
**FLORIDA ADMINISTRATIVE CODES FROM THE FCHR
[CHAPTER 60Y-9]**

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FLORIDA ADMINISTRATIVE CODES | FCHR | HOUSING DISCRIMINATION

CODES: 60Y-6.001 through 60Y-25.007

AS OF: 2/4/2016

60Y-9.001 | PURPOSE

The purpose of the housing for older persons exemption to the general prohibition against discrimination because of familial status is to protect families with children from discrimination in housing without unfairly limited housing choices for older persons. Chapter 60Y-9, F.A.C., clarifies requirements related to housing for older persons pursuant to Section 760.29(4), F.S.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History–New 8-15-90, Formerly 22T-23.001, Amended 2-5-04.

60Y-9.002 | GENERAL PROVISIONS

(1) Nothing in this chapter limits the applicability of any reasonable federal, state, or local restrictions regarding the maximum number of occupants permitted to occupy a dwelling.

(2) The prohibition against discrimination on the basis of familial status makes it unlawful to assign any person to a particular section of a facility, development, community or neighborhood or to a particular floor of a building because of familial status. Accordingly, no approval is given for a "dual purpose housing facility," i.e., a housing facility where specified units or sections are designated for older persons and other units or sections are open to everyone.

(3) Information relative to the age of an individual may be obtained when necessary for determining a facility's eligibility as housing for older persons.

(4) During any period that any health care worker is actually providing live-in, long-term or hospice health care to a qualified, older person resident for compensation, the occupancy of a housing unit by the health care worker shall not be considered in determining a facility's eligibility as housing for older persons.

(5) Temporary occupancy of a housing unit by a person, as a guest of a qualified, older person resident, shall not be considered in determining a facility's eligibility as housing for older persons.

(6) A housing provider may use any nondiscriminatory method of qualifying for the exemption available to housing for older persons, provided that the method used comports with applicable federal, state and local laws.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.002.

60Y-9.003 | HOUSING PROGRAM EXEMPTION

The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing provided under any federal or state program that the Secretary of Housing and Urban Development and/or the commission determines is specifically designed and operated to assist elderly persons.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History–New 8-15-90, Formerly 22T-23.003.

60Y-9.004 | HOUSING EXEMPTION FOR PERSONS 62 YEARS OF AGE OR OLDER

(1) The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing intended for, and solely occupied by, persons 62 years of age or older.

(2) Housing satisfies the requirements of this section even though:

(a) There are persons residing in such housing on or after October 1, 1989, who are under 62 years of age, provided that all new occupants are persons 62 years of age or over.

(b) There are unoccupied units, provided that such units are reserved for occupancy by persons 62 years of age or over.

(3) Housing satisfies the requirements of this section even though a unit is occupied by employees of the housing provider (and family members residing in the same unit) who are under 62 years of age, provided they perform substantial duties directly related to the management or maintenance of the housing.

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.004.

60Y-9.005 | HOUSING EXEMPTION FOR PERSONS 55 YEARS OF AGE OR OLDER

(1) The provisions in Sections 760.20-.37, F.S., relating to familial status shall not apply to housing intended and operated for occupancy by at least one person 55 years of age or older per unit, provided that the housing complies with 24 C.F.R. part 100 as published in the Federal Register on Friday, April 2, 1999.

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

(a) Housing for which at least 80% of the units in the housing facility are occupied by at least one person 55 years of age or older per unit except that a newly constructed housing facility for first occupancy after October 1, 1989, need not comply with this subsection until 25% of the units in the facility are occupied; and

(b) The owner or manager of the housing facility publishes and adheres to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older. The following factors, among others, are relevant in determining whether the owner or manager of a housing facility has complied with the requirements of this subsection:

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

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

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

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

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

Specific Authority 760.31(5) FS. Law Implemented 760.29(4), 760.31(5) FS. History—New 8-15-90, Formerly 22T-23.005, Amended 2-5-04.

60Y-9.006 | PRECERTIFICATION PROCEDURE

(1) With respect to commission certification that a housing facility meets the foregoing requirements relating to housing for older persons, no designated precertification procedure is available.

(2) The commission, however, is authorized to issue a declaratory statement regarding the applicability of these rules under given circumstances in accordance with Section 120.565, F.S., and Chapter 28-4, F.A.C.

*Specific Authority 120.565, 760.31(5) FS. Law Implemented 120.565, 760.29(4), 760.31(5) FS.
History—New 8-15-90, Formerly 22T-23.006.*

60Y-9.007 | HOUSING FOR OLDER PERSONS REGISTRATION AND DOCUMENTATION

(1) Facilities or communities claiming an exemption under Section 760.29(4), F.S., shall register with the commission and submit the statutorily required documentation to the commission in the manner prescribed by the commission. Information on how to register is located on the commission's website, <http://fchr.state.fl.us>.

(2) The registration and documentation letter shall contain in bold letters on the face of the envelope the words "Registration for Housing for Older Persons," and provide the date of mailing.

(3) The registration and documentation shall be submitted biennially from the date of the original filing.

(4) The information in the commission's registry is a public record. The information shall also be included on the commission's main website, <http://fchr.state.fl.us>.

(5) Failure to comply with the requirements of Section 760.29(4)(e), F.S., shall not disqualify a facility or community that otherwise qualifies for the exemption provided in Section 760.29(4), F.S.

(6) The Commission may impose an administrative fine not to exceed \$500 on a facility or community that knowingly submits false information in the documentation required by this rule. Such fine shall be deposited in the commission's trust fund.

Rulemaking Authority 760.31(5) FS. Law Implemented 760.29(4)(e) FS. History—New 2-11-02, Amended 2-5-04, 2-4-16.

APPENDIX

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