

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Florida Building Energy Rating System 9B-60

RULE TITLES: RULE NOS.:

Definitions. 9B-60.002

Department Activities. 9B-60.003

Florida Building Energy Rating System, Adopted. 9B-60.004

Training and Certification Program. 9B-60.005

Guidelines for Uniformity, Adopted. 9B-60.008

PURPOSE, EFFECT AND SUMMARY: Section 553.992, Part XI, FS, requires the Department of Community Affairs (the Department) to update the Building Energy-Efficiency Rating System in accordance with the procedures of Chapter 120, F.S. Further, Sec. 553.995(1)(c), F.S., requires that the energy rating system be compatible with standard federal rating systems and state building codes, where applicable. The purposes of these rule changes are to 1) adopt by reference the Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, 2) amend the rating system calculation procedures so that they are consistent with the revisions to Chapter 13 of the Florida Building Code, Building, and Attachment 1 of the Mortgage Industry National Home Energy Rating Systems Accreditation Standards, the National Home Energy Rating Technical

Guidelines, 3) to require written disclosure of financial or other conflict of interest in accordance with Section 4.C.6 of the National Accreditation Procedures for Home Energy Rating Systems, 4) to expand recertification requirements for residential raters to require satisfactory demonstration of the skills necessary to perform a Class 1 rating and attend a refresher course if a rater fails to pass the recertification test in his/her rating classification, 5) to require a written report be provided to the client for every rating performed, 6) to remove the Department from software development and maintenance and add the Florida Solar Energy Center and its address to the written report, 7) to require Class 1 duct testing to be performed in accordance with the new standard BSR/ASHRAE 152-04, and 8) to have the Florida Solar Energy Center develop and maintain a database of BERS ratings.

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

SPECIFIC AUTHORITY: 553.992, 553.994, 553.998 FS.

LAW IMPLEMENTED: 553.992, 553.995, 553.995(1), (1)(c), (4), 553.996 FS.

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

TIME AND DATE: 10:00 a.m., September 14, 2004

PLACE: The Randall Kelley Training Center, Third Floor, Room 305, Sadowski Building, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodations at the workshop because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department

of Community Affairs, 2555 Shumard Oak Boulevard, Sadowski Building, Tallahassee, Florida 32399-2100, (850) 487-1824, at least seven days before the date of the workshop. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System, which can be reached at 1(800)955-8770 (voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 488-0964, SunCom 278-0964.

THE FULL TEXT OF THE PROPOSED RULES IS:

9B-60.002 Definitions.

For the purpose of this chapter, the following words, unless the context does not permit such meaning, shall have the meanings indicated:

(1) through (19) No change.

(20) HERS Rating - An audit and computer-generated performance evaluation of a home conducted in accordance with Section 9B-60.004 of this Chapter and resulting in a HERS Score.

(21) HERS Score - The numerical rating for a home with a value between 0 and 100 where a value of 100 indicates that the home uses no purchased energy for heating, cooling and hot water and a value of 80 indicates that the home has the same energy use for heating, cooling and hot water as the reference home established by the Mortgage Industry National Home Energy Rating Systems Accreditation Standards.

Specific Authority 553.92 FS. Law Implemented 553.992, 553.995 FS. History – New 7-1-94, Amended 1-11-95, 12-27-98,_____.

9B-60.003 Department Activities.

(1) No change.

(2) Within three (3) years of the date of adoption of the rating system, and at least triennially thereafter in conjunction with the triennial review of Chapter 13 of the Florida Building Energy Efficiency Code, For Building Construction (the Code), the Department shall review the energy rating system program criteria and the calculation tools used in common by both the BERS and the Code that are adopted herein to determine the need for revision or modification. The residential rating system methodology is based on Method A of Sub-Chapter 6 of Chapter 13 of the Code, while the commercial rating system methodology is based on Method A of Sub-Chapter 4 of the Code. At a minimum, the Department shall update the rating system by adopting modifications to the current editions of the Code and Attachment 1 to the Mortgage Industry National Home Energy Rating Systems Accreditation Standards (the National Home Energy Rating Technical System (HERS) Guidelines) promulgated by the National Association of State Energy Officials. Copies of the Code and the National Home Energy Rating Technical HERS Guidelines are available from the Florida Department of Community Affairs, Building Codes and Standards Office, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 487-1824.

(3) and (4) No change.

Specific Authority 553.992, 553.998 FS. Law Implemented 533.992, 553.996, FS. History -- New 7-1-94, Amended 12-27-98,_____.

9B-60.004 Florida Building Energy Rating System, Adopted.

(1) No change.

(2) The home energy rating (HERS rating) for ~~new~~ residential buildings (~~Class 3~~) shall be determined using only the Florida Residential Building Energy Rating System software (Energy Gauge/ResFREE, Version 3 2) ~~developed and maintained by the Department~~, which produces the Florida Building Energy Rating Guide forms: Form #11A-0197 for the North climate zone, Form #11B-0197 for the Central climate zone, and Form #11C-0197 for the South climate. The rating system software (Energy Gauge/ResFREE, Version 3 2) that produces these forms is hereby incorporated by reference. Air distribution system testing for Class 1 ratings shall be performed in accordance with Annex B and Annex C of BSR/ASHRAE Standard 152-04, “Method of Test for Determining the Design and Seasonal Efficiency of Residential Thermal Distribution Systems.” A Class 3 rating shall be clearly labeled as a “projected rating based on plans”.

~~(3) The energy rating for existing residential buildings shall be determined using the Florida Residential Building Energy Rating System software (EnergyGauge/ResFREE, Version 2) which produces the Florida Building Energy Rating Guide forms listed in 9B-60.004(2). The Florida Residential Building Energy Rating System software (EnergyGauge/ResFREE, Version 2) is hereby incorporated by reference.~~

~~(3)~~(4) No change.

~~(4)~~(5) The energy rating for ~~new~~ public and ~~new~~ commercial buildings shall be determined using only the Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 1 2-2) ~~developed and maintained by the Department~~ which produces the Florida Building Energy Rating Guide forms: Form #12A-01 97 for the North climate zone, Form #12B-01 97 for the Central climate zone and Form #12C-01 97 for the South climate zone.

The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version ~~1 2.2~~) is hereby incorporated by reference. Public buildings owned or leased by state agencies and units of local government that are governed by Section 255.254, F.S., may utilize this rating system as one of the annual energy usage and cost methods approved by those agencies.

~~(6) The energy rating for existing commercial buildings shall be determined using only the Florida Commercial Building Energy Rating software (EnergyGauge/ComFree 97, Version 1 2.2) developed and maintained by the Department which produces the Florida Commercial Building Energy Rating Guide forms listed in 9B-60.004 (5), F.A.C. The Florida Commercial Building Energy Rating System software (EnergyGauge/ComFREE 97, Version 2.2) is hereby incorporated by reference.~~

(7) No change.

Specific Authority 553.992 FS. Law Implemented 553.994, 553.995(1) FS. History -- New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98,_____.

9B-60.005 Training and Certification Program.

(1) General Provisions.

(a) Beginning with the implementation date of this rule, no person may provide a rating for buildings in Florida unless such a person has been certified as provided by this part. To perform a rating for any building as required by this rule, the person performing the rating must be certified by the Department of Community Affairs. In accordance with Chapter 1, Section 4.C.6 of the “National Accreditation Procedures for Home Energy Rating Systems,” a Florida Certified Rater who has a financial or other interest resulting from the energy Rating results (including

any recommended improvements resulting from the Rating) shall provide written disclosure of the nature of the financial or other interest to the owner of the property being rated utilizing Form 11D-01, Interest Disclosure Form.

(b) No change.

(c) An application for annual certification renewal shall be submitted on Form 500B-01 98, herein incorporated by reference, with a renewal fee of \$50. In addition to the annual renewal fee, a certified residential rater must, over a three year period, have completed twelve credit hours of continuing education in courses accepted by the Department for certification renewal. Acceptable courses shall, in general, be those dealing with energy use in buildings or building systems (including heating, ventilating and air conditioning), building design or construction, codes or plan review, financing or selling buildings, and courses on energy rating systems.

(2) The following qualifications, at a minimum, are required for certification as a rater:

(a) The individual shall submit an application on the Department of Community Affairs Form #500A-01 98, herein incorporated by reference, and pay the appropriate application fee of \$150.00. The form is available by writing to the Department of Community Affairs, Energy Rating System Program, 2555 Shumard Oak Blvd, Tallahassee, Florida 32399-2100.

(b) through (d) No change.

(e) Recertification is required within six months of the effective date of major revisions to Chapter 13 of the Florida Building Energy Efficiency Code, For Building Construction or at least every three years from the rater's last date of certification. For recertification, the applicant shall attend training on changes impacting the rating system provided by the Department of Community Affairs and demonstrate achievement of a level of knowledge and proficiency so as

to successfully rate buildings by passing a Department test applicable to the buildings being rated. The fee for recertification shall be the annual certification renewal fee. In addition to the written test, Class 1 residential raters shall be required to satisfactorily demonstrate performance testing skills necessary to perform a Class 1 rating as part of the recertification as well as at the time of training and testing. Class 1 residential raters shall be required to satisfactorily perform and complete one Class 1 rating, accompanied and evaluated by another randomly chosen Class 1 rater, as a requirement for recertification and to comply with Attachment 1 of the Mortgage Industry National Accreditation Procedures for Home Energy Rating Systems (the National Home Energy Rating Technical HERS Guidelines); requirement for periodic peer review and reevaluation of raters. Class 1 raters shall also be required to serve as a Class 1 peer evaluator at least once within three years before being recertified. These regulations in no way exempt any person from other state and local occupational licensure requirements. Any rater who fails to pass the recertification test in his or her rating classification shall be required to attend a refresher course approved by the Department of Community Affairs and retake the test. Until the rater can demonstrate his/her ability to perform ratings in his/her classification, registration of ratings by the rater shall be prohibited.

(3) Reporting Requirements. Certified raters shall submit all ratings to the Department in care of the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920 in electronic format, either via electronic mail (e-Mail) or on 3½ 1/3" diskette.

(a) The Florida Solar Energy Center shall maintain an electronic database that can be queried by the public to verify that a BERS Rating has been registered for a specific real property.

(b) Upon request and if authorized by the homeowner or his/her agent, the Florida Solar Energy Center may provide a registered BERS Rating report from the electronic database to a homeowner, or prospective home purchaser, for a fee.

(4) A written report shall be provided to the purchaser of real property or that individual who requested the rating. Such report shall include the The Florida Building Energy Rating report and provided to the client shall include the following:

(a) Aa completed copy of the Florida Building Energy Rating Guide (Form #11-01 97 or Form #12-01 97); containing the following:

(b)(a) The certified rater's signature, typed or printed name and certification number;

(c)(b) The date that the rating was completed; and

(d)(e) The statement: "This notice is provided to you by an individual certified by the Florida Department of Community Affairs to perform a building energy rating evaluation. Any questions, comments, or complaints regarding the person or agency performing this service may be directed to the Florida Department of Community Affairs, Building Energy Rating System Program, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 487-1824, or the Florida Solar Energy Center, 1679 Clearlake Road, Cocoa, FL 32920. The Department or the Florida Solar Energy Center may request the owner's permission in the future to conduct a quality assurance review of this rating;" and

(e) The disclosure form printed from the Energy Gauge Res/Free program (Form No. 11D-01).

Specific Authority 553.992 FS. Law Implemented 553.995(4) FS. History -- New 7-1-94, Amended 10-3-94, 1-11-95, 12-27-98,_____.

9B-60.008 Guidelines for Uniformity, Adopted.

The Mortgage Industry National Home Energy Rating Systems Accreditation Standards, promulgated by the National Association of State Energy Officials (NASEO)/Residential Energy Services Network (RESNET), June 15, 2002, ~~1996 Guidelines for Uniformity, Voluntary Procedures for Home Energy Ratings, Version 2.0, prepared by the Home Energy Rating Systems (HERS) Council and the Florida Addendum to the National HERS Council Guidelines, dated December 1998,~~ are adopted and incorporated by reference as the rule of this Department. Specific Authority 553.992 FS. Law Implemented 553.995(1)(c), FS. History -- New 12-27-98, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULES: Ann Stanton, Building Codes Analyst, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850) 488-0964, SunCom 278-0964.

NAME OF SUPERVISOR OR PERSON WHO APPROVE THE PROPOSED RULES: Janice Browning, Director, Division of Housing and Community Development, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: August 2, 2004.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 2, 2004.