

**MARKET STUDY GUIDELINES
FOR
ARKANSAS DEVELOPMENT FINANCE AUTHORITY
AFFORDABLE RENTAL HOUSING PROGRAMS**

These Market Study Guidelines ("Guidelines") apply to all applicants seeking Housing Tax Credits under Arkansas' Low-Income Housing Tax Credit Program (LIHTC), tax-exempt bond financing under Arkansas' Volume Cap for Private Activity Bonds Program, funding from the HOME Investment Partnership Program, or any of the Arkansas Development Finance Authority's (the "Authority") affordable housing programs. By requiring specific information in all market studies, the Authority will be able to assess the affordable housing need in competing communities through a comparison of similar characteristics. By requiring that all market studies be prepared in accordance with a specific outline, the Authority will be able to perform a more comprehensive and expeditious review.

The objective of the market study is to demonstrate the existence of sufficient need for the proposed affordable rental development in the Market Area. The Authority also wants to ensure the proposed development will not cause an adverse affect on other viable affordable rental developments in the Market Area. The market study must be conducted at the applicant's expense by a disinterested third party approved to perform market studies by the Authority. A complete list of market study firms approved to perform market studies by the Authority can be found on the Authority's website at: <http://www.arkansas.gov/adfa/LIHTC/Market%20Analysts%20Approved%20List07.pdf>. **Market studies performed by a firm that is not on the Authority's approved list will not be accepted.** All market studies must include a letter, signed by the market analyst, certifying to the following:

1. Name, address, telephone number and e-mail address of person authorizing the market study;
2. Name, address, telephone number and e-mail address of person who prepared and certified the market study;
3. Development type, *i.e.*, acquisition/rehabilitation and/or new construction;
4. Date of the market study (the market study must be dated within six (6) months prior to the APPLICATION DEADLINE);
5. A statement that there exists no identity of interest between the analyst and the applicant or its principals;
6. A statement that recommendations and conclusions are based solely on the professional opinion and best efforts of the analyst.

The market study must be organized in a format that follows these Guidelines and provides an index or table of contents indicating the page within the market study where each of the following minimum requirements can be found within the study. In addition, the market study must reference by footnote the national proprietary data provider, *e.g.*, *ESRI*, *Claritas*, *etc.*, that has supplied the data or projection referenced in the market study. A copy of the page(s) from the source data provider must be included in an Appendix to the market study. The footnote must include the Appendix number to the source document page. Any additional relevant data, such as primary source data from surveys or focus groups, must be identified by footnote with the source documentation included in the Appendix to the market study.

The market study must address all of the items listed below and must demonstrate sufficient need in the Market Area to support the proposed housing. Market studies not meeting these Guidelines will not be accepted. Market analysts that do not comply with these Guidelines are subject to removal from the Authority's approved list. These Guidelines establish the minimum requirements of the Authority. Market analysts are expected to include any additional information they consider relevant and necessary to the analysis.

I. Table of Contents

- A. Each section of the market study must be identified with the corresponding page number.
- B. Any exhibit or chart within the market study must be numbered for easy reference.

II. Photographs

All photographs should be labeled and placed in the section of the market study where referenced.

- A. Good, quality color photographs of the subject property must be included. The photographs must be properly labeled and include north, south, east and west orientations of the property with views of the neighborhood, surrounding neighborhoods, and street scenes.
- B. Rehabilitation properties must include photographs of each side of each building and on-site, community amenities.
- C. Photographs of all comparable developments in the Market Area are required. See, "*Comparable Developments*" below.
- D. A map clearly identifying the location of the development is required. The map should also identify the following:
 - i. Existing and proposed comparable developments in the Market Area. The map should distinguish between LIHTC developments, USDA Rural Development developments, HUD developments, and conventionally financed developments; and
 - ii. Existing grocery stores, medical and/or pharmaceutical facilities, schools, public transportation and other service facilities in the Market Area. The map should identify each service facility and its nearest **driving** distance from the proposed development's location. See, "*Delineation of Market Area*" below.

III. Executive Summary and Conclusions – the following must be included:

- A. A concise description of the site and adjacent parcels, particularly neighborhood housing. The description must include the development's name, street address (if available), city, county, zip code and census tract number. Street by street directions to the development location must be provided beginning from the Arkansas State Highway or Interstate Highway closest to the development location.
- B. A statement of assumptions and limited conditions considered by the analyst.
- C. A brief summary of the development, including the type of construction (new and/or rehabilitation), number of buildings, number and type of units, proposed gross rents and population served.
- D. A brief description of the Market Area.
- E. A precise statement of the analyst's opinion of market feasibility including the prospect for long-term performance of the development given housing, demographic trends and economic factors. The statement must include a capture rate of the need for each unit type, based on the targeted income group determined by the gross rent for such unit, in the expected year of market entry.
- F. A summary of market related strengths and/or weakness which may influence the subject development's marketability, including but not limited to: compatibility with surrounding uses; the appropriateness of the subject development's location; service facilities; on-site amenities; off-site amenities and their driving distance from the development; units sizes and configurations; and number of units.
- G. A summary of all comparable developments which distinguishes existing and planned affordable housing developments by type and includes driving distance from the subject development, population served, number of units by bedroom size, gross rent by unit size, service and on-site amenities.

- H. A precise statement of key conclusions reached by the analyst, supported by the data contained in the market study. These conclusions must include:
- i. A summary of positive and negative attributes and issues that will affect the property's performance and lease-up, the analyst's observations that would mitigate or reduce any negative attributes, and any recommendations and/or suggested modifications to the proposed development;
 - ii. An evaluation of the proposed development, given the target population and market conditions. This evaluation should include market justification for the proposed development, including the proposed rents by unit and population type, estimated absorption rate, and should further evaluate the proposed unit, development, and on-site amenities given the market.
 - iii. An objective review of past, present, and future demographic and economic trends in the defined Market Area and include an estimate of how the proposed development will be integrated into the Market Area based on existing and proposed comparable rental developments.

IV. Development Description – the following must be included:

- A. A detailed description of the development location including closest streets, number of acres, site configuration, contiguous land use and zoning.
- B. Total proposed development units and total tax credit units by: number of bedrooms, gross rent assigned by the applicant, income limit as a percent of the area median income as selected by the applicant, unit size in square feet, and utility allowances for tenant paid utilities.
- C. Description of the development's target population and occupancy type (family; senior by type, *e.g.*, 55+, 62, USDA Rural Development ("RD"), or U.S. Department of Housing and Urban Development ("HUD"); assisted living; other supportive housing; etc.).
- D. Projected date for development completion and start of lease-up.
- E. Tenant paid utility schedule and source of that schedule.
- F. Description of: the number of buildings, design (walk-up, elevator, single-family detached, etc.), and number of stories, unit and common amenities, and number of parking spaces.
- G. For rehabilitation proposals, current occupancy levels, current rents, identification of any existing assisted housing program.

V. Delineation of Market Area – the following must be included:

- A. An identification of the geographic Market Area by census tracts, jurisdictions, street names, or other geography forming the boundaries from which potential renters will be drawn (include a map which clearly delineates the Market Area). The analyst must provide a reasonable rationale for the Market Area taking into account political and natural boundaries, experience of comparable rental housing developments in the Market Area, and socioeconomic characteristics.
- B. A driving distance map of the suggested Market Area that identifies:
 - i. the proposed development;
 - ii. all comparable rental properties;
 - iii. closest medical/pharmaceutical facility;
 - iv. closest full-service grocery store (do not include convenience stores);
 - v. schools; and
 - vi. public transportation.
- C. Description of current site characteristics, including:
 - i. topography, *e.g.*, grade, low-lying area, flood plain, or wetlands;
 - ii. proximity in feet to nuisances, *e.g.*, railroad tracks, major highways/interstates, manufacturing/production plants; and
 - iii. environmental issues.

VI. Market Area Economy - except independent senior, assisted living, and supportive housing for disabled persons' developments, the following information regarding the Market Area must be included:

- A. Employment by industry type, *i.e.*, manufacturing, service, finance, or government.
- B. Major current employers and any anticipated expansion, reduction or closure. The analyst must provide workforce numbers and anticipated incomes as relevant to the development's targeted income group(s);
- C. New major employers known, as evidenced by proper documentation, to be locating in the Market Area prior to the expected year of market entry for such development. The analyst must provide workforce numbers and anticipated incomes as relevant to the development's targeted income group(s);
- D. Employment growth for each of the seven (7) years prior to the expected year of market entry for such development;
- E. Unemployment rate for each of the seven (7) years prior to the expected year of market entry for such development.

VII. Demographic Data

All proposals shall provide the following demographic information for the Market Area. The information must be provided for: 1) Most recent census year (use as baseline data); 2) the fifth (5th) year following the baseline year; 3) the calendar year of the application; and 4) the expected calendar year of market entry for such development. The market study must reference by footnote and appendix the national proprietary data provider that has supplied the demographic data and projections used by the market analyst. A copy of the page(s) from the source data provider must be included in the appendix to the market study.

- A. Population Trends
 - i. Total population;
 - ii. Population by age group; and
 - iii. Number of senior and non-senior (senior developments only)
 - iv. Other special needs population by age group
- B. Household Trends
 - i. Total number of households;
 - ii. Households by tenure; that is, the number of owner and renter households;
 - iii. For senior developments, separately designate senior households by tenure and senior type, *i.e.*, 55+ years, 62 years, RD, HUD;
 - iv. For assisted living developments, separately designate households by tenure and type;
 - v. Other special needs households, *e.g.*, *disabled*, separately designate households by tenure and type
 - vi. Average household size by tenure
- C. Income Trends
 - i. Estimate of household incomes in \$10,000 increments by household size and tenure;
 - ii. For senior developments, separately designate senior household incomes by tenure and senior type, *i.e.*, 55+ years, 62 years, RD, or HUD;
 - iii. For assisted living developments, separately designate household incomes by tenure and type; and
 - iv. Other special needs households, *e.g.*, *disabled*, separately designate household incomes by tenure and type.

Independent Senior Housing proposals. The data for independent senior housing must be based upon the type of senior housing proposed, *i.e.*, 55+ years, 62 years, RD, or HUD.

Assisted Living Housing proposals. The data must be based upon households, a member of which meets the medical criteria set forth in Section 26205II. of the Medical Services Policy Manual for the Arkansas Department of Human Services.¹ Households, a member of which is at least 75 years old, will be assumed to have a member that meets the medical criteria set forth in Section 26205II. of Medical Services Policy Manual for the Arkansas Department of Human Services.

Supportive Housing for Disabled Persons proposals. The data must be based upon those households, a member of which is disabled as defined by HUD, that are intended to be served by the development. The market analyst must identify the disabled population the development intends to serve directly taking into account and identifying the design and construction of the development and the supportive services to be offered by the development which meet the needs of the disabled population to be served.

VIII. Need Analysis

In preparing its analysis of the need for the proposed development in the Market Area, it is the responsibility of the market analyst to be aware of the applicable income and gross rent restrictions and requirements of the applicable affordable housing assistance program (*e.g. LIHTC, HOME, Tax-exempt bond*). Need must be calculated using an income range based upon: 1) the minimum annual income of eligible households (the amount of income a household must make in order for no more than 30% of its annual income to be utilized for payment of the annual proposed gross rent set for the unit size (*e.g. 0-bedroom; 1-bedroom; 2-bedrooms, etc.*) and type (*e.g., LIHTC, HIGH-HOME, LOW-HOME, Tax-exempt bond, Market Rate*)); and (2) the maximum annual income a household can make for the unit size and type and still be income-eligible under the applicable program restrictions and restrictions as represented in applicant's application to ADF, i.e., 30% or 50% of area median income restricted units per the application's representations.

The percentage of annual household income that can be used to determine the minimum annual household income amount, based upon the gross rent set for the unit,² is **thirty percent (30%)**.^{3, 4} The maximum annual household income amount that can be taken into account for the restricted units in the development is the maximum annual household income allowed for the targeted income group, *e.g., 30%, 50% or 60% of the area median income*, for the unit type (*e.g., LIHTC, HIGH-HOME, LOW-HOME, Tax-exempt bond, Market Rate*) based upon two (2) persons per bedroom.⁵ However, the maximum annual household income for efficiency units with "0" bedrooms must be based upon a one (1) person household.

A separate need analysis must be performed for each group of units in the development of the same:

A. Type (*e.g., LIHTC, HIGH-HOME, LOW-HOME, Market Rate*);

¹ The following links to Section 26205II. of the Medical Services Policy Manual for the Arkansas Department of Human Services: <http://www.arkansas.gov/dhs/webpolicy/Medical%20Services/MS%2026000.htm#MS%2026205>

² The gross rent for the affordable units in the development is that amount restricted for the unit type by law, *e.g., (e.g., LIHTC, HIGH-HOME, LOW-HOME, Tax-exempt, Market Rate)*.

³ This percentage is based upon Section 42(g)(2)(A) of the Internal Revenue Code and HUD's statement that: "The generally accepted definition of affordability is for a household to pay no more than 30 percent of its annual income on housing. Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation, and medical care." The percentage must be applied for both affordable and market rate units.

⁴ If the development will have a rental assistance contract, the minimum annual household income amount is \$0.00 for those units receiving the rental assistance. The market analyst must describe the terms of the rental assistance contract **and identify which units will receive the rental assistance contract**.

⁵ Arkansas Code Annotated § 16-123-307(c)(3) provides: "An occupancy limitation of two (2) persons per bedroom residing in a dwelling unit shall be presumed reasonable in this state or any political subdivision of this state."

- B. Gross rent;
- C. Targeted income group (*e.g.*, 30%, 50% or 60% of the area median income); and
- D. Bedroom size.

Income eligible households cannot be double counted, meaning, an income eligible household cannot be taken into account in the need analysis of more than one of the group of units in the development. The market analyst must distribute income eligible households, which overlap into more than one group of units, by: 1) pro-rating among those groups, or 2) among those groups on a reasonable basis as identified and explained by the market analyst.

All rents utilized by the market analyst and on which the market study is premised, must equal the amount of assumed rents for each unit type (or, for each unit, if assumed rents vary within a unit type) set forth in the application for housing tax credits.

Each need analysis must be based upon the following components:

- A. Family Developments – the sum of:
 - i. Income eligible renter households projected to move into the market area the calendar year of market entry for such development;⁶ and
 - ii. Existing income eligible renter households, as of the calendar year of market entry for such development, that have any one of the following housing problems:
 - a) Rent over-burdened, meaning the household is paying more than 30% of its annual income to gross rent; or
 - b) Overcrowded, meaning the household has 1.01 or more persons per room living in the unit; or
 - c) Living in sub-standard housing unit, meaning unit does not have complete kitchen or plumbing facilities.
- B. Independent Senior Developments – the sum of:
 - i. Income eligible renter households projected to move into the market area the calendar year of market entry for such development;
 - ii. Existing income eligible renter households, as of the calendar year of market entry for such development, that have any one of the following housing problems:
 - a) Rent over-burdened, meaning the household is paying more than 30% of its annual income to gross rent; or
 - b) Overcrowded, meaning the household has 1.01 or more persons per room living in the household; or
 - c) Living in sub-standard housing units, meaning unit does not complete kitchen or plumbing facilities; and
 - iii. Income eligible senior homeowners likely to convert to renters. This category may only be included if the market analyst has surveyed all existing affordable senior renter developments in the market area and determined that percentage of current households in those developments whose tenants were homeowners immediately prior to leasing in the senior development at which they currently live.
- C. Assisted Living Developments – the sum of:
 - i. Income eligible households, a member of which meets the medical criteria set forth in Section 26205II. of the Medical Services Policy Manual for the Arkansas Department of Human Services, that are projected to move into the market area the calendar year of market entry for such development;

⁶ The market analyst cannot include households under categories identified as "leakage" or "spill-over" for areas outside the Market Area. Categories of this type should be included in the households projected to move into the Market Area.

- ii. Income eligible households, a member of which is at least 75 years old, that are projected to move into the market area the calendar year of market entry for such development;
 - iii. Existing income eligible households, not living in an existing assisted living facility, a member of which meets the medical criteria set forth in Section 26205II. of Medical Services Policy Manual for the Arkansas Department of Human Services;
 - iv. Existing income eligible households, not living in an existing assisted living facility, a member of which is at least 75 years old; and
 - v. Existing income eligible households, living in an existing assisted living facility, but are rent over-burdened, meaning the household is paying more than 30% of its annual income to gross rent.
- D. Supportive Housing for Disabled Persons Developments – the sum of:
- i. Income eligible households, a member of which is disabled and need housing and supportive services to be provided by the development, that are projected to move into the market area the calendar year of market entry for such development;
 - ii. Existing income eligible households, a member of which is disabled but not living in a supportive housing development; and
 - iii. Existing income eligible households a member of which is disabled and living in a supportive housing development but are rent over-burdened, meaning the household is paying more than 30% of its annual income to gross rent.
- E. All market studies shall utilize December 31 of the year that is two (2) years from the anticipated year of allocation as the market entry date of the development, i.e., December 31, 2013 shall be the assumed market entry date for all proposed developments applying for credits in 2011. An alternate market entry date(s) may be included in the study, but December 31 of the second year must be included in the market study.

Capture Rate. Each needs analysis must calculate the Capture Rate of its group of units from the "net" number of households in the Market Area that are income eligible and in need of the housing proposed. The Capture rate is determined by dividing the number of units in the proposed group of units by the "net" number of households in the Market Area in need of the housing proposed. The "net" number of households is determined by subtracting: 1) existing, vacant comparable units in the Market Area, 2) proposed comparable units in the Market Area that have not yet been placed in service, and 3) in the case of rehabilitation developments, current households that will not be eligible to remain in the development; from the number of households determined to need the proposed housing in the Market Area. "Comparable units" are those units with comparable gross rents, bedroom size and purpose (*e.g. family, senior, assisted living, supportive housing*) as those proposed in the development. If the market analyst excludes any comparable, vacant unit from the "net" number of households, the market analyst must give a detailed, but concise, explanation for the exclusion.

Format. A format similar to the following should be used to summarize the results of each needs analysis:

Summary of need for 3-1br at 30% income level:	
▪ Total income eligible households (p. 61 of market study):	76
▪ 29.8% of households are renters (p. 23 of market study):	23
▪ 49.1% are rent overburdened households (p. 67 of market study):	12
Net number of income eligible households:	12
Capture rate (3/12):	25%
Summary of need for 5-2br at 50% income level (LOW-HOME):	
▪ Total income eligible households (p. 61 of market study):	618
▪ 29.8% of households are renters (p. 23 of market study):	185
▪ 49.1% are rent overburdened households (p. 67 of market study):	91

Less vacant comparable units (Fayetteville; Springdale, Arkansas)	-2
Net number of income eligible households:	89
Capture rate (13/89):	14.61%
Summary of need and demand for 7-3br at 60% income level (HIGH-HOME):	
▪ Total income eligible households (p. 61 of market study):	152
▪ 29.8% of households are renters (p. 23 of market study):	46
▪ 49.1% are rent overburdened households (p. 67 of market study):	23
Net number of income eligible households:	23
Capture rate (7/23):	30.43%
Summary of need and demand for 12-3br at 60% income level:	
▪ Total income eligible households (p. 61 of market study):	307
▪ 29.8% of households are renters (p. 23 of market study):	92
▪ 49.1% are rent overburdened households (p. 67 of market study):	46
Income eligible households projected to move in year of market entry:	3
Net number of income eligible households:	49
Capture rate (12/49):	24.49%

IX. Absorption Period:

The market study should define and justify the Absorption Period for the development. The Absorption Period is considered to start as soon as the first units are released for occupancy. The analysis must provide an estimate of the time required to reach 95% occupancy. The absorption period determination should consider, but is not limited to, such factors as the overall estimate of new household growth, the available supply of comparable units, observed trends in the absorption of comparable units, and the availability of rent subsidies.

X. Comparable Units and Developments

The market study must identify all comparable units and developments in the Primary Market Area. The following information must be included for each comparable development. There is no minimum or maximum number of comparable developments as all such developments must be included. Do not omit any comparable development or information for a comparable development because of lack of information. Information that is not available must be noted with a "N/A" with an explanation as to why the information was not obtainable. Market analysts must make all reasonable efforts to obtain information from developments within the Market Area. ADFA shall not consider market studies to comply with the Market Study Guidelines if an unreasonable number of such developments are designated "N/A."

- Color photograph(s) of Comparable Development
- Development Name
- Development Address
- Development Telephone Number
- Distance from Subject
- Current Occupancy Rate
- Purpose (*e.g., family, senior, assisted living, supportive housing*)
- Chart/Table outlining: unit type (*e.g., LIHTC, HIGH-HOME, LOW-HOME, Market Rate*); number of units per unit type; number of bedrooms and bathrooms per unit type; square footage for each unit type; rent for each unit type; vacancies per unit type and current vacancy rate per unit type. Totals for each column must be included.
- Amenities (unit and common)
- Appliances
- Unit Features
- Security Features
- Utility Type
- Waiting List (by unit type)
- Development Type (*LIHTC, HOME, MARKET RATE*)

All units within the Primary Market Area that charge rents comparable to the proposed developments that is the basis of the market study shall be included in the analysis of comparable

units, regardless of type of financing. Units with comparable rents, with the Primary Market Area, shall not be excluded because such units differ from the proposed units in bedroom size by one bedroom, i.e., two-bedroom units in the Primary Market Area, if comparable rents, must be included as a comparable unit to one-bedroom units.

Senior developments shall be included as comparable developments, if otherwise comparable under these guidelines or in the professional determination of the market analyst, when determining market need for family developments.

EXCEPTION TO COMPARABLE RENTS: Family developments shall be excluded from comparable developments for purposes of determining market need for senior developments, unless determined comparable in the professional judgment of the market analyst.

XI. Appendix

The national proprietary data provider for any data entry in the market study must be referenced by footnote with a copy of the source document page included in the Appendix. The footnote should identify the Appendix number of the source document page. All surveys and other data relied on by the market analyst must be included in the Appendix. The Appendix must be separated from the rest of the market study by a tabbed, page divider.

XII. Disclaimer

The Authority reserves the right, in its sole and absolute discretion, to evaluate the need for the affordable housing proposed to be developed in the Market Area. The Authority is not bound by any recommendation or conclusion of the market analyst and may substitute its own analysis and conclusions for those submitted by the market analysis.

However, the approval of any application for housing tax credits or other ADFA-administered resource is not a determination or representation by ADFA, and cannot and should not be relied upon by any person(s) or entity or entities other than ADFA, that a market need currently exists or will exist in the future that is sufficient to ensure the financial stability of the proposed development.

XIII. Compliance

Failure of the market analyst to comply with any guidelines set forth herein may result in rejection of the proposed development's application from consideration for an award of federal low-income housing tax credits and all other ADFA resources requested.

Continued non-compliance, the determination of which is within ADFA's discretion, may result in suspension or permanent removal of the market analyst and all firms with which the market analyst is affiliated from ADFA's approved market study provider list.

XIV. Market Study Analyst – ADFA Approved List

All market studies submitted as part of an application for housing tax credits must be performed by a market study analyst included on ADFA's Market Study Analyst approved list.

Market study analysts that seek addition to ADFA's approved market study analyst list must submit to the Multi-Family Housing department a copy of (1) a market study prepared by the analyst within the past six (6) months of a proposed development in which rents are restricted by the low-income housing tax credit program, (2) a copy of the market study analyst's resume or curriculum vitae, (3) a copy of the resume or curriculum vitae of the market analyst's firm, if any, and (4) if such market study was not prepared in accordance with ADFA's Market Study Guidelines, a statement signed by the market analyst that the market analyst has reviewed and understands ADFA's Market Study Guidelines and will comply with all such guidelines in the preparation of all market studies submitted by market analyst to ADFA.

Approval by ADFA to be added to the Market Study Analyst approved list represents only a determination by ADFA that the submitted materials evidence the capability of the market study analyst to perform market studies and that the market study analyst has reviewed these Market Study Guidelines and agrees to prepare all market studies that are to be submitted as part of an application for housing tax credits in accordance with these Market Study Guidelines.

Approval by ADFA is not a determination or representation by ADFA that market studies performed by a market analyst on the ADFA-approval Market Study Analyst list will be accepted by ADFA. Market studies not in compliance with ADFA's Market Study Guidelines are subject to rejection and accordingly cause the application to be rejected from further consideration for an award of housing tax credits.

ADFA reserves the right to amend these Market Study Guidelines as necessary to prudently administer ADFA-administered funds or to comply with state or federal law. ADFA reserves the right to adopt rules ancillary to these Market Study Guidelines as necessary to prudently administer ADFA-administered funds. ADFA reserves the right to make any and all necessary technical changes to these Market Study Guidelines as circumstances may warrant. ADFA reserves the right to do or require all things necessary or convenient to carry out its purposes, pursuant to Ark. Code Ann. Section 15-5-207(b)(20)(A) and Ark. Code Ann. Section 15-5-207(b)(26).