§317. Use of Sale Terminology

A. It is a deceptive act or practice for a seller to use terms such as "sale", "sale prices", "now only \$ ____", or other words and phrases that imply a price savings unless the price of the merchandise is reduced by a reasonable amount from the former price of the merchandise. If the seller reduces the price by 5 percent or more from the former price, a rebuttable presumption exists that the price reduction was of a reasonable amount. However, the term "sale" may be used in an advertisement where not all items are offered at a reduction from regular price if the items are clearly and conspicuously identified.

B. You may not advertise a "sale" or use words that mean the same thing unless you have made reasonable reductions from the regular selling price of your sale merchandise. What is a reasonable reduction will depend on the profit margins typical in your industry.

1. The rule provides that a reduction of 5 percent is to be considered reasonable unless we can prove otherwise. If you advertise a sale based on price reductions of less than 5 percent, you will need to show why a smaller reduction is reasonable in your case.

2. Of course, these reductions must be based on authentic regular prices and not phony ones. You may also have a sale that doesn't include all of the goods in your store, but only if you make that limitation clear in your ad.

Example:

TV and VCR SALE!
10% Off All TV's! Special Group of VCR's 20% Off!
Other merchandise at regular prices

- 3. This ad complies with the rule as long as:
 - a. all television sets are available at 10 percent off;
 - b. a reasonable number of VCR's are available at 20 percent off; and
 - c. both discounts are based on the actual regular selling prices.

Note that the ad makes it clear that only the TVs and VCRs are on sale.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:36 (January 1995).

§319. Use of Term Wholesale

A. It is a deceptive act or practice for a seller to use the term *wholesale* or words of similar meaning in connection with any merchandise offered for sale at retail.

B. Wholesale means "to sell in quantity for resale." Thus, "wholesale prices" are the prices at which goods are sold in quantity for resale. You may only use the word *wholesale* to refer to sales in quantity for resale. Any other use is deceptive.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:36 (January 1995).

§321. Reporting

A. Within 21 days after receipt of a written request from the attorney general, persons making price comparisons shall submit a report in writing setting forth substantiating information upon which the price comparison was based. The attorney general, for cause shown, may grant additional time to respond upon request.

B. Any advertiser may be called upon to substantiate the claims made in its advertising. If you choose to use comparison price advertising, you should be prepared to provide us with the information upon which the comparisons are based within 21 days after we request it. If you ask for a longer period and have a good reason, we will give you more time.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:36 (January 1995).

§323. Penalties

A. Whoever fails to comply with any Section of this rule violates Louisiana Revised Statute 51:1405(A), which prohibits inter alia, unfair and deceptive acts and practices in trade and commerce.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51.1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:36 (January 1995).

§325. Former Regulations

A. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 21:36 (January 1995).

Chapter 5. Unfair and Deceptive Trade Practices

§501. Scope of Authority

A. These rules and regulations may be cited in abbreviated fashion as follows: LAC 16:III.Chapter 5.

B. In accordance with R.S. 51:1405(B), these rules and regulations shall not conflict with the constitution of this state and shall be interpreted giving due consideration to the intent of the legislature as evidenced by all of the statutes of the state.

C. These rules and regulations shall be consistent with Section 5(a)(1) of the Federal Trade Commission Act [15 U.S.C. §45(a)(1)], as from time to time amended, any rule or regulation promulgated thereunder, and any finally adjudicated court decision interpreting the provisions of said act, rules, and regulations. This consistency shall be, therefore, the same as the Federal Trade Commission's responsibility over both:

1. anti-trust or other restraint of trade types of activities; and
2. unfair or deceptive types of activities relating to trade and commerce as it affects consumer and business interests.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Consumer Protection Section, LR 21:950 (September 1995).

§503. Multi-Level Distribution and Chain Distributor Marketing Schemes

A. Definitions. For the purpose of this Section, the following definitions shall apply.

Chain Distributor Scheme—a sales device whereby a person, upon a condition that he make an investment, is granted a license or right to recruit for profit one or more additional persons who also are granted such license or right upon condition of making an investment and may further perpetuate the chain of persons who are granted such license or right upon such condition. A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility for the above license or right to recruit or the receipt of profits therefrom, does not change the identity of the scheme as a chain distributor scheme.

Investment—any acquisition, for a cause or consideration other than personal services, of movable or personal property, tangible or intangible, for profit or

business purposes, and includes, without limitation, franchises, business opportunities and services. It does not include real estate, securities registered in accordance with Louisiana law, or sales demonstration equipment and materials furnished at cost for use in making sales and not for resale.

Multi-Level Distribution Scheme—a scheme whereby goods or services are distributed through independent agents, contractors or distributors at different levels, wherein any one level enjoys a different rate of pricing or discounting from that of any other level, and wherein participants in the marketing program may recruit other participants and wherein commissions, cross-commissions, bonuses, refunds, discounts, dividends or other consideration in the marketing program may be paid as a result of the sale of such goods and services or the recruitment, actions or performances of additional participants.

Pyramid Sales Marketing Scheme—the conduct of any business in trade and commerce wherein a multi-level distribution scheme or a chain distributor scheme, or a combination of these schemes, is used.

B. Prohibitions

1. Any marketing scheme utilizing a chain distributor scheme, as defined in this rule, is per se an unfair and deceptive trade practice, in violation of R.S. 51:1405(A).

2. It shall also be an unfair and deceptive trade practice, in violation of R.S. 51:1405(A), for any person using any pyramid sales marketing scheme to do any of the following:

a. to fail to provide in the contract of participation in bold face type of a minimum size of 10 points a statement substantially indicating that such contract may be canceled for any reason at any time by a participant upon notification in writing to the company of his election to cancel. If the participant has purchased products while the contract of participation was in effect, all products in a resalable condition then in the possession of the participant shall be repurchased. The repurchase shall be at a price of not less than 90 percent of the original net cost to the participant returning such goods, taking into account any sales made by or through such participant prior to notification to the company of the election to cancel; or

b. to require participants in its marketing program to purchase products or services or pay any other cause or consideration in order to participate in the marketing program unless such products or services are in reasonable quantities in relation to the rate at which they actually sell and unless it agrees:

i. to repurchase all or part of any products which are in a resalable condition at a price of not less than 90 percent of the original net cost to the participant; and

ii. to repay not less than 90 percent of the original net cost of any services purchased by the participant; and

iii. to refund not less than 90 percent of any other consideration paid by the participant in order to participate in the marketing program; or

c.i. to operate or, directly or indirectly, participate in the operation of any multi-level marketing program wherein the financial gains to the participants are primarily dependent upon the continued, successive recruitment of other participants and where sales to nonparticipant are not required as a condition precedent to realization of such financial gains; or

ii. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participants in a multi-level marketing program solely for the solicitation or recruitment of other participants therein; or

iii. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participants in a multi-level marketing program in connection with the sale of any product or service unless such participant performs a bona fide and essential supervisory, distributive, selling or soliciting function in the sale or delivery of such product or services to the ultimate consumer; or

iv. to offer to pay, pay, or authorize the payment of any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration to any participant where payment thereof is or would be dependent on the element of chance dominating over the skill or judgment of such participant, or where no amount of judgment or skill exercised by the participant has any appreciable effect upon any finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration which the participant may receive, or where the participant is without that degree of control over the operation of such plan as to enable him substantially to affect the amount of finder's fee, bonus, refund, override, commission, cross-commission, dividend or other cause or consideration which he may receive or be entitled to receive; or

d. to represent, directly or indirectly, that participants in a multi-level marketing program will earn or receive any stated gross or net amount, or represent in any manner, the past earnings of participants; provided, however, that a written or verbal description of the manner in which the marketing plan operates shall not, standing alone, constitute a representation of earnings, past or future; or

e. to represent, either directly or indirectly, that additional distributors or sales personnel are easy to secure or retain, or that all or substantially all participants will succeed; or

f. to fail to comply with all Louisiana corporation registration laws, if applicable, or, in any case, to fail to notify the Consumer Protection Section of the Louisiana Department of Justice of any of the following, prior to its doing business in this state:

- i. that it will be doing business in Louisiana;
- ii. each place within Louisiana where it will actually be doing business;

iii. the full name and mailing and permanent address of its authorized agent for service of process within Louisiana, which it is also required to have at all times herein;

iv. that the Consumer Protection Section of the Louisiana Department of Justice and its representatives are authorized and invited to attend any and all of its opportunity meetings, recruitment meetings, training sessions, or any other meeting wherein a prospective participant or any participant is explained the marketing system, and are authorized and invited to visit, at any reasonable time, any and all places wherein it keeps files, records, data, communications, or information and to inspect same.

C. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Consumer Protection Section, LR 21:950 (September 1995).

§505. Magazine and Periodical Subscription Service Sales Practices

A. Prohibited magazine and periodical subscription service sales practices shall include:

- 1. soliciting or accepting subscriptions for magazines or other periodicals without authority to sell same or which cannot be delivered or caused to be delivered within 90 days; or
- 2. requiring subscribers to substitute magazines or other periodicals in the place of those originally subscribed for; or
- 3. substituting magazines or other periodicals for those subscribed for without the consent of the subscribers; or
- 4. representing, directly or by implication, that the delivery of magazines sold is guaranteed, without clearly and conspicuously disclosing the terms and conditions of such guarantee, or misrepresenting in any manner the terms and conditions of any guarantee; or
- 5. failing to notify a subscriber within 30 days from the date of sale of any subscription of the inability to place all or part of a subscription agreement and deliver each of the magazines or other publications subscribed for; and to offer each such subscriber the option to receive a pro rata reduction in the contract price or a full refund of the money paid for such subscription or part thereof which is undeliverable, or, with the written consent of the subscriber to substitute other publications of comparable value, in lieu thereof; or

6. failing to give clear and conspicuous oral and written notice to each subscriber that upon written request said subscriber will be entitled to a pro rata refund of monies paid or a like reduction in the contract price if he does not receive the magazine or periodicals subscribed for within 90 days of the date of sale; or

7. misrepresenting in any manner the savings which will be accorded or made available to purchasers; or

8. representing, directly or indirectly, that any salesman, agent, solicitor or employee of a magazine or periodical subscription service is primarily conducting or participating in a survey, quiz, or is engaged in any activity other than soliciting business; or misrepresenting in any manner the purpose of the call or solicitation; or

9. misrepresenting any other aspect of the contract, sale, cost or service to be provided in any manner, with the intent to induce a consumer to enter a contract or otherwise subscribe to the services offered.

B. Whoever engages in a prohibited magazine or periodical subscription sales practice violates R.S. 51:1405(A) prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

C. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Consumer Protection Section, LR 21:952 (September 1995).

§507. Bait Advertising

A. Bait advertising is any representation or offer to sell any goods or services in any manner or by any means of communication, which representation has the effect of luring consumers to the location of the goods or services represented, or which induces consumers to contact the vendor or any of his agents, representatives or employees for the purpose of showing, demonstrating or selling to the consumer the goods or services represented, or where, at the time of any previously arranged meeting, any of the following acts or practices are engaged in by the vendor, his agents, representatives, or employees:

1. the refusal to show, demonstrate, or sell the goods or services represented in accordance with the terms of representation;

2. the disparagement by acts or words of the represented goods or services or the disparagement of the guarantee, credit terms, availability of service, repairs or parts, or in any other respect, in connection with it;

3. the failure to have available at all outlets listed in the representation a sufficient quantity of the goods or

services to meet reasonably anticipated demands, unless the representation clearly and adequately discloses that supply is limited and/or the goods or services are available only at designated outlets;

4. the refusal to take orders for the represented goods or services to be delivered within a reasonable period of time;

5. the showing or demonstrating of goods or services which are defective, unusable or impractical for the purpose represented or implied in the representation;

6. use of a sales plan or method of compensation for salesmen or penalizing salesmen, to prevent or discourage them from selling the represented goods or services;

7. attempt, through the use of the acts or practices enumerated in Paragraphs 1-6 above, or by any other scheme, to switch consumers from buying the goods or services represented in order to sell something else at a higher price or on a basis more advantageous to the vendor.

B. Whoever engages in bait advertising violates R.S. 51:1405(A), prohibiting, inter alia, unfair or deceptive trade practices; provided further that this rule shall not operate as an exclusive definition of prohibited conduct in the area of trade and commerce, to which it applies or in any other area of trade and commerce, and shall not operate as a defense to other activity otherwise deemed to be an unfair method of competition or an unfair or deceptive act or practices in trade and commerce by this state, the Federal Trade Commission or by the courts of this state or of the United States.

C. If any part of this rule is judicially decreed to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end this rule is declared to be severable.

D. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, (April 1974), promulgated by the Department of Justice, Consumer Protection Section, LR 21:952 (September 1995).

§509. Deceptive Endorsements and Testimonials

A. Definition. For the purpose of this rule the following definition shall apply.

Endorsement or Testimonial—any message in advertising or by oral representation by the seller, his employee, or his agent, that conveys to the consumer views favorable to the product or service advertised in which the consumer may attribute to some one other than the seller. Such views may be those of an individual, group or institution.

B. It shall be an unfair and deceptive act or practice for any seller to do any of the following:

1. state or imply that a product or service is endorsed or approved by any individual, group or institution when such has product has not been so endorsed or approved;

2. imply or state that an endorsement is more extensive than it actually is when it has not been so endorsed or approved;

3. state or imply that a product or service is "recommended by many doctors" or "approved by millions of motorists" or other claims of such similar import, or claims of endorsements from specific individuals or organizations when such product or service has not been so endorsed or approved.

C. Whoever engages in these practices violates R.S. 51:1405(A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, (July 1975), promulgated by the Department of Justice, Consumer Protection Section, LR 21:953 (September 1995).

§511. Misrepresentation of Old, Used, or Secondhand Goods

A. Definition. For the purpose of this rule the following definition shall apply.

Old, Used, or Secondhand Merchandise—any commodity sold in the ordinary course of trade and commerce which has been previously subjected to the use for which it was intended, provided that this Section shall not apply to undamaged merchandise returned to a seller, nor to a use which can be reasonably construed as a trial use by a prospective purchaser where the commodity does not leave the premises of the seller.

B. It shall be an unfair and deceptive act or practice for any seller to sell merchandise which is old, used, or secondhand, in such a way that the purchaser is led to believe that such merchandise is new and unused.

C. Whoever engages in these practices violates R.S. 51:1405(A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

D. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

E. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, (July 1975), promulgated by the

Department of Justice, Consumer Protection Section, LR 21:953 (September 1995).

§513. Imperfections, Rejects and Distressed Goods

A. Definition. For the purpose of this rule the following definition shall apply.

Distressed Goods—consumer goods which are defaced, scratched, dented, damaged, or have been subjected to conditions that alter their original state, such as fire damage or damage from a natural disaster.

B. It is unfair to sell or offer for sale merchandise which has imperfections, which are rejects, or which are distressed or salvaged goods without first clearly and conspicuously disclosing to all prospective purchasers thereof the imperfections and the identity, status, nature, and the fact of the rejection, distress and salvage.

C. It is unfair to sell or offer for sale merchandise which has no imperfection which is not a reject, and which is not distressed or salvaged in such a manner as to lead any prospective purchaser thereof to believe that same has imperfections, is a reject, or is distressed or salvaged and, if purchased, will, on that account, render a savings on the price of such merchandise.

D. Whoever engages in "misrepresentation of distressed goods, imperfections, and rejects" violates R.S. 51:1405(A) prohibiting, inter alia, unfair and deceptive trade practices; provided further that this rule shall not operate as an exclusive definition of prohibited conduct in the area of trade and commerce to which it applies or in any other area of trade and commerce, and shall not operate as a defense to other activity otherwise deemed to be an unfair method of competition or an unfair or deceptive act or practice in trade and commerce by the State of Louisiana, the Federal Trade Commission, or by the courts of this state or of the United States.

E. If any part of this rule is judicially decreed to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end this rule is declared to be severable.

F. All rules and regulations or parts thereof in conflict herewith are hereby repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, (July 1975), promulgated by the Department of Justice, Consumer Protection Section, LR 21:953 (September 1995).

§515. Charitable Solicitations

A. Definitions. For the purpose of this rule the following definitions shall apply.

Charitable Organization—a group which is or holds itself out to be benevolent, civic, recreational, educational, voluntary health, social service, philanthropic, fraternal, humane, patriotic, religious, or eleemosynary organization, or any person who solicits or obtains contributions solicited from the public for charitable purposes. A chapter, branch,

area office, or similar affiliate or any person soliciting contributions within the state for a charitable organization which has its principal place of business outside the state, shall be a charitable organization for the purposes of this rule.

Contributions—the promise or grant of any money or property of any kind or value.

Person—any individual, organization, trust, foundation, group, association, partnership, corporation, society, or any combination of them.

Professional Solicitor—any person who, for a financial consideration, solicits contributions for, or on behalf of, a charitable organization, whether such solicitation is performed personally or through his agents, servants, or employees or through agents, servants, or employees specially employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction of such person; or a person who plans, conducts, manages, or advises a charitable organization in connection with the solicitation of contributions. A salaried officer or salaried employee of a charitable organization maintaining a permanent establishment within the state shall not be deemed to be a professional solicitor. However, any salaried officer or salaried employee of a charitable organization that engages in the solicitation of contributions in any manner for more than one charitable organization, if a fee is charged for services to the organization other than the one that he is employed by, shall be deemed a professional solicitor.

Religious Institutions—for the purposes of this rule include ecclesiastical or denominational organizations, churches, or established physical places for worship in this state at which nonprofit religious services and activities are regularly conducted and carried on and shall also include those bona fide religious groups which do not maintain specific places of worship. *Religious institutions* also include such separate groups or corporations which form an integral part of those institutions which are exempt from federal income tax as exempt organizations under the provisions of Section 501(c)(3) of the Internal Revenue Code of 1954, or of a corresponding section of any subsequently enacted Federal Revenue Act, and which are not primarily supported by funds solicited outside its own membership or congregation. *Religious institutions* for purposes of this rule also include such institutions soliciting contributions for construction and maintenance of a house of worship or clergyman's residence.

B. It shall be an unfair and deceptive act or practice for any person or charitable organization utilizing a professional solicitor or solicitors to do any of the following:

1. fail to annually register and submit a \$25 registration fee to the Consumer Protection Section of the Louisiana Department of Justice, at least 10 days prior to soliciting for contributions. The following information shall be included in the registration materials:

a. the name of the charitable organization and the purpose for which it was organized;

b. the principal address of the charitable organization and the address of any offices in this state. If the organization does not maintain an office, the name and address of the person having custody of its financial records;

c. the estimated amount of funds to be raised by professional solicitors and all costs and expenses incidental thereto including all publicity costs, all overhead costs, and all salaries or fees of professional solicitors to be paid out of solicited funds;

d. whether or not the organization or any professional solicitor associated with the organization has ever been enjoined by any court from soliciting contributions;

e. the purpose or purposes for which the contributions to be solicited shall be used;

f. the name or names under which it intends to solicit contributions;

g. the name or names of the individuals or officers of the organization who shall be responsible for the disbursement of any contributions;

h. the names and addresses of all professional solicitors to be used in the solicitation drive and a copy of the contract between the charitable organization and professional solicitor;

i. whether or not the charitable organization is incorporated and, if so, the charitable organization must submit a copy of their Articles of Incorporation to the Consumer Protection Section of the Louisiana Department of Justice;

j. whether or not the charitable organization has a Federal Income Tax exemption under Section 501 of the Internal Revenue Code and, if so, the charitable organization must submit a copy of its IRS 501(c)(3) tax exempt determination letter to the Consumer Protection Section of the Louisiana Department of Justice;

k. whether or not the charitable organization has a tax exempt status in the state of Louisiana and written proof of such status;

2. misrepresent to prospective contributors or to the general public the purpose of the organization and the purpose for which funds are solicited or are to be solicited;

3. state and/or imply in news releases, brochures, advertisements, pamphlets, or such other means, or when soliciting funds, that the charitable organization is incorporated by the state of Louisiana and/or has a Federal Income Tax exemption when such is not the case.

C. The provisions of this rule shall not apply to religious institutions as defined in Subsection A of this Section, educational institutions recognized and/or approved by the State Department of Education or the appropriate state educational board, the State Department of Education or the appropriate state education board, any hospital organized under the laws of this state, or any voluntary health

organization organized under the laws of this state and/or under federal laws.

D. Whoever fails to comply with Subsection B of this Section violates R.S. 51:1405(A), prohibiting, inter alia, unfair and deceptive acts and practices in trade and commerce.

E. If any part of this rule is ever legally declared to be invalid for any reason, the remainder of the rule shall continue in full force and effect, and to this end, this rule is declared to be severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1401 et seq.

HISTORICAL NOTE: Adopted by the Office of the Governor, Office of Consumer Protection, June, 1977, repealed and promulgated by the Department of Justice, Consumer Protection Section, LR 21:954 (September 1995).

Chapter 7. Database Security Breach Notification

§701. Reporting Requirements

A. When notice to Louisiana citizens is required pursuant to R.S. 51:3074, the person or agency shall provide

written notice detailing the breach of the security of the system to the Consumer Protection Section of the Attorney General's Office. Notice shall include the names of all Louisiana citizens affected by the breach.

B. Failure to provide timely notice may be punishable by a fine not to exceed \$5,000 per violation. Notice to the attorney general shall be timely if received within 10 days of distribution of notice to Louisiana citizens. Each day notice is not received by the attorney general shall be deemed a separate violation.

C. Written notification shall be mailed to:

Louisiana Department of Justice
Office of the Attorney General
Consumer Protection Section
1885 N. Third Street
Baton Rouge, LA 70802

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:3071 et seq.

HISTORICAL NOTE: Promulgated by the Department of Justice, Office of the Attorney General, LR 33:466 (March 2007).