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# Louisiana Housing Finance Agency



## Legal Department

Terri Ricks, General Counsel

February 9, 2011

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## **MEMORANDUM**

**To:** Commissioner Frank H. Thaxton, III, Chairman

Commissioner Neal Miller

Commissioner Guy T. Williams

Commissioner Katie Anderson

Commissioner Adena Boris

Commissioner Tyrone Wilson

**From:** Terri Ricks, General Counsel, Legal Department

**Date:** January 28, 2011

**Re:** Legal Committee

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A regular meeting of the Louisiana Housing Finance Agency Legal Committee will be held on Wednesday, February 9, 2011 at 10:00 a.m., Louisiana Housing Finance Agency, in Committee Room 2 located at 2415 Quail Drive, Baton Rouge, LA, by order of the Chairman.

For the consideration of the Legal Committee, related to agenda item “Discussion and Decision regarding Committees”, I have included relevant provisions from the following: the Open Meetings Law, Louisiana Housing Finance Act, Bylaws of the Louisiana Housing Finance Agency of the State of Louisiana, and Roberts Rules of Order.

If you have any questions or concerns, please contact us.

February 9, 2011

**LEGAL COMMITTEE MEETING**

Notice is hereby given of a regular meeting of the Louisiana Housing Finance Agency Legal Committee that will be held on **Wednesday, February 9, 2011 at 10:00 a.m.**, Louisiana Housing Finance Agency, in **Committee Room 2**, located at 2415 Quail Drive, Baton Rouge, Louisiana, by order of the Chairman.

**FINAL AGENDA**

1. Call to order, roll call and introduction of guests.
2. Approval of the minutes of the July 14, 2010 Legal Committee Meeting.
3. Discussion and Decision regarding Committees.
4. Other Business.
5. Adjournment.

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**Milton J. Bailey, President**

**If you require special services or accommodations, please contact Barry E. Brooks at (225) 763 8773, or via email [bbrooks@lhfa.state.la.us](mailto:bbrooks@lhfa.state.la.us)**

Pursuant to the provisions of LSA-R.S. 42:6.1, upon two-thirds vote of the members present, the Board of Commissioners of the Louisiana Housing Finance Agency may choose to enter executive session, and by this notice, the Agency reserves its right to go into executive session as provided by law.

**Louisiana Housing Finance Agency  
Legal Committee Meeting Minutes  
Wednesday, July 14, 2010  
2415 Quail Drive  
Committee Room 2  
Baton Rouge, LA 70808  
8:30 A.M.**

**Commissioners Present**

Katie Anderson  
Mayson Foster  
Mark Madderra  
Michael L. Airhart

**Commissioners Absent**

Allison A. Jones  
Guy Williams  
Susan Sonnier

**Staff Present**

Alesia Wilkins-Braxton  
Keith Cunningham  
Terri Ricks  
Milton J. Bailey  
Christine Bratkowski  
Melanie Brocato  
Leslie Strahan  
Jessica Guinn

**Visitors Present**

Wendell Clark-Long Law Firm  
Sujyot Patel-Peck Shaffer  
Wayne Neveu-Foley & Judell

- 1. Call to order, roll call and introduction of guests.** Commissioner Mayson Foster called the meeting to order at 8:37 a.m. and asked for roll call. A quorum was established.
- 2. Approval of the minutes.** A motion was made by Commissioner Mayson Foster with a second by Commissioner Michael Airhart to approve the minutes of the January 19, 2010 committee meeting. The minutes were approved.

**3.** A motion was made at 8:39 a.m. by Commissioner Mayson Foster to enter into Executive Session pursuant to LA R.S. 42:6.1 to discuss strategy concerning pending litigation in the following matters. The motion was seconded by Katie Anderson and was voted on unanimously:

- **Mayo Whitton, et al vs. Louisiana Housing Finance Agency, et al, Number C591359 Section 22, 19<sup>th</sup> Judicial District Court Parish of East Baton Rouge, State of Louisiana.**
- **Bridgette Taylor, et al vs. Ronnie Hutson, et al Docket No. 21047 6th Judicial District Court Parish of East Carroll, State of Louisiana.**

The committee returned from Executive Session at 9:03 a.m. with a motion by Commissioner Mayson Foster, second by Commissioner Mark Madderra. A report was given that no action was taken in executive session and that no action need be taken.

- 4. Other Business.** No other business was presented before the Committee.
- 5. Adjournment.** On a Motion to adjourn by Commissioner Mayson Foster, seconded by Katie Anderson by unanimous vote, the committee adjourned at 9:05 a.m.

Provisions from

## **Open Meetings Law**

### **42§12. Public policy for open meetings; liberal construction**

A. It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy. Toward this end, the provisions of this Chapter shall be construed liberally.

B. Further, to advance this policy, all public bodies shall post a copy of this Chapter.

### **§13. Definitions**

A. For the purposes of this Chapter:

(1) "Meeting" means the convening of a quorum of a public body to deliberate or act on a matter over which the public body has supervision, control, jurisdiction, or advisory power. It shall also mean the convening of a quorum of a public body by the public body or by another public official to receive information regarding a matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) "Public body" means village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies enumerated in this paragraph.

(3) "Quorum" means a simple majority of the total membership of a public body.

B. The provisions of this Chapter shall not apply to chance meetings or social gatherings of members of a public body at which there is no vote or other action taken, including formal or informal polling of the members.

### **§14. Meetings of public bodies to be open to the public**

A. Every meeting of any public body shall be open to the public unless closed pursuant to R.S. 42:16, 17, or 18.

B. Each public body shall be prohibited from utilizing any manner of proxy voting procedure, secret balloting, or any other means to circumvent the intent of this Chapter.

C. All votes made by members of a public body shall be *viva voce* and shall be recorded in the minutes, journal, or other official, written proceedings of the body, which shall be a public document.

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Provisions from

**LOUISIANA HOUSING FINANCE ACT**

40§600.5. Officers of the agency; duties; liability

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D. The agency shall adopt bylaws for its own government, provided that such bylaws shall not conflict with any of the provisions of this Chapter or with any other law applicable to public bodies or agencies.

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§600.6. Powers and duties of the agency

A. The agency shall have the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Chapter, including the following powers in addition to all other powers granted by other provisions of this Chapter:

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(3) Adopt bylaws for the internal organization and government of the agency.

Provisions from

**BYLAWS  
OF THE LOUISIANA HOUSING FINANCE AGENCY  
OF THE STATE OF LOUISIANA**

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**ARTICLE V**

**MEETINGS**

Section 1. The regular meetings of the Board shall be held on the second Wednesday of each month, unless otherwise ordered by the Board, at the offices of the Agency.

Section 2. The regular meeting on the second Wednesday in April shall be known as the annual meeting and shall be for the purpose of electing officers and for any other business that may arise.

Section 3. Special meetings of the Board may be called by the Chairman and shall be called upon the written request of at least two members of the Board.

Section 4. A majority of the sitting members of the Board shall constitute a quorum.

Section 5. A majority vote of the members present at a meeting shall constitute the action of the Board.

Section 6. Appointed Commissioners may receive fifty dollars per diem for attendance at meetings of the Board and standing committees thereof and may be reimbursed by the Agency for actual expenses incurred in the performance of their duties as Commissioners. All other Commissioners shall be reimbursed by the agency for actual expenses incurred in the performance of their duties as Commissioners, but shall not receive a per diem allowance.

Section. 7. All meetings of the Board and standing committees thereof shall be subject to the provisions and exceptions of the Open Meeting Law, La. R.S. 42.4.1, et seq.

## **ARTICLE VI**

### **STANDING COMMITTEES**

Section 1. Membership on any committee of the Board is reserved for Commissioners of the Board. Committees are established for the purpose of assisting the Board in the review of matters appropriately before the Board. The Chairman of the Board shall designate the Chairman and a minimum of two other members for each standing committee which designation shall be subject to approval by the Board. The Chairman of the Board shall serve as a non-voting member of each standing committee.

Section 2. The Single Family Committee. It shall be the duty of this Committee to have primary oversight of the Agency's Single Family Mortgage Revenue Bond Programs. Receive and recommend to the full board financing structures to create cost effective Single Family Mortgage Revenue Bond Programs. Assists staff with evaluating proposals when selecting the Agency's Financing Team. Focuses on the need to maintain a continuous menu of programs that participating lenders originate on behalf of LHFA. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 3. The Multifamily Committee. It shall be the duty of this Committee to have primary oversight over applications to the Agency for multifamily residential housing developments financed through the issuance of bonds. Oversees the allocation process of the Low Income Housing Tax Credit Program pursuant to Section 42 of the Internal Revenue Code. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 4. The Special Programs Committee. It shall be the duty of this Committee to have primary oversight of the HOME Program, Risk Sharing Program, Performance Based Contract Administration Program, and other housing programs that are administered by the Agency, as developed. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 5. The Finance Committee. It shall be the duty of this Committee to receive and review the draft annual budget, and evaluate the budget and make recommendations to the Full Board for adoption of the annual budget. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 6. The Energy Committee. It shall be the duty of this Committee to have primary oversight of the Energy Assistance Programs, namely, The Low Income Home Energy Assistance Program (LIHEAP) and the Weatherization Assistance Program (WAP). The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 7. The Audit Committee. It shall be the duty of this Committee to assist the board in fulfilling its oversight responsibilities by reviewing the financial information, provided to the shareholders and others, and the systems of internal controls which the management and the board have established, and the audit process, and provide an open avenue of communication between the board, management, internal audit and the independent auditors. The Internal Audit Supervisor reports directly to the Chair of this committee. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 8. The Legal Committee. It shall be the duty of this Committee to evaluate and review all legal matters involving LHFA and make recommendations to the full board, for any changes to the by-laws. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 9. The Human Resources Committee. It shall be the duty of this Committee to evaluate and make recommendations to the full board regarding the President's staffing plan and work closely with all committees which have oversight over LHFA programs and departments to assist in establishing requirements to accomplish outlined goals. The Committee shall report to the Board at regular meetings, as necessary, or as directed by the Board.

Section 10. Such other committees appointed by the Board as, from time to time, shall be deemed necessary to carry on the work of the Board and/or the Agency.

## **ARTICLE VII**

### **PARLIAMENTARY AUTHORITY**

The rules contained in the most current edition of *Robert's Rules of Order Newly Revised* shall govern the Board in all cases to which they are applicable and in which they are not inconsistent with these bylaws and any special rules of order the Board may adopt.

## **ARTICLE VIII**

### **AMENDMENT OF BYLAWS**

These bylaws may be amended at any regular meeting of the Board by a two-thirds vote, provided that the amendment has been submitted in writing to the Board at the previous regular meeting.

Provisions from

## **Roberts Rules of Order**

### **QUORUM IN BOARDS AND COMMITTEES.**

In a committee of the whole or its variations (52), the quorum is the same as in the assembly unless the rules of the assembly or the organization (that is, either its bylaws or its rules of order) specify otherwise. In all other committees and in boards, the quorum is a majority of the members of the board or committee unless a different quorum is fixed: (a) by the bylaws, in the case of a board or standing committee that the bylaws specifically establish; or (b) by a rule of the parent body or organization or by the motion establishing the particular committee, in the case of a committee that is not expressly established by the bylaws. A board or committee does not have the power to determine its quorum unless the bylaws so provide.

### **PROCEEDINGS IN THE ABSENCE OF A QUORUM.**

In the absence of a quorum, any business transacted (except for the procedural actions noted in the next paragraph) is null and void. But if a quorum fails to appear at a regular or properly called meeting, the inability to transact business does not detract from the fact that the society's rules requiring the meeting to be held were complied with and the meeting was convened—even though it had to adjourn immediately.

The only action that can legally be taken in the absence of a quorum is to fix the time to which to adjourn (22), adjourn (21), recess (20), or take measures to obtain a quorum. The first three of these motions are governed by the Standard Descriptive Characteristics given for them in the numbered sections indicated. A motion that absent members be contacted during a recess would represent a measure in the last category. Motions to obtain a quorum are treated as privileged motions that take precedence over a motion to *Recess* (20). Such motions are out of order when another has the floor; must be seconded; are not debatable; are amendable (any amendment being undebatable in accordance with the general rule); require a majority vote; and can be reconsidered. Motions to obtain a quorum are similar to a *Call of the House*, which can be ordered in assemblies having the power to compel attendance (see below).

The prohibition against transacting business in the absence of a quorum cannot be waived even by unanimous consent, and a notice (pp. 116-18) cannot be validly given. If there is important business that should not be delayed, the meeting should fix the time for an adjourned meeting and then adjourn. Where an important opportunity would be lost unless acted upon

immediately, the members present can, at their own risk, act in the emergency with the hope that their action will be ratified by a later meeting at which a quorum is present. If a committee of the whole finds itself without a quorum, it can do nothing but rise and report to the assembly, which can then proceed as already described in this paragraph. A quasi committee of the whole or a meeting in informal consideration of a question can itself take any of the four actions permitted an assembly in the absence of a quorum, but a quasi committee of the whole is thereby ended (see 52).

## **Conduct of Business in Committees**

Committee procedure. When a committee has been appointed, its chairman (or first-named member temporarily action—see p. 168) should call it together. If its chairman fails to call a meeting, the committee must meet on the call of any two of its members, unless (for very large committees) the assembly's rules prescribe, or empower the assembly or the committee to require, a larger number. The quorum in a committee is a majority of its membership unless the assembly has prescribed a different quorum (40). All of the meetings of a special committee constitute one session (8).

The bylaws may authorize a board or committee (or even a relatively small assembly) to meet by videoconference or teleconference. If they do, then such a meeting must be conducted by a technology that allows all persons participating to hear each other at the same time (and, if a videoconference, to see each other as well). The opportunity for simultaneous communication is central to the deliberative character of the meeting, and is what distinguishes it from attempts to do business by postal or electronic mail or by fax (see p. 2). It is advisable to adopt special rules of order and standing rules, as appropriate, to specify precisely how recognition is to be sought and the floor obtained during video-conferences and teleconferences.

In small committees the chairman usually acts as secretary, but in large ones and many standing committees, a secretary may be chosen to keep a brief memorandum in the nature of minutes for the use of the committee.

In a standing or special committee—unless it is so large that it can function best in the manner of a full-scale assembly—the same informalities and modifications of the regular rules of parliamentary procedure generally prevail as are listed for small boards on pages 470-71; also, the rules governing the motion to *Reconsider* are modified as stated on pages 318-19. In committees, the chairman not only has the right to make and debate motions, but he is usually the most active participant in the discussions and work of the committee. In order that there may be no interference with the assembly's having the benefit of the committee's matured judgment, motions to close or limit debate (15, 16) are not allowed in committees.

Committees of organized societies operate under any applicable rules stated in the bylaws, the special rules of order, the parliamentary authority, and standing rules adopted by the society. Committees may not adopt their own rules except as authorized in the bylaws or in instructions given to the committee by the society (see p. 469 for the same rule as applicable to boards).

When a committee is to make substantive recommendations or decisions on an important matter, it should give members of the society an opportunity to appear before it and present their views on the subject at a time scheduled by the committee. Such a meeting is usually called a *hearing*. During actual deliberations of the committee, only committee members have the right to be present.