

HOUSING FOR OLDER PERSONS

HUD “55-And-Older” Rules

During the 2000 legislative session, the Florida Legislature amended Section 760.29(e), Florida Statutes to provide that facilities or communities claiming an exemption to the Fair Housing Act as it pertains to familial status must meet the following criteria:

- a. The housing is specifically designed and operated to assist elderly persons and is intended for, and solely occupied by, person 62 years of age or older.
- b. The housing is intended and operated for occupancy by persons 55 years of age or older and meet the following requirements:
 - i. At least 80% of the occupied units are occupied by at least one person 55 years of age or older.
 - ii. The facility or community publishes and adheres to policies and procedures that demonstrate its intent to in fact be a provider of housing for older persons
 - iii. The facility or community complies with rules established by HUD for verification of occupancy.

Note: for this section, the facility or community has to choose only a) or b) above; not both.

A facility or community that meets at least one of the above requirements must register with the Florida Commission on Human Relations by sending a letter to the Commission to register as a facility for older persons. The letter must be on the letterhead of the facility or community, and it must be signed by the president of the facility or community. The letter should be mailed to:

FLORIDA COMMISSION ON HUMAN RELATIONS
2009 APALACHEE PARKWAY
SUITE 100
TALLAHASSEE, FLORIDA 32301

A fee of \$20.00 is required, and must be submitted with the letter. A check, money order or cashiers check will be accepted, and must be made payable to: THE FLORIDA COMMISSION ON HUMAN RELATIONS. To ensure your record of receipt, we recommend that you send your registration via certified mail.

FCHR ACCEPTS REGISTRATIONS AS A PROVIDER OF HOUSING FOR OLDER PERSONS UNDER THE FEDERAL OR FLORIDA FAIR HOUSING ACT BASED SOLELY ON THE WRITTEN REPRESENTATIONS OF THE REGISTRANT. THE FCHR HAS NOT INDEPENDENTLY DETERMINED WHETHER OR NOT THE REGISTRANT IN FACT MEETS THE REQUIREMENTS OF THE LAW. A fine in the amount of \$500 will be assessed against any facility or community that knowingly submits false information in meeting these requirements.

IMPORTANT: THIS INFORMATION WAS OBTAINED FROM THE FLORIDA COMMISSION ON HUMAN RELATIONS WEBSITE. FOR MORE INFORMATION OR MORE DETAILS, PLEASE GO TO THE FOLLOWING WEB ADDRESS: <http://fchr.state.fl.us/> AND CLICK ON “55+ HOUSING”.

Provided by the
Florida Association of RV Parks and Campgrounds
1340 Vickers Road, Tallahassee, FL 32303. Phone: 850-562-7151

HOUSING FOR OLDER PERSONS FAQ

- Q.** Why does a facility or community claiming an exemption to the Florida Fair Housing Act as it pertains to familial status have to register with the Florida Commission on Human Relations?
- A.** During the 2000 legislative session, the Florida Legislature amended Section 760.29 (e) to provide that facilities or communities claiming an exemption to the Fair Housing Act as it pertains to familial status must register with FCHR by sending a certified letter to the Commission stating that the facility or community is in compliance.
- Q.** What is familial status?
- A.** This means families with children.
- Q.** When must a facility or community register?
- A.** Registration is required by October 1, 2001.
- Q.** Is there a "grace period" for registration?
- A.** The law requires registration by October 1, 2001
- Q.** If a facility or community registers with FCHR, does that mean it is "certified" as meeting the requirements for the exemption from the act?
- A.** FCHR accepts registrations as a provider of housing for older persons under the federal or Florida Fair Housing Act based solely on the written representations of the registrant. The FCHR has not independently determined whether or not the registrant in fact meets the requirements of the law.
- Q.** Can a facility or community's attorney sign the letter of registration?
- A.** The law requires that the letter must be signed by the president of the facility or community, on their letterhead stationery.
- Q.** One umbrella association operates a number of 55 and older mobile home parks, communities or facilities. Must each register separately and pay a fee?
- A.** It depends upon whether each facility is a separately declared condominium, cooperative or other real property regime. If each entity under the umbrella association is a separately declared entity recorded in the county where the property is located, then each must pay a fee.

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HUD “55-And-Older” Rules History and Other Important Issues

Other important issues clarified by the rules (published 01-14-1997) include the following:

- Units occupied by persons under 55 but which provide “reasonable accommodation” to disabled persons need not be counted in the 80%-20% ratio.
- Communities may set a minimum age for all other residents, such as 35 or 40 years of age.
- Proof of “intent” to be for 55-and-older persons can be shown in a community’s advertising, lease provisions, written rules, actual practices, public posting in common areas of statements identifying it as housing for people 55-and-older, and the community’s discontinued use of such phrases as “adult community”, “adult living”, “40 and over community”, etc.
- Families with children may not be evicted in order to achieve the 80% level of homes with at least one person 55-or-older.
- A community can lawfully accept households which have no member over 55, and which have a child under 18, as long as the 80% threshold is not violated.
- A 55-or-older community must periodically (at least every two years) via a routine procedure, determine the occupancy of each unit, including identification of the 55-or-older person, if there is one.
- Acceptable age verification documents include driver’s license, birth certificate, passport, immigration card, military ID, any other state, local, national, or international document containing a reliable birth date, or certification by an adult household member that at least one person 55-or-older lives there.

Finally, the proposed rules provide a “good faith” defense against civil money damages for anyone who reasonably relied in good faith on the 55-or-older exemption, even if the community did not in fact, qualify for the exemption. This was a major ingredient of the 1995 Act which did away with the “facilities and services” requirement.

HUD also appears to have cleared up a “gray area” for communities such as Florida’s many seniors mobile home parks and **RV parks** whose resident often are away, usually at northern homes, for extended periods. The rules say that in totaling up the 80% of unit occupied by one person 55-or-older, these can include “a temporarily vacant unit, if the primary occupant has resided in the unit during the past year and intends to return on a periodic basis”.

Also addressed are ‘substantial legal impediments’ to removing language from deeds or other restrictions that are inconsistent with the intent to provide 55-or-older housing. The rules say HUD will consider “documented evidence of a good faith attempt” to remove such language (such as “adult park” or “adults only”) when it determines whether a community qualifies for the 55-or-older exemption.

The rules include numerous examples of how communities with varying circumstances may or may not qualify for the exemption. *Please go on-line for a complete copy - <http://fchr.state.fl.us/>*

HOUSING FOR OLDER PERSONS

55+ Housing Renewal Process

Renewing your 55 + community is as easy as 1-2-3!

1. Make sure that the community is registered by clicking on the Registered 55+ Community List By County link
2. Confirm the renewal date
3. You can download, complete and print renewal form if you currently have Acrobat Reader. When mailing renewal letter, please also enclose the \$20.00 check:

**Florida Commission on Human Relations
2009 Apalachee Parkway
Suite 100
Tallahassee, FL 32301**

*The community renewal period will always begin on the date of the original registration. If the community renews late, then it will not be recognized as a registered 55+ community w/ FCHR for the period that the registration lapsed. We will be sending a renewal notice 30 days prior to your renewal date. You may wait until you receive the renewal notice or you may complete the form that is available to you once you click on the renewal link.

Use of the Word "Adult" is still not acceptable for 55-or-Older Housing.

The HUD rules that interpret the 1988 amendments to the Fair Housing Act prohibit the use of the term "adult" when a community tries to define itself in order to qualify for the exemptions to the ban on "Familial Discrimination" added to the Fair Housing Act in 1988. The intent of Congress was to ban discrimination against families with children while also allowing legitimate retirement communities to continue by creation of two exemptions:

- Communities in which at least 80% of the homes have at least one person 55 years of age or older so long as the community meets certain other requirements.
- The other exemption is for communities in which all residents (no exceptions) are at least age 62; these communities need not meet any other criteria if all residents are 62+.

The ban on the use of the term "adult" has been in HUD's Fair Housing rules for some time and those still using that term should cease using it. If you claim the exemption, references should be limited to "A Seniors Community," a 55+ Community" or other similar legal identification (*HUD rules utilize the unflattering term "Housing for Older Persons".*) If you claim the exemption, you must demonstrate the "intent" to be a senior's community and discontinuing use of the word "adult" is only one of the many necessary ways to demonstrate that intent.

**Provided by the
Florida Association of RV Parks and Campgrounds
1340 Vickers Road, Tallahassee, FL 32303. Phone: 850-562-7151**

Sample Registration Letter

Blue Meadow Homeowners Association
123 Blue Meadow Drive
Boca Diaz, FL 33333

March 31, 2004

FLORIDA COMMISSION ON HUMAN RELATIONS
2009 APALACHEE PARKWAY, SUITE 100
TALLAHASSEE, FLORIDA 32315-3388

Dear Sir:

I am the president of the Blue Meadow Homeowner Association. This letter is being sent to Commission, along with a check in the amount of \$20.00, in order to register our community as "housing for older persons."

We have conducted an initial survey that shows that at least 80% of the occupied units are occupied by at least one person 55 years of age or older. We have also adopted and adhere to rules and procedures that demonstrate our intent to be housing for older persons. In addition, we will comply with the rules made by HUD pursuant to 24 CFR part 100 for verifying occupancy and establishing procedures for updating the occupancy information.

We will permanently maintain copies of the surveys, driver licenses, and other documentation in our files. We understand that we do NOT have to provide copies of this documentation to the Commission at this time.

We will also renew this registration once every two years.

If you have any questions concerning this letter, please contact me at (XXX) XXX-XXXX.

Sincerely,

John Smith

President