

Section II
Proposed Rules

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.0404
 RULE TITLE: Zero Tolerance for School Related Violent Crime

PURPOSE AND EFFECT: Section 1006.13, Florida Statutes, requires district school boards to adopt policies that address zero-tolerance for violet crime and victimization. The statute further outlines the specific criteria to be addressed by each school district relating to the development of these policies. As the State Board is not provided rulemaking authority but rather the responsibility is placed on each school district, the rule is recommended for repeal.

SUMMARY: The rule is to be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1001.02 FS.

LAW IMPLEMENTED: 1001.02 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe Davis, Bureau Chief, Family and Community Outreach, Department of Education, 325 West Gaines Street, Room 544, Tallahassee, Florida; (850)245-0847 or joseph.davis@fldoe.org

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.0404 Zero Tolerance for School Related Violent Crime.

Rulemaking Specific Authority 229.053(1), 229.592(5) FS. Law Implemented 229.591(3), 229.592, 230.23(6)(c), (d), 230.335, 231.06, 232.26 FS., Sections 126 and 136 through 143 of Chapter 94-209, Laws of Florida. History--New 1-2-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools.

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-1.0955
 RULE TITLE: Education Records

PURPOSE AND EFFECT: The 2009 Legislature revised Florida's student records law in order to ensure that it aligns with federal requirements. Section 1002.22, F.S., now directs the Department of Education to review the provisions of the Family Education Rights and Privacy Act (FERPA) to ensure that it complies with certain protections and notices and adopt rules to administer Florida's student records laws provisions. The revised rule reflects recent revisions to Section 1002.22, F.S., and 34 C.F.R. 99.1, et seq. and the creation of Section 1002.221, F.S., in order to ensure that Florida's student records law is complaint with FERPA. The revisions update statutory references, delete obsolete references and provisions, amend definitions, revise record keeping and notice requirements, and make other revisions necessary to ensure compliance with FERPA and establish the obligations of public schools and agencies when managing these records. The result will be a rule that reflects the current requirements of FERPA and provides public schools with a framework for complying with student records requirements.

SUMMARY: This rule amendment will further ensure continued compliance with state and federal laws on student record maintenance, access, and privacy.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1001.02(1), 1002.22(3), 1003.25 FS.

LAW IMPLEMENTED: 1001.42(13), 1001.52(2), (3), 1002.22, 1002.221, 1003.25, 1008.386, 1008.39, 1008.405 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Florida Capitol, 400 S. Monroe Street, Room LL03, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Margaret O'Sullivan Parker, Office of the General Counsel, 325 West Gaines Street, Suite 1244, Tallahassee, FL 32399, (850)245-0443

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-1.0955 follows. See Florida Administrative Code for present text.)

6A-1.0955 Education Records of ~~Pupils and Adult Students~~.

(1) Purposes. This rule applies to education records maintained to facilitate the instruction, guidance, and educational progress of pupils and adult students in programs operated under the authority and direction of a district school board or other agency or institution as defined in Section 1002.22(1), F.S. This rule is intended to further the intent of Section 1002.22(2), F.S., that the rights of students and their parents with respect to education records created, maintained, or used by public educational institutions and agencies shall be protected in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g, the implementing regulations issued pursuant thereto, and Sections 1002.22 and 1002.221, F.S. For the purpose of this rule, the term "education records" refers to those records that are included in the definition of "education records" found in 34 CFR § 99.3.

(2) Information contained in education records shall be classified as follows:

(a) Category A: Information for each student which shall be kept current while the student is enrolled and retained permanently in the manner prescribed by Section 1001.52(2), F.S.

(b) Category B: Information which is subject to periodic review and elimination when the information is no longer useful in the manner prescribed by Section 1001.52(3), F.S.

(3) Content of Category A records. The following information shall be maintained for each student:

(a) Student's full legal name.

(b) Authenticated birthdate, place of birth, race, ethnicity and sex.

(c) Last known address of the student.

(d) Names of the student's parent(s) or guardian(s).

(e) Name and location of last school attended.

(f) Number of days present and absent, date enrolled and date withdrawn.

(g) Courses taken and record of achievement, such as grades, units, or certification of competence.

(h) Date of graduation or date of program completion, and

(i) Records of requests for access to and disclosure of personally identifiable information from the education records of the student as required by FERPA.

(4) Content of Category B records. These records may include but are not limited to the following:

(a) Health information and health care plans.

(b) Family background data.

(c) Standardized test scores.

(d) Educational and career plans.

(e) Honors and activities.

(f) Work experience reports.

(g) Teacher comments.

(h) Reports of student services or exceptional student staffing committees including all information required by Section 1001.42(13), F.S..

(i) Correspondence from community agencies or private professionals.

(j) Driver education certificate.

(k) List of schools attended.

(l) Written agreements of corrections, deletions or expunctions as a result of meetings or hearings to amend educational records, and

(m) Records designated for retention by the Florida Department of State in General Records Schedule GS7 for *Public Schools Pre-K – 12, Adult and Vocational/Technical.*

(5) School districts shall maintain sufficient information, to include social security numbers for adult students enrolled in a postsecondary program so that they can be located after they have either withdrawn or completed a program of study.

(6) Each school board shall adopt a policy for educational records which shall include:

(a) Provisions for an annual written notice and other notices necessary to inform the adult students or the parent or guardian of students of their rights as defined in Section 1002.22(2), F.S., and FERPA. The district shall develop methods of notice for informing the parent or guardian of students, or adult students unable to comprehend a written notice in English.

(b) Provisions for permitting the adult student or the parent or guardian of the student who is or has been in attendance in the school district to inspect and review the education records of the student. The district shall comply with a request within a reasonable period of time, but in no case more than thirty (30) days after it has been made.

(c) Provisions for adult students or the parent or guardian of students to exercise the right of waiver of access to confidential letters or statements. School districts may not require that adult students or the parent or guardian of students waive any of their rights under Section 1002.22(2), F.S., and FERPA.

(d) A schedule of fees and charges for copies of education records which charges no more than the fees and charges for public records as set forth in Section 119.07, F.S. In no circumstance shall the cost reflect the costs to retrieve the education records.

(e) A listing of the types and locations of education records maintained by the educational agency and the titles and addresses of the officials responsible for those records.

(f) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of students is not required.

(g) Provisions for disclosure of personally identifiable information where prior written consent of the adult student or the parent or guardian of a student, as appropriate, is required, and provisions for maintaining records of requests and disclosures.

(h) Provisions for the maintenance and security of student records, including procedures to ensure the confidentiality of student records and safeguard records from unauthorized or unintentional access.

(i) Provisions for disclosure of personally identifiable information in health and safety emergencies.

(j) Provisions for disclosure of directory information.

(k) Provisions for challenging the content of any record which the adult student or the parent or guardian of a student believe to be inaccurate, misleading or a violation of the right of privacy and for providing an opportunity for amendment of such information, and

(l) Provisions for ensuring the accuracy of information maintained and for periodic review and elimination of information no longer useful, in the manner prescribed by Section 1001.52(3), F.S.

(7) Procedures for transfer of education records.

(a) The transfer of records shall be made immediately upon written request of an adult student, a parent or guardian of a student or a receiving school. The principal or designee shall transfer a copy of all Category A and Category B information and shall retain a copy of Category A information; however, student records which are required for audit purposes for programs listed in Section 1010.305, F.S., shall be maintained in the district for the time period indicated in Rule 6A-1.04513, F.A.C.

(b) The transfer of education records shall not be delayed for nonpayment of a fee or fine assessed by the school.

(8) Security of education records.

(a) The school principal or designee shall be responsible for the privacy and security of all student records maintained in the school.

(b) The superintendent of schools or designee shall be responsible for the privacy and security of all student records that are not under the supervision of a school principal.

(c) Institutions and agencies that are not part of a school district shall designate the office or position responsible for the privacy and security of all student records.

Rulemaking Specific Authority 1001.02(1), 1002.22(3), 1003.25(2) FS. Law Implemented 1001.42(1)(4)(4), 1001.52(2), (3), 1002.22(3), 1002.221, 1003.25, 1008.386, 1008.39, 1008.405 FS. History—New 4-11-70, Repromulgated 12-5-74, Revised 6-1-75, Amended 10-7-75, 2-21-77, 3-1-78, 5-24-81, Formerly 6A-1.955, Amended 6-17-87, 1-2-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Deborah Kearney, Office of General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 22, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:
6A-1.099821

RULE TITLE:
Voluntary Prekindergarten (VPK)
Provider Kindergarten Readiness
Rate

PURPOSE AND EFFECT: The purpose of the amendment is to adopt procedures for the Department to calculate each Voluntary Prekindergarten Provider's 2009-2010 Kindergarten Readiness Rate. These readiness rates must be based exclusively upon the results of the statewide kindergarten screening for students completing the VPK education program during the 2009-10 school year and who are administered the statewide kindergarten screening during the 2010-11 school year. The effect is to implement the requirements of Section 1002.69, F.S., and continued implementation of the calculation of kindergarten provider readiness rates.

SUMMARY: This rule prescribes the procedures for the Department of Education to use to calculate each Voluntary Prekindergarten Provider's 2009-10 Kindergarten Readiness Rate.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The costs to the Department are estimated to be \$80,000. There are no estimated costs to other states or local governmental entities. Although small businesses will be subject to the rule, the Department estimates no regulatory cost increase as a result of the proposed revisions.

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

RULEMAKING AUTHORITY: 1002.69(5), (6), 1002.73(2)(d) FS.

LAW IMPLEMENTED: 1002.69(5), (6) FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.
 PLACE: The Capitol, Room LL03, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Stuart Greenberg, Executive Director, Office of Early Learning, Department of Education, 325 West Gaines Street, Tallahassee, Florida, (850)245-0445

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.099821 Voluntary Prekindergarten (VPK) Provider Kindergarten Readiness Rate.

(1) Purpose. The purpose of this rule is to implement the requirements of Section 1002.69, F.S.

(2) Accuracy of Data.

(a) Prior to the calculation of the VPK Provider Kindergarten Readiness Rate, as described in subsection (4) of this rule, private and public school VPK providers shall have the opportunity to review a cumulative list of all of the children served in their program and the total number of hours they attended.

(b) If a private or public provider disputes the accuracy of the cumulative list of VPK participants or the total number of hours they attended when such change would result in their inclusion or exclusion in the calculation of the VPK Provider Kindergarten Readiness Rate, as measured by the threshold of seventy (70) percent, as described in subparagraph (3)(a)1., of this rule, the provider may submit corrective information to the Office of Early Learning of the Department of Education within 14 days after publication of the cumulative list on the Department's website (vpk.fldoe.org). The Department, in collaboration with the Agency for Workforce Innovation and the respective Early Learning Coalition, shall review the corrective information and accept or reject the requested corrective information within 21 days after publication of the cumulative list on the Department's website. Upon completion of the corrective process, the Department shall calculate a preliminary VPK Provider Kindergarten Readiness Rate in accordance with the method described in subsection (4) of this rule.

(c) If a private or public school provider disputes the accuracy of the preliminary VPK Provider Kindergarten Readiness Rate as published on the Department's website or if a private provider disputes ownership at the time of the 2009-10 ~~2008-09~~ VPK program, the provider may file a dispute on the Department's website and submit

documentation to the Department for its review and consideration within 21 days after publication of the preliminary rate. The Department shall review and accept or reject any changes to the data within 14 days after publication. The VPK Provider Kindergarten Readiness Rate will be recalculated in accordance with the method described in subsection (4) of this rule and submitted to the State Board of Education for the purpose of adopting a minimum readiness rate, as required by Section 1002.69(6), F.S.

(3) Criteria for Inclusion in the VPK Provider Kindergarten Readiness Rate for 2009-10 ~~2008-09~~.

(a) through (b) No change.

(4) Procedures for Calculating the VPK Provider Kindergarten Readiness Rate for 2009-10 ~~2008-09~~.

(4)(a) through (6) No change.

Rulemaking Authority 1002.69(5), (6), 1002.73(2)(d) FS. Law Implemented 1002.69(5), (6) FS. History--New 6-3-07, Amended 1-16-08, 1-5-09, 12-15-09, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Frances Haithcock, Chancellor, K-12 Public Schools

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.03315	Private School Scholarship Compliance

PURPOSE AND EFFECT: The purpose of the rule amendment is to clarify the current compliance reporting requirements for private schools to be eligible to participate in the state scholarship programs and to revise the Scholarship Compliance Form to reflect legislative changes. The effect will be a rule that is consistent with the current procedures and the governing statutes.

SUMMARY: The rule amendment clarifies the deadline by which private schools that are renewing participation in the state scholarship programs must resolve outstanding compliance issues and revises the Scholarship Compliance Form to correct the citations and reflect legislative changes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1002.39, 1002.42, 1002.421 FS.

LAW IMPLEMENTED: 220.187, 316.615, 381.006, 381.0072, 404.056, 440.02, 443.1216, 607.0128, 617.0128, 623.03, 1002.39, 1002.42, 1002.421, 1003.22, 1003.23 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Capitol, Room LL03, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Kooi, Executive Director, Office of Independent Education and Parent Choice, 325 West Gaines Street, Tallahassee, Florida, (850)245-0878

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.03315 Private School Scholarship Compliance.

Compliance reporting requirements for the participation of a Florida private school registered with the Department of Education to be determined eligible to participate in one or more state scholarship program(s) are specified in Form IEPC SCF-1, Scholarship Compliance Form for Private School Participants in State Scholarship Programs October 2010 ~~2008~~, hereinafter Scholarship Compliance Form, which is hereby incorporated by reference to become a part of this rule effective upon the effective date of this rule.

(1) No change.

(2) Renewing schools. The signed, notarized Scholarship Compliance Form must be postmarked by March 1 of each year for participation in the subsequent school year. Following the timely submission of the Scholarship Compliance Form, any outstanding compliance issues, including submission of the annual survey required by Section 1002.42, F.S., must be resolved by the private school on or before ~~prior to~~ May 1 of each year or within forty-five (45) days of receipt of notification from the Department of any noncompliance issue, whichever is later, for the school to remain eligible to participate in the scholarship programs. Renewing schools as a part of the renewal process are required to have a review of compliance documentation every third year. The Department shall mail notice to renewing schools subject to the compliance documentation review by December 1 of each year. This does not limit the Department's ability to request compliance related documentation at other times.

(3) through (5) No change.

Rulemaking Specific Authority 1002.39, 1002.42, 1002.421 FS. Law Implemented 220.187, 316.615, 381.006, 381.0072, 404.056, 440.02, 443.1216, 607.0128, 617.0128, 623.03, 1002.39, 1002.42, 1002.421, 1003.22, 1003.23 FS. History—New 10-13-04, Amended 9-20-05, 1-18-07, 1-5-09_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 16, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.0781	Procedures for Charter School Appeals

PURPOSE AND EFFECT: This rule is substantially rewritten to be consistent with governing statutes and to provide clear procedures for applicants as well as sponsors when addressing an appeal relating to the denial of a charter school application or termination, non-renewal, or immediate termination of an existing charter school. The effect is a rule consistent with law and which clearly outlines procedure relating to the denial of a charter school application or the termination, non-renewal or immediate termination of an existing charter school.

SUMMARY: This rule is substantially rewritten to address procedures relating to the denial of a charter school application or the termination, non-renewal or immediate termination of an existing charter school.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1002.33(24) FS.

LAW IMPLEMENTED: 1002.33(6), 1002.335 FS.

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

DATE AND TIME: September 21, 2010; 9:00 a.m.

PLACE: Room LL03, The Capitol, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by

contacting: Lynn Abbott, Department of Education, (850)245-9661 or lynn.abbott@tds.net. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Kooi, Executive Director, Office of Independent Education and Parent Choice, 325 West Gaines Street, Tallahassee, Florida; (850)245-0878

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of Rule 6A-6.0781 follows. See Florida Administrative Code for present text.)

~~6A-6.0781 Procedures for Charter Appealing a District School Appeals Board Decision Denying Application for Charter School.~~

The purpose of this rule is to establish the procedures for filing and reviewing all appeals to the State Board of Education under provisions of Section 1002.33 F.S.

(1) Definitions.

(a) "Applicant" means:

1. The entity applying for a charter school for purposes relating to the denial of a charter school application; and

2. The charter school governing board for purposes relating to terminations, non-renewals, and immediate terminations of charters.

(b) "Good cause for immediate termination" means greater cause than other legally sufficient causes that govern non-immediate termination, taking into account the exigent circumstances that necessitate immediate emergency action.

(c) "Good cause for termination" means a legally sufficient reason. Empirical evidence, as opposed to conjecture or opinion, shall be used to demonstrate good cause.

(d) "Immediate" means "prompt action, without interval of time."

(e) "Sponsor's written determination" means the written specifications by a sponsor of its grounds for denying an application pursuant to Section 1002.33(6)(b)3., F.S., or for nonrenewal, termination, or immediate termination of a charter pursuant to Section 1002.33(8)(c) or (d), F.S.

(2) Due Process. The sponsor shall conduct a hearing that satisfies basic tenets of due process when deciding whether to deny a charter school application, nonrenew a charter, terminate a charter, or immediately terminate a charter. Although due process is flexible and calls for such procedural protections as the particular situation demands, the components of a fair hearing must generally include:

(a) Reasonable notice;

(b) An opportunity to hear the evidence against the applicant;

(c) An opportunity to present evidence in the applicant's defense;

(d) An opportunity to make arguments in the applicant's defense; and

(e) A decision based on information in the record.

(3) Hearing Process. The following applies to a sponsor's decision to deny an application, terminate a charter, non-renew a charter, or immediately terminate a charter.

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, but all other evidence of a type commonly relied upon by a reasonably prudent person in the conduct of their affairs shall be allowed.

(b) The length of time provided for the applicant to present evidence can vary depending on the facts, issues and circumstances; however, the sponsor shall allow a reasonable amount of time for the applicant to present testimony and documentation as evidence.

(c) The sponsor shall clearly mark the evidence received in the record and identify such evidence on the record.

(d) The sponsor may delegate to an informal hearing officer the authority to conduct a hearing. The hearing may contemplate the submission of written documentation, testimony, oral arguments, or a combination thereof. Upon conducting a hearing, the informal hearing officer shall file a proposed recommended order that includes findings of fact and conclusions of law to the sponsor. While the sponsor may reject conclusions of law, the sponsor shall not reject findings of fact unless the sponsor stated with particularity that the specific findings of fact that are not supported by competent, substantial evidence or that the hearing did not comply with the requirements of a fair hearing.

(4) Specific Hearing Procedures.

(a) Application Denials. Hearings shall be as informal as fairness and principles of due process allow. Notwithstanding subsection (3) of this rule, testimony need not be taken. The sponsor may base its decision solely on the documentation and arguments presented in the record. A sponsor may take testimony if the sponsor finds it necessary to clarify information submitted by the applicant or sponsor staff as part of the application process. If evidence or arguments are taken from district staff or the applicant, a reasonable period of time for rebuttal shall be allowed.

(b) Immediate Terminations.

1. Immediate terminations are for emergency situations that address circumstances requiring an immediate response by the sponsor, such as an immediate threat to the health, safety or welfare of students, or other good cause.

2. Depending on the exigent circumstances that necessitate immediate emergency action, the sponsor's hearing shall occur contemporaneously with or within a reasonable time after the sponsor's decision to immediately terminate the charter.

3. If conducting an immediate termination, a sponsor shall include the following with its notice of hearing and the notice of decision to terminate the charter:

a. The specific facts and reasons for finding an immediate danger to the student health, safety, or welfare, or other good cause; and

b. The reasons for concluding that the notice and hearing procedure used is fair under the circumstances.

4. If the grounds necessitating immediate action are not demonstrated, the sponsor shall rescind the vote to immediately terminate the charter and proceed with a non-immediate termination by providing new notice of the sponsor's intended action.

(5) The applicant may need a record of the hearings in the event the applicant decides to appeal the decision of the sponsor, in which case the applicant will need to ensure that transcripts of the hearing are created by a certified court reporter. If the applicant does not provide transcripts, and the issues revolve around questions of fact or exercise of the sponsor's discretion, the entire appeal or applicable issues therein may summarily be denied.

(6) The applicant may request a copy of the record on appeal from the sponsor. Within ten (10) days of receipt of a request for the record on appeal from the applicant, the sponsor shall submit a hard copy of the record on appeal and a copy in a fixed layout format similar to a paper publication that is viewable for free. An example is adobe acrobat format, which is viewable via adobe reader. The copy shall be provided via compact disk, usb memory card, or other substantially similar memory device to the Department's Agency Clerk, with a copy contemporaneously provided to the applicant by hard copy or electronic copy in the same format and media. If the applicant does not request a copy of the record on appeal, the sponsor shall include a hard copy of the record on appeal with the sponsor's written arguments and an electronic copy in the same format and media.

(7) Issues on appeal. The issues on appeal are limited to the following:

(a) Whether the grounds for denial, non-renewal, termination, or immediate termination in the sponsor's written determination are supported by the record;

(b) Whether the grounds for denial, non-renewal, termination, or immediate termination in the sponsor's written determination constitute good cause for the denial, non-renewal, termination, or immediate termination; and

(c) Whether the applicant was denied due process.

(8) Record on Appeal.

(a) The record on appeal shall be tabbed and page numbered for reference as exhibits. Tabs, or equivalent markings, shall be visible in any electronic copy of the record on appeal.

(b) The record on appeal shall consist of:

1. The charter school application and charter contract (or proposed charter contract);

2. Transcripts, if necessary, of all hearings before the sponsor in which its decision was considered or made;

3. All documents filed by the applicant with the sponsor or its officers or employees involving the application, review, recommendation or decision making process, in support of or against the staff's recommendation or sponsor's decision, whether provided before the hearing, at the hearing, or before the sponsor's decision was made;

4. All other documents made or received by the sponsor or its officers or employees in support of or against the staff's recommendation or sponsor's decision, whether the documents were provided before the hearing, at the hearing, or before the sponsor's decision was made;

5. Any decisions overruling objections;

6. All matters placed on the record after an ex parte communication;

7. Any decision, opinion, order, or report by the sponsor;

8. Those matters officially recognized by the sponsor;

9. Proffers of proof and objections and rulings thereon;

10. All documents, notes, memoranda, and other information reviewed or considered by the sponsor in making its decision.

(9) Briefs.

(a) Within thirty (30) days after receipt of the written decision of a sponsor's denial of an application for a charter school, nonrenewal of a charter, termination of a charter, or immediate termination of a charter, the applicant may file a written appeal (brief) by submitting three (3) hard copies of the appeal and one (1) copy in electronic format as previously described in this rule to the Agency Clerk for the Department of Education, 325 West Gaines Street, Suite 1520, Tallahassee, Florida 32399-0400. The applicant shall send a copy of the brief by mail or hand delivery to the sponsor's chief executive officer no later than the date the written appeal is filed with the Agency Clerk.

(b) Within thirty (30) days after receipt of the appeal, the sponsor may respond by filing three (3) copies of its written arguments (brief) and one (1) copy in electronic format as previously described in this rule with the Agency Clerk for the Department of Education. The written arguments in the sponsor's brief are limited to responding to the issues raised by the applicant.

(c) The briefs of both parties must include the following:

1. The name and address of the applicant;

2. The name and address of the sponsor;

3. The date of the sponsor's decision;

4. The name and address of applicant's attorney, if any;

5. Written argument limited to argument concerning the grounds identified in the sponsor's written determination to deny the application, terminate the charter, non-renew the charter, or immediately terminate the charter. The written arguments shall identify the standard of review for each issue.

(d) The briefs of both parties must comply with the following:

1. Briefs shall be printed, typewritten, or duplicated on opaque, white, unglossed eight and a half by eleven inch paper;

2. The lettering in briefs shall be black and in distinct type, double-spaced, with margins no less than 1 inch. Lettering in script or type made in imitation of handwriting shall not be permitted. Footnotes and quotations may be single spaces and shall be in the same size type, with the same spacing between characters, as the text. Computer-generated briefs shall be submitted in either Times New Roman fourteen-point font or Courier New twelve-point font;

3. Briefs shall be securely bound in book form and fastened along the left side in a manner that will allow them to lie flat when opened or be securely stapled in the upper left corner. Headings and subheadings shall be at least as large as the brief text and may be single spaced;

4. The cover sheet of each brief shall state that it is before the State Board of Education, the style of the cause including the case number if assigned, the lower tribunal, the part on whose behalf the brief is filed, the type of brief and the name and address of the attorney filing the brief;

5. The brief shall not exceed twenty (20) pages;

6. A table of contents listing the issues presented for review, with references to pages;

7. A statement of the case and the facts, which shall include the nature of the case, the course of the proceedings, and the disposition in the lower tribunal. No exhibits are to be attached to the brief; rather, references to the appropriate volume and pages of the record or transcript shall be made.

(e) Failure to meet the requirements of this rule may cause rejection of the submission by the Agency Clerk or Chair of the Charter School Appeal Commission. The State Board of Education does not have jurisdiction to hear appeals that are untimely filed by the applicant.

(10) Upon receipt of a timely filed appeal the Commissioner of Education shall convene a meeting of the Charter School Appeal Commission to consider the appeal, with notice to the applicant and the district school board of that hearing date.

(a) At the hearing before the Charter School Appeal Commission, each party will be given a maximum of fifteen (15) minutes to allow its representatives to summarize the written arguments previously submitted to the State Board. No evidence or testimony, only oral argument, will be heard by the Charter School Appeal Commission.

(b) The Charter School Appeal Commission will review only those issues identified in the sponsor's written determination and due process, if raised. No new grounds may be raised by the sponsor or applicant.

(c) The Charter School Appeal Commission may question the parties. During questioning, the Charter School Appeal Commission may, in its discretion, gather other applicable information regarding the appeal and request information to

clarify the documentation presented in the record on appeal. However, the Charter School Appeal Commission will take no new evidence.

(11) Upon reviewing the record on appeal and hearing oral summaries of written arguments, if presented, and consideration of the answers to questions, if asked, the Charter School Appeal Commission shall vote to recommend to either accept or reject the decision of the sponsor or remand the appeal to the sponsor for the provision of due process.

(12) The Charter School Appeal Commission's recommendation, record on appeal, written arguments of the parties, and a copy of the Charter School Appeal Commission transcripts will be forwarded to the State Board of Education.

(a) The State Board of Education shall consider the appeal at the next available scheduled State Board of Education meeting. Each party shall have five (5) minutes to summarize its arguments. The State Board of Education shall accept, reject or remand the decision of the sponsor.

(b) The standard of review for the Charter School Appeal Commission and the State Board of Education depends on the issues raised and may be any one or a combination of:

1. Competent, substantial evidence for decisions based on a finding of fact;

2. Abuse of discretion for decisions that are within the discretion of the sponsor; or

3. De novo for decisions based on interpretations of law or contract, and for determining good cause.

(13) Motions.

(a) Motions before the Charter School Appeal Commission or State Board of Education shall be filed with the Agency Clerk in the same format as required in paragraph (9)(d) of this rule, except that the motion is limited to two (2) pages, excluding the certificate of service. Motions shall include a statement that the movant has conferred with the non-moving party, shall state whether the non-moving party has any objection to the motion, and shall certify that the non-moving party has been served with a copy of the motion. The non-moving party may file a response, subject to the same filing requirements as the motion, within three (3) business days of receipt of the motion, or the day before the hearing, whichever occurs first.

(b) The Chair of the Charter School Appeal Commission is authorized to rule upon procedural motions filed before the Charter School Appeal Commission meets.

(c) The Commissioner of Education is authorized to rule upon procedural motions filed before the State Board of Education meets.

Rulemaking Specific Authority 1002.33(24) 229.053(1) FS., Chapter 96-186, Laws of Florida. Law Implemented 1002.33(6), 1002.335 FS. Chapter 96-186, Laws of Florida. History—New 2-2-97, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael Kooi, Executive Director, Office of Independent Education and Parent Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 11, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 10, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-6.0786
RULE TITLE: Model Forms for Charter School Applicants and Sponsors

PURPOSE AND EFFECT: The purpose of this new rule is to implement the Model Florida Charter School Application, Florida Charter School Application Evaluation Instrument, and the Florida Model Charter Contract Format, pursuant to Section 1002.33, F.S.. The effect will be a rule that is aligned with Florida Statutes.

SUMMARY: The proposed rule will provide a model application that all potential charter school developers shall be required to use when submitting a charter school application to a sponsor, an evaluation instrument that sponsors shall be required to use when evaluating charter school applications, and a model charter school contract format that shall be used by sponsors and charter schools.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1002.33(26) FS.

LAW IMPLEMENTED: 1002.33(6), 1002.33(21) FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Capitol, Room LL03, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Adam Miller, Director of Charter Schools, Office of Independent Education and Parental Choice, 325 West Gaines Street, Suite 522, Tallahassee, Florida 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0786 Model Forms for Charter School Applicants and Sponsors.

(1) Persons or entities submitting a charter school application must use Form IEPC-M1, Model Florida Charter School Application, October 2010, pursuant to Section 1002.33, F.S.. Form IEPC-M1 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's website at <http://www.floridaschoolchoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(2) Sponsors shall evaluate Model Florida Charter School Applications using Form IEPC-M2, Florida Charter School Application Evaluation Instrument, October 2010. Form IEPC-M2 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's website at <http://www.floridaschoolchoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

(3) Upon approval of a charter school application, the sponsor shall have sixty (60) days to propose an initial proposed charter contract to the charter school. The sponsor shall use Form IEPC-M3, Florida Model Charter Contract Format, October 2010, as the basis for the initial contract. Charter school contracts must address, at a minimum, the components included in Form IEPC-M3. Additional components may be included in a charter school contract if mutually agreed upon by both parties. Form IEPC-M3 is hereby incorporated by reference to become effective with the effective date of this rule. Copies of the form may be obtained electronically on the Department's website at <http://www.floridaschoolchoice.org> or from the Office of Independent Education and Parental Choice, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400.

Rulemaking Authority 1002.33(26) FS. Law Implemented 1002.33(6), 1002.33(21) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mike Kooi, Executive Director, Office of Independent
Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Dr. Eric Smith, Commissioner,
Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: July 10, 2009

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: RULE TITLE:
6A-6.0960 Florida Tax Credit Scholarship
Program

PURPOSE AND EFFECT: The purpose of the amendment is to include the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation as an entity to receive a list of organizations determined to be eligible by the Department to be listed as a nonprofit scholarship-funding organization for participation in the Florida Tax Credit Scholarship Program. In addition, should it be necessary to remove a nonprofit scholarship-funding organization from the eligibility list, the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation must be notified as well. The amendment will also revise Form IEPC SFO-1, Nonprofit Scholarship Funding Organization Participation Renewal for State Scholarship Programs, and Form IEPC SFO-2, Nonprofit Scholarship Funding Organization Participation Application for State Scholarship Programs. The effect is consistency with changes made in Chapter 2010-24, Laws of Florida by the 2010 Legislature.

SUMMARY: This amendment will require the Department to submit to the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation a list of nonprofit scholarship-funding organizations which are eligible for participation in the Florida Tax Credit Scholarship Program. In addition, should a non-profit scholarship-funding organization become ineligible, notice would be provided as well. The amendment will also require revisions to Form IEPC SFO-1, Nonprofit Scholarship Funding Organization Participation Renewal for State Scholarship Programs, and Form IEPC SFO-2, Nonprofit Scholarship Funding Organization Participation Application for State Scholarship Programs, to reflect legislative changes.

SUMMARY OF STATEMENT OF ESTIMATED
REGULATORY COSTS: No Statement of Estimated
Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1002.395(9)(i), (13)(d) FS.

LAW IMPLEMENTED: 1002.395 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Capitol, Room LL03, 400 South Monroe,
Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE IS: Mike Kooi, Executive Director, Office
of Independent Education and Parental Choice, Department of
Education, 325 West Gaines Street, Tallahassee, Florida;
(850)245-0878

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-6.0960 Florida Tax Credit Scholarship Program.

The Florida Tax Credit Scholarship Program will be implemented as required by Section 220.187, F.S., to allow nonprofit scholarship-funding organizations to provide scholarships from eligible contributions to qualified students attending eligible private schools or public schools outside the school district in which the student resides or in a laboratory school.

(1) Eligibility of nonprofit scholarship-funding organizations.

(a) A nonprofit charitable organization may apply to be an eligible scholarship-funding organization by having its principal officer or legal representative submit documentation to the Department of Education as specified in Form IEPC SFO-1, 2010 Nonprofit Scholarship Funding Organization Participation Renewal ~~Florida Tax Credit for State~~ Scholarship Programs, or Form IEPC SFO-2, 2010 Nonprofit Scholarship Funding Organization Participation Application ~~Florida Tax Credit for State~~ Scholarship Programs, which are hereby incorporated by reference to become a part of this rule to become effective upon the effective date of this rule. The appropriate Nonprofit Scholarship-Funding Organization Form must be signed by the owner or operator, submitted annually, and be postmarked no later than February 1.

(b) through (d) No change.

(e) No later than March 15 of each year, the Department shall submit to the Florida Department of Revenue and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation a list of organizations that it has determined to be eligible to be listed as a nonprofit scholarship-funding organization for participation in the Florida Tax Credit Scholarship Program.

(f) through (g) No change.

(h) Upon removal of an approved nonprofit scholarship-funding organization, the Department shall notify the Department of Revenue and the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation that the organization is no longer approved to participate in the program.

(2) through (9) No change.

Rulemaking Authority 1002.395(9)(i), (13)(d) FS. Law Implemented 1002.395 FS. History—New 2-5-07, Amended 11-26-08, 6-22-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Kooi, Executive Director, Office of Independent Education and Parental Choice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-10.041
RULE TITLE: Substitution for Requirements for Eligible Disabled Students at Florida Colleges and Postsecondary Career Centers

PURPOSE AND EFFECT: The purpose and effect of the rule amendment is to add the definitions of disability types to align with statute, allow students who are eligible for a course substitution in a skill area to be waived from taking the college preparatory coursework in the respective skill area so that such students will not be prevented from continuing their education, and clarify when and to whom colleges should submit the report of the number of granted substitutions by type of disability, the substitutions provided, the substitutions identified as available for each documented disability and the number of requests for substitutions which were denied.

SUMMARY: The rule provides definitions for the types of disabilities eligible for a reasonable substitution of admission, entry into a program of study, for entry into the upper division, and graduation requirements. The rule change includes the addition of definitions for all categories identified in statute so

that the rule is aligned with statute as well as the Federal Americans with Disabilities Act. Students with a disability affecting their ability to learn in a skill area (reading, writing, mathematics) and not planning to pursue an academic program which requires knowledge in the skill area, would have the college preparatory course requirement waived and be required to complete substitute courses to fulfill graduation requirements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1001.02, 1007.264, 1007.265 FS.

LAW IMPLEMENTED: 1007.02, 1007.264, 1007.265 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Capitol, Room LL03, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Albee, Florida Department of Education, Division of Florida Colleges, amy.albee@fldoe.org, (850)245-9488

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-10.041 Substitution for Requirements for Eligible Disabled Students at ~~Florida State Universities, Community Colleges, and Postsecondary Career Centers.~~

(1) Each ~~university and community college~~ board of trustees within the Florida College System and each district school board which operates a postsecondary career center shall develop and implement policies and procedures for providing reasonable substitution for eligible students as required by Sections 1007.264 and 1007.265, F.S. In determining whether to grant a substitution, documentation to substantiate that the disability can be reasonably expected to prevent the individual from meeting requirements for admission to the institution, admission to a program of study, entry to upper division, or graduation shall be provided. In

determining whether to grant a substitution, a college may consider pertinent educational records. For purposes of this rule, the following definitions shall apply.

(a) Deaf/Hard of Hearing Impairment. A hearing loss of thirty (30) decibels or greater, pure tone average of 500, 1000, 2000, and 4000 (Hz), ~~ANSI~~, unaided, in the better ear. Examples include, but are not limited to, conductive hearing impairment or deafness, sensorineural hearing impairment or deafness, high or low tone hearing loss or deafness, and acoustic trauma hearing loss or deafness.

(b) Visual Impairment. Disorders in the structure and function of the eye as manifested by at least one of the following: visual acuity of 20/70 or less in the better eye after the best possible correction, a peripheral field so constricted that it affects one's ability to function in an educational setting, or a progressive loss of vision which may affect one's ability to function in an educational setting. Examples include, but are not limited to, cataracts, glaucoma, nystagmus, retinal detachment, retinitis pigmentosa, and strabismus.

(c) Specific Learning Disability. A disorder in one or more of the basic psychological or neurological processes involved in understanding or in using spoken or written language. Disorders may be manifested in listening, thinking, reading, writing, spelling, or performing arithmetic calculations. Examples include dyslexia, dysgraphia, dysphasia, dyscalculia, and other specific learning disabilities in the basic psychological or neurological processes. Such disorders do not include learning problems which are due primarily to visual, hearing, or motor handicaps, to mental retardation, to emotional disturbance, or to an environmental deprivation.

(d) Orthopedic Impairment. A disorder of the musculoskeletal, connective tissue disorders, and neuromuscular system. Examples include but are not limited to cerebral palsy, absence of some body member, clubfoot, nerve damage to the hand and arm, cardiovascular aneurysm (CVA), head injury and spinal cord injury, arthritis and rheumatism, epilepsy, intracranial hemorrhage, embolism, thrombosis (stroke), poliomyelitis, multiple sclerosis, Parkinson's disease, congenital malformation of brain cellular tissue, and physical disorders pertaining to muscles and nerves, usually as a result of disease or birth defect, including but not limited to muscular dystrophy and congenital muscle disorders.

(e) Speech/ Language Impairment. Disorders of language, articulation, fluency, or voice which interfere with communication, pre-academic or academic learning, vocational training, or social adjustment. Examples include, but are not limited to, cleft lip and/or palate with speech impairment, stammering, stuttering, laryngectomy, and aphasia.

(f) Emotional or Behavioral Disability. Any mental or psychological disorder including but not limited to organic brain syndrome, emotional or mental illness, or attention deficit disorders.

(g) Autism Spectrum Disorder. Disorders characterized by an uneven developmental profile and a pattern of qualitative impairments in social interaction, communication, and the presence of restricted repetitive, and/or stereotyped patterns of behavior, interests, or activities. These characteristics may manifest in a variety of combinations and range from mild to severe.

(h) Traumatic Brain Injury. An injury to the brain, not of a degenerative or congenital nature but caused by an external force, that may produce a diminished or altered state of consciousness, which results in impairment of cognitive ability and/or physical functioning.

(i) Other Health Impairment. Any disability not identified in paragraphs (1)(a) through (h) of this rule, except those students who have been documented as having an intellectual disability, deemed by a disability professional to make completion of the requirement impossible.

(2) The policies and procedures shall include at least the following:

(a) A mechanism to inform identify persons eligible for reasonable substitutions due to ~~vision impairment, hearing impairment, dyslexia or other specific learning~~ a disability,

(b) A mechanism for identifying reasonable substitutions for criteria for admission to the institution, admission to a program of study, entry to upper division, or graduation related to each disability,

(c) A mechanism for making the designated substitutions known to affected persons,

(d) A mechanism for making substitution decisions on an individual basis, and

(e) A mechanism for a student to appeal denial of a substitution or a determination of eligibility.

(3) The policies shall provide for articulation with other state institutions which shall include, at a minimum, acceptance of all substitutions previously granted by a state postsecondary institution.

(4) The policies shall include a provision for students who qualify for a course substitution which would allow such students to be exempt from the college preparatory requirements, as provided in State Board Rule 6A-10.0315, F.A.C., in the basic skill area for which the student is eligible for a course substitution, provided that successful completion of the college preparatory coursework is not considered an essential part of the curriculum in the student's academic program.

~~(5)(4)~~ The Commissioner of Education shall coordinate with the Chancellor of the State University System to provide for coordination of the provision of technical assistance in the implementation of this rule.

~~(6)(5)~~ Each ~~public university, community~~ Florida college and postsecondary career center operated by a school district shall maintain and report records on the number of students granted substitutions by type of disability, the substitutions

provided, the substitutions identified as available for each documented disability and the number of requests for substitutions which were denied. Each college within The Florida College System shall report such information to the Department of Education, Division of Florida Colleges once a year by July 1. The Course Substitution Report is incorporated by reference herein and can be obtained at <http://www.fldoe.org/cc/educators/Disability/dss.asp>.

Rulemaking Specific Authority 1007.264, 1007.265 FS. Law Implemented 1007.264, 1007.265 FS. History—New 4-13-87, Amended 12-18-05,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Willis Holcombe, Chancellor, Florida College System
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

DEPARTMENT OF EDUCATION
State Board of Education

RULE NOS.:	RULE TITLES:
6A-18.042	Issuance of License
6A-18.0421	Conditions for Removal from a Facility; Suspension or Revocation of License

PURPOSE AND EFFECT: The purpose and effect of these rule amendments is to enable criminal history record checks of licensed vending facility vendors and applicants for licensing as vending facility vendors in the Division of Blind Services' Business Enterprises Program.

SUMMARY: Rule 6A-18.042, F.A.C., is amended to enable the Division of Blind Services to conduct checks of local, state, juvenile and federal criminal history records through the Florida Department of Law Enforcement and the Federal Bureau of Investigation pursuant to Sections 413.041 and 413.051(12), Florida Statutes. The criminal history records of licensees and applicants for licensing must be free of conviction of crimes constituting first-degree misdemeanors, felonies or any felonies or misdemeanors involving moral turpitude, in order for the Division, through its Business Enterprises program, to effectively establish and maintain vending facilities in consideration of the public's health, safety and welfare and its charter to provide employment opportunities to eligible blind persons. Rule 6A-18.0421, F.A.C., is amended to be consistent with proposed Rule 6A-18.042, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 413.051(12) FS.
 LAW IMPLEMENTED: 413.011(2), 413.041, 413.051 FS.
 A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:
 DATE AND TIME: September 21, 2010, 9:00 a.m.
 PLACE: The Capitol, Room LL03, 400 South Monroe Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joyce Hildreth, Director, Division of Blind Services, Department of Education, 325 West Gaines Street, Room 1114, Tallahassee, FL 32399, (850)245-0300

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-18.042 Issuance of License.

(1) In order to be eligible for and maintain a license to operate a vending facility, an individual applicant must be:

- (a) Legally blind as defined in 34 CFR 395.1, Terms, and Section 413.033(1), Florida Statutes;
- (b) A citizen of the United States;
- (c) Eighteen (18) years of age or older; ~~and~~
- (d) Possess a high school diploma or equivalency; and-
- (e) Must undergo a security background investigation, which shall include, but not be limited to, fingerprinting, statewide criminal and juvenile records checks through the Florida Department of Law Enforcement and federal criminal records checks through the Federal Bureau of Investigation, and may include local criminal records checks through local law enforcement agencies.

(2) An individual who is found to have been convicted of or pled guilty or nolo contendere to, whether or not adjudication is withheld, a crime which is a first degree misdemeanor, a felony, or any misdemeanor or felony involving moral turpitude shall be disqualified from eligibility for a license to operate a vending facility unless the agency exempts the individual from disqualification based on a consideration of:

- (a) The passage of time since commission of the crime(s);
- (b) The circumstances surrounding the crime(s);
- (c) The nature of the harm caused any victim of the crime(s); and

(d) Other evidence provided by the applicant demonstrating to a clear and convincing standard that the applicant should not be disqualified from eligibility.

~~(3)(2)~~ The Division shall issue a license to operate a vending facility after an individual applicant has satisfactorily completed the Application for the Vending Facility Training Program and the subsequent Vending Facility Training Program (See subsection 6A-18.046(2), F.A.C.).

~~(4)(3)~~ The license shall be continuously valid, subject to:
(a) through (d) No change.

Rulemaking Specific Authority 413.051(12) FS. Law Implemented ~~413.011(2), 413.041,~~ 413.051 FS. History--New 4-5-83, Amended 11-5-85, Formerly 6A-18.04, Amended 7-8-87, Formerly 6A-18.004, Amended 10-20-98, Formerly 38K-1.004, Amended _____.

6A-18.0421 Conditions for Removal from a Facility; Suspension or Revocation of License.

(1) A vendor shall be removed from a vending facility or a license shall be suspended or revoked for failing or refusing to comply with these rules, the terms and conditions for licensure, the Licensed Operator Facility Agreement between the vendor and the Division, or the terms and conditions of any permit or lease for property on which a vending facility is located.

(2) A vendor shall also be removed from a vending facility, or a license shall be suspended or revoked for any of the following reasons:

(a) through (j) No change.

(3) A vendor's license to operate a vending facility may be revoked for failure to meet the criminal record requirements of Rule 6A-18.042, F.A.C.

~~(4)(3)~~ The Division shall serve written notice of its intent to remove a vendor from a facility or to suspend or revoke a license by hand delivery or certified mail, to the vendor's last known address. Such action shall be governed by Chapter 120, F.S.

Rulemaking Specific Authority 413.051(12) FS. Law Implemented ~~413.011(2), 413.041,~~ 413.051 FS. History--New 10-20-98, Formerly 38K-1.0041, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Joyce Hildreth, Director, Division of Blind Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 21, 2010

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.: 6A-20.027 RULE TITLE: Rosewood Family Scholarship Fund

PURPOSE AND EFFECT: The purpose of the proposed rulemaking is to amend the requirements in rule to align with statutory requirements under the scholarship program. The effect will be a rule which is consistent with governing law.

SUMMARY: The 2009 Florida Legislature amended Section 1009.55, Florida Statutes, to restrict program eligibility to direct descendants of the Rosewood Family. The proposed rule change is to align the rule with current statute. In addition, language is proposed to align renewal requirements with other state scholarships and grants.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 1001.02(1), 1009.55(2) FS.

LAW IMPLEMENTED: 1009.402, 1009.55 FS.

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

DATE AND TIME: September 21, 2010, 9:00 a.m.

PLACE: The Florida Capitol, 400 South Monroe, Room LL03, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lynn Abbott at (850)245-9661 or email: lynn.abbott@fldoe.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Theresa Antworth, Director, State Programs, Office of Student Financial Assistance, Department of Education, 325 West Gaines Street, Tallahassee, Florida; (850)410-5185

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-20.027 Rosewood Family Scholarship Fund.

(1) General eligibility criteria for awards. To receive aid, a student shall meet the provisions of Sections 1009.40, 1009.42, and 1009.55, F.S., and Rules 6A-20.001 and 6A-20.0371, F.A.C., and:

(a) Be a direct descendent of the Rosewood Family ~~minority individual belonging to one (1) of the following race/ethnic categories: Black, Hispanic, Asian or Pacific Islander, American Indian or Alaskan native.~~

(b) through (3) No change.

(4) Restoration and reinstatement awards. A student who failed to earn the minimum number of credit or clock hours required for renewal, or who failed to meet the requirements for renewal of a probationary award, is eligible to apply for restoration after one (1) academic year if the student has earned a cumulative grade point average of 2.0 on a 4.0 scale as of the end of the second semester or third quarter of the academic year preceding the year the award is sought. A student who met the requirements for a renewal award but did not receive an award during a full year of eligibility and wishes to reestablish use of the scholarship may apply for reinstatement in any subsequent year provided that the student has earned a cumulative grade point average of 2.0 on a 4.0 scale as of the end of the second semester or third quarter of the academic year preceding the year the award is sought.

(5) through (7) No change.

(8) Award procedures. The Department will make awards based on the annual appropriation, not to exceed twenty-five (25) scholarship awards per year.

(a) A direct descendant of an African-American Rosewood family is an applicant whose ancestor is a member of a family identified as an affected Rosewood resident as provided in Section 1009.55, Florida Statutes. The applicant shall provide the Department proof sufficient to establish eligibility as a Rosewood descendant as defined by this rule. The Department may verify eligibility by using records already in possession of the State of Florida. ~~Among eligible Rosewood family descendant applicants:~~

~~(b) Among eligible Rosewood family descendant applicants: Other minority applicants. If awards remain after all eligible applicants who are direct descendants of Rosewood families have received awards, all other eligible minority applicants will be divided into renewal, initial and reinstatement applicants. Among eligible minority applicants:~~

~~1. First priority will be given to renewal applicants. First priority for awards will be given to renewal applicants. If the number of awards remaining is insufficient to award all renewal applicants, they will be ranked and selected by the least family contribution as specified on the need analysis report. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection.~~

~~2. Second priority for awards will be given to initial applicants. If the number of awards remaining is insufficient to award all such applicants, they will be ranked and selected first by the least family contribution as specified on the need analysis report and second by the earliest postmark or electronic receipt date of the application. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection. Second priority for awards will be given to initial applicants. If~~

~~the number of awards remaining is insufficient to award all initial applicants, they will be ranked and selected using the procedures specified in subparagraph (8)(a)2., of this rule.~~

~~3. Third priority for awards will be given to reinstatement applicants. If the number of awards remaining is insufficient to award all such applicants, they will be ranked and selected first by the least family contribution as specified on the need analysis report and second by the earliest postmark or electronic receipt date of the application. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection. Third priority for awards will be given to reinstatement applicants. If the number of awards remaining is insufficient to award all reinstatement applicants, they will be ranked and selected using the procedures specified in subparagraph (8)(a)3., of this rule.~~

~~4. Fourth priority for awards will be given to restoration applicants. If the number of awards remaining is insufficient to award all such applicants, they will be ranked and selected first by the least family contribution as specified on the need analysis report and second by the earliest postmark or electronic receipt date of the application. If the number of awards remaining is insufficient to award all equally ranked applicants, the tie will be broken through random selection.~~

(9) through (10) No change.

Rulemaking Specific Authority 1001.02(1), 1009.55(2) FS. Law Implemented 1009.402, 1009.55 FS. History—New 10-30-94, Amended 10-15-02, 9-22-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Linda Champion, Deputy Commissioner for Finance and Operations

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Dr. Eric Smith, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2010

DEPARTMENT OF REVENUE

Property Tax Oversight Program

RULE NOS.:	RULE TITLES:
12D-15.001	Certification for Approved Bidder's List
12D-15.004	General Provisions of Minimum Standards Contract
12D-15.005	Minimum Standards Contract Provisions for Mass Data Reappraisals
12D-15.006	Minimum Standards Contract Provisions for Computer Software Development

- 12D-15.007 Minimum Standards Contract Provisions for Procurement of Electronic Data Processing Equipment
- 12D-15.008 Minimum Standards Contract Provisions for Data Processing Services
- 12D-15.009 Supplemental Agreement to Minimum Standards Contract

PURPOSE AND EFFECT: Section 195.095, Florida Statutes, created the Approved Bidder List which required property appraisers, tax collectors and county commissions to select an approved vendor from the list to provide services for assessment or collection services or for the sale of electronic data processing programs or equipment. Vendors were required to submit an application, Form DR-415, to the Department for review. The approved vendors were placed on the Approved Bidder List and posted to the Department’s website. Counties were also required to follow a standard contract format to be included in all contracts. This approval process and standards are outlined in Chapter 12D-15, Florida Administrative Code. The purpose of this rulemaking is necessary to implement the provisions of Section 25 of Chapter 2010-138, Laws of Florida, by repealing Chapter 12D-15, F.A.C. The effect of this repeal is to remove the requirement of a vendor to complete the application and submit to the Department; removes the requirement that the Department is to establish a list of approved bidders; property appraisers, tax collectors and county commissions do not have to use approved vendors on the Department’s list; and the Department no longer requires a standard contract format.

SUMMARY: The proposed repeal of Chapter 12D-15, F.A.C. (Approved Bidders and The Minimum Standards Contract) removes the requirement of the Approved Bidder’s List and standards to be used in contracts entered into with the counties.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 195.095, 213.05 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Janice Forrester, Tax Law Specialist, telephone (850)617-8886 or email ForrestJ@dor.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

12D-15.001 Certification for Approved Bidder’s List.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.01, Amended 11-21-91, 4-18-94, Repealed.

12D-15.004 General Provisions of Minimum Standards Contract.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.04, Repealed.

12D-15.005 Minimum Standards Contract Provisions for Mass Data Reappraisals.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.05, Repealed.

12D-15.006 Minimum Standards Contract Provisions for Computer Software Development.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.06, Repealed.

12D-15.007 Minimum Standards Contract Provisions for Procurement of Electronic Data Processing Equipment.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.07, Repealed.

12D-15.008 Minimum Standards Contract Provisions for Data Processing Services.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.08, Repealed.

12D-15.009 Supplemental Agreement to Minimum Standards Contract.

Rulemaking Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.095, 213.05 FS. History–New 11-9-76, Formerly 12D-15.09, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janice Forrester, Tax Law Specialist, Property Tax Oversight Program, Department of Revenue, Capital Circle Office Complex, 2450 Shumard Oak Blvd., Tallahassee, Florida 32399-0100, telephone (850)617-8886

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Governor and Cabinet of Florida
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: No Notice of Proposed Rule Development is required to be published in the Florida Administrative Weekly when repealing a rule section or rule chapter.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

RULE NO.: 15-1.012
 RULE TITLE: Delegation of Authority

PURPOSE AND EFFECT: The purpose of the proposed rule action is to amend the current rule to incorporate planning, budgeting, and other specified acts authorized by Chapter 120, F.S.

SUMMARY: The proposed rule action revises the current Rule 15-1.012, F.A.C., by incorporating the Executive Director's authority to take action concerning planning and budgeting for the department, to enter into agreements with other governmental agencies, and to conduct rulemaking procedures.
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 322.02(6), 324.042 FS.

LAW IMPLEMENTED: 322.02(2), 324.0221, 324.051 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 20, 2010, 3:00 p.m.

PLACE: Department of Highway Safety and Motor Vehicles, 2900 Apalachee Parkway, Room Number A427, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Douglas D. Sunshine, Assistant General Counsel, 2900 Apalachee Parkway, Room A432, MS-02, Tallahassee, Florida 32399, dougsunshine@flhsmv.gov. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Douglas D. Sunshine, Assistant General Counsel, 2900 Apalachee Parkway, Room A432, MS-02, Tallahassee, Florida 32399, dougsunshine@flhsmv.gov. Telephone Number: (850)617-3101

THE FULL TEXT OF THE PROPOSED RULE IS:

15-1.012 Delegation of Authority.

Authority to take the following action is hereby delegated by the Governor and Cabinet acting as the head of the Department to the Executive Director of the Department of Highway Safety and Motor Vehicles or the Executive Director's designee:

(1) To approve the transfer of appropriations pursuant to Section 216.292, F.S.

(2) To administer personnel rules for career service employees and persons paid from OPS and to administer personnel actions for employees exempt from the career service system.

(3) To add, delete, transfer authorized positions within each budget entity in accordance with Sections 216.262 and 216.141, F.S.

(4) To administer travel and per diem expenses of public officers, employees and authorized persons on official business, pursuant to Section 112.061, F.S.

(5) To negotiate, execute and enter into contracts and agreements; except as provided in subsection (8), required for operation of the Department or to carry out programs approved by the Legislature or Governor and Cabinet; except, however, this delegation shall exclude awards of commodity contracts by the Department of Management Services.

(6) To take any action concerning planning and budgeting for the Department, as authorized pursuant to Chapter 216, F.S., or other laws, or by rules adopted by the Governor and Cabinet, or in directives issued by the Governor and Cabinet acting as the head of the Department.

~~(7)~~(6) To expend appropriated funds and make purchases including operating capital outlay to carry out the day-to-day operations of the Department. However, all purchases over \$100 ~~25~~,000 which are not made from a state contract established by the Department of Management Services shall be reported at least quarterly.

~~(8)~~(7) To execute contracts and orders approved by or on behalf of the Governor and Cabinet.

~~(9)~~(8) To contract for consultant and professional services up to \$100,000. However, selection of consultant and professional services, other than sole source, shall be by procedures set forth in the Consultants Competitive Negotiations Act or other competitive selection process established by rule.

(10) To enter into agreements with other federal, state, and local governmental agencies when authorized by law.

~~(11)~~(9) To enter into lease of real property for departmental operations.

~~(12)~~(10) To designate appropriate officials or employees to act as custodian of the records of the Department, to accept service of process on behalf of the Department or Executive Director in accordance with law.

~~(13)~~(11) To bring suit in the name of the Department and in consultation with the Attorney General, or to defend suit in the name of the Department.

(14)~~(12)~~ To compromise and settle, in the best interest of the Department, subject to Section 45.062, F.S., all claims, actions, causes of action and legal proceedings, whether sounding in tort or contract, that are brought against the Department or any of its employees acting within the scope of

their employment. Such compromises and settlements shall be limited to cases where the total amount paid is less than \$100,000.00, and shall be reported to the Governor and Cabinet on at least a quarterly basis. To settle claims, actions, causes of action and legal proceedings brought against the Department or its employees acting within the scope of his/her employment. Such settlement shall be limited to \$25,000.

(15)(13) To notify state attorneys, sheriffs or other law enforcement agencies of activity in violation of state law or department rules when such violation is beyond the capacity of the Department to halt or prosecute.

(16)(14) To accept donations and gifts of property or grants of money on behalf of the Department in compliance with the law, provided such gifts are unencumbered and have no impact on any other agency of the state.

(17)(15) To act on behalf of the agency in carrying out the provisions of Chapter 120, F.S., unless prohibited by law or by directives issued by the Governor and Cabinet acting as the head of the Department. This delegation specifically includes, but is not limited to the following:

(a) To initiate rulemaking by publishing a notice of rule development.

(b) To publish a notice of intended rulemaking, after approval of such proposed notice by the Governor and Cabinet pursuant to Section 120.54(1)(k), F.S.

(c) To certify that a proposed rule has been approved by the Governor and Cabinet pursuant to Section 120.54(3)(e)1., F.S.

(d) To file with the Department of State the approved rule pursuant to Section 120.54(3)(e)1., F.S.

(e) To explain in writing when appropriate why a rule development workshop is unnecessary.

(f) To issue declaratory statements pursuant to Section 120.565, F.S.

(g) To provide methods for making available a description of the agency's organization and general course of its operations, pursuant to Section 120.54(5)(b)7., F.S.

(h) To issue an immediate final order pursuant to Section 120.569(2)(n), F.S., that states the particular facts supporting a finding that there is an immediate danger to the public health, safety, or welfare.

(i) To issue a written statement pursuant to Section 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award process must be continued without delay due to an immediate and serious danger to the public health, safety, or welfare.

(j) Pursuant to Section 120.63(1)(a), F.S., to apply on behalf of the Department and certify to the Administration Commission that a proceeding required by Chapter 120, F.S., conflicts with a provision of federal law or rule.

(k) To prepare, certify, and file the rule review report mandated by Section 120.74(2), F.S., with the presiding officers and affected standing committees of the Florida Legislature.

~~(a) To initiate rulemaking by publishing a notice of intended action. However, before a notice of intended action is published, the Department must submit the proposed notice, including the proposed rule text, to the Governor and each member of the Cabinet. Upon the written request of the Governor or any member of the Cabinet, the Department shall submit the proposed rules for action by the Governor and Cabinet at the next appropriate Cabinet meeting. If, after being given 10 working days to review the Department's proposed notice of intended action and rule text, neither the Governor nor any member of the Cabinet notifies the Department of his/her objection to such publication, the Department shall proceed to initiate rulemaking pursuant to Section 120.54(3)(a), F.S. The power to determine whether proposed rules should be approved for final adoption is hereby reserved to the Governor and Cabinet acting as the head of the Department.~~

~~(b) To respond on behalf of the Department to petitions filed pursuant to Sections 120.54 and 120.57(1) and (2), F.S., and to issue declaratory statements pursuant to Section 120.565, F.S.~~

~~(c) To take final agency action in any proceedings within the scope of the Department's authority pursuant to Section 120.569, F.S.~~

~~(d) To provide methods for making available a description of the agency's organization and general course of its operations, pursuant to Section 120.54(5)(b)5., F.S.~~

~~(e) To issue a written statement pursuant to Section 120.57(3)(c), F.S., explaining why a bid solicitation process or contract award must be continued without delay due to an immediate and serious danger to the public health, safety, or welfare.~~

~~(f) Pursuant to Section 120.63(1)(a), F.S., to apply on behalf of the Department and certify to the Administration Commission that a proceeding required by Chapter 120, F.S., conflicts with a provision of the federal law or rule.~~

~~(g) To prepare, certify, and file the rule review report mandated by Section 120.74(2), F.S., with the presiding officers and affected standing committees of the Florida Legislature.~~

~~(18)(16) To approve memberships in professional and other organizations in which state funds appropriated to the Department will be used in payments of dues pursuant to Section 216.345, F.S.~~

~~(17) To initiate rule making.~~

~~(19)(18) To perform other such functions as may be necessary to supervise, direct, conduct and administer the day-to-day duties of the Department as authorized by law or by~~

rules and policies adopted by the Governor and Cabinet, or in directives issued by the Governor and Cabinet acting as the head of the Department.

~~(20)(19)~~ To convene complaint review boards, select members of such boards, serve notice and otherwise exercise authority related to duties in Section 112.532, F.S.

~~(21)(20)~~ A brief summary of the final disposition of the actions taken by the Executive Director as authorized by this rule shall be included in the quarterly report submitted by the Department. ~~The Executive Director shall report to the Governor and Cabinet at least quarterly actions taken under sub-sections (5), (8), (9), (11), (12), (13), (14) and (18).~~

~~(22)(21)~~ To take final agency action based on recommendations of hearings officers who conducted driver license hearings pursuant to Chapter 322, F.S.

~~(23)(22)~~ To conduct hearings and take final agency action concerning financial responsibility matters authorized by Chapter 324, F.S.

~~(24)(23)~~ To execute reciprocal agreements with appropriate authority of other states as authorized by Section 320.30, F.S.

~~(25)(24)~~ To take final agency action pursuant to Section 120.57 and Chapter 320, F.S., on manufacturer and dealer license hearings held under and pursuant to Chapters 120 and 320, F.S.

~~(25)~~ ~~To take final agency action pursuant to Section 120.57 and Chapter 325, F.S., on emissions control self inspector and reinspection facility licensure hearings held under and pursuant to Chapters 120 and 325, F.S.~~

Rulemaking Specific Authority 20.05(5), 120.53(1)(a), 320.011, 322.02(6), 324.042 FS. Law Implemented 20.05(1)(b), 120.53(1)(a), 322.02(2), 324.0221, 324.051 FS. History—New 6-26-80, Amended 11-6-80, Formerly 15-1.12, Amended 6-6-93, 11-17-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Douglas D. Sunshine, Assistant General Counsel, 2900 Apalachee Parkway, Room A432, MS-02, Tallahassee, Florida 32399

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 7, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 2010

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Driver Licenses

RULE NOS.:	RULE TITLES:
15A-12.001	Purpose
15A-12.002	Definitions and Course Curriculum
15A-12.003	Reciprocity
15A-12.004	Application to Become a Sponsor

15A-12.005	Additional Program Requirements
15A-12.006	Regulation of Authorized Program
15A-12.007	RiderCoaches
15A-12.008	Program Compliance
15A-12.009	Forms

PURPOSE AND EFFECT: This rule chapter sets forth the standards for the Florida Motorcycle Safety Education Program, hereafter referred to as the Florida Rider Training Program (FRTP), with organizations to provide motorcycle safety training, the certification of instructors, hereafter referred to as RiderCoaches (RC), and regulating the conduct of these programs and courses by the Department of Highway Safety and Motor Vehicles (DHSMV)/Florida Rider Training Program (FRTP) pursuant to Sections 322.0255, 322.12(5)(a), F.S.

SUMMARY: Compliance with these rules is required to obtain and to maintain licensure and certification by FRTP.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 322.0255 FS.

LAW IMPLEMENTED: 322.0255, 322.12(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Monday, September 20, 2010, 9:00 a.m.

PLACE: Department of Highway Safety and Motor Vehicles, Conference Room B211, 2900 Apalachee Parkway, Tallahassee, Florida 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2534. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2534

THE FULL TEXT OF THE PROPOSED RULES IS:

15A-12.001 Purpose.

The Florida Motorcycle Safety Education Program shall be known as the Florida Rider Training Program (FRTP). Its purpose is to provide motorcycle safety training, course curriculum and the certification of instructors.

Rulemaking Authority 322.02(6), 322.025, 322.0255(1), (6), (7), 322.12(5)(a) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History—New _____.

15A-12.002 Definitions and Course Curriculum.

(1) Basic Rider Course (BRC) – Standard beginner 15 hour motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF) and required for licensure to operate a motorcycle. The course curriculum shall be that prescribed by the Motorcycle Safety Foundation (MSF) and will include the Basic rider Course Rider Coach Guide, the Basic Rider Course Handbook and Basic Rider Course Range Cards, copies of which can be obtained by contacting the Motorcycle Safety Foundation, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, www.msf-usa.org.

(2) Certified Range Aid – RiderCoach candidate or other person who successfully completed the skills portion of the Basic Rider Course (BRC) and who is employed by a Sponsor to assist in approved training.

(3) Consultants – Individuals providing contract services for regulation of the Program, including performing Quality Assurance inspections and assisting with the RCP.

(4) Department – The Department of Highway Safety and Motor Vehicles (DHSMV).

(5) Experienced Rider Course (ERC) – Advanced motorcycle rider course as adopted by the Motorcycle Safety Foundation (MSF), designed as a skill enhancement course. The student may use their own motorcycle. This course is not required for licensure. The curriculum shall consist of the Experienced Rider Course RiderCoach Guide as adopted by the Motorcycle Safety Foundation (MSF) for RiderCoaches covering advanced rider course materials and administration, facilities and equipment, instructional planning, course teaching, classroom units, range exercises, and RiderCoach training, including the Experienced Rider Course Suite (Rider Classroom Cards and RiderCoach Range and Classroom Cards), copies of which can be obtained by contacting the Motorcycle Safety Foundation, Communications Department, 2 Jennifer Street, Suite 150, Irvine, CA 92618, (949)727-3227, or from its website, www.msf-usa.org.

(6) Intern/Mentoring Program – Program for candidates seeking Florida recognition as a RiderCoach.

(7) Letter of Authorization – Letter from the Department to the Sponsor authorizing the Program.

(8) Motorcycle Safety Foundation (MSF) – A national, non-profit organization promoting the safety of motorcyclists with programs in rider education, operator licensing and public information.

(9) Online Data Exchange System – An online Reporting system used by Sponsors to submit student Rider Course scores to the Department.

(10) Program – Florida Motorcycle Safety Education Program or Florida Rider Training Program.

(11) Program Manager – The individual who oversees the day-to-day operation of the state motorcycle safety program for the Department. FRTP Regional coordinators operate under the supervision of the Program Manager.

(12) Quality Assurance – On site inspections conducted by MSF or FRTP staff of contractors pursuant to a program adopted by MSF, to ensure the program and instructional quality.

(13) RiderCoach – FRTP Certified Rider Course Instructor, as set forth in these rules.

(14) RiderCoach Intern – Candidate/Individual who gains supervised professional experience through the Intern/Mentoring Program.

(15) RiderCoach Trainer – RiderCoach certified by MSF that trains RiderCoaches.

(16) Rules of Professional Conduct – Statement of conduct by which all FRTP recognized RiderCoaches are to abide by when conducting courses, as set forth in HSMV Form 72201 (10/2006), a copy of which may be obtained as described in Rule 15A-12.009, F.A.C.

(17) Sidecar/Trike Education Program (S/TEP) – Motorcycle course for individuals who intend to drive a motorcycle with more than two wheels or attached sidecar as adopted by the Evergreen Safety Council (ESC); Sidecar/Trike Education program Instructor Manual, copies of which can be obtained by contacting Evergreen Safety Council, 401 Pontius Avenue North, Seattle, WA 98109, (206)382-4090 or (800)521-0778, or at esc@esc.org, or visit www.esc.org/sidecar.html.

(18) Sponsor – The individual or entity which provides or intends to provide motorcycle safety training program services in Florida.

(19) Update – Program or course updates for RiderCoaches.

Rulemaking Authority 322.02(6), 322.025, 322.0255(2), (6), (7) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History—New _____.

15A-12.003 Reciprocity.

(1) Motorcycle training programs recognized, approved, licensed, or certified by another state or country's driver license authority, that are recognized by FRTP as being similar to the motorcycle safety training program in this State.

(2) The motorcycle endorsement requirements are waived if an individual has a driver license that includes a motorcycle endorsement from any one of the following:

(a) Any State (except Alabama)

(b) United States Territories, Possessions (including Panama Canal Zone if issued prior to January 1, 2000)

- (c) Canada
- (d) France
- (e) Germany
- (f) Taiwan
- (g) United States Military

Rulemaking Authority 322.02(6), 322.025, 322.0255(6), (7), 322.12(5)(a), (b) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History—New _____.

15A-12.004 Application to Become a Sponsor.

(1) Locate a suitable area for a range. An unobstructed area of 200' x 300' is recommended. Potential alternatives can be found on the MSF website, www.msf-usa.org. A request for any range approval shall be made electronically or in writing to FRTP to secure a letter of authorization with FRTP.

(2) Obtain a written statement from the property owner providing permission to use the property for motorcycle safety courses.

(3) Complete the forms listed below which are available from MSF website, www.msf-usa.org. Training Site Support, Rider Education Recognition Program (RERP) Forms:

(a) Rider Education Recognition Program (RERP) Agreement.

(b) Rider Education Recognition Program (RERP) Application.

(c) Rider Education Recognition Program (RERP) Range Application.

(d) MSF Rider Course Range Information Form.

(4) The regional coordinator will verify the range area and all forms will be sent to the FRTP Program Manager who will sign and forward them to MSF for approval.

(5) MSF will send a letter of approval to the applicant with a copy to the FRTP Program Manager.

(6) Once FRTP receives clearance from MSF, FRTP will initiate the letter of authorization process.

(7) The Letter of Authorization will be signed by the Director of the Division of Driver License or her designee and provided to the Sponsor.

(8) Only when the applicant receives both official documents, will they be able to start classes.

(9) Any change in the information provided by the applicant must be approved by FRTP. A letter of authorization shall not be transferable. The program shall notify FRTP at least 90 days prior to the effective date of a proposed change in the program's corporate structure. FRTP shall review the proposed changes and may request additional information from the program.

(10) The Sponsor shall be given Primary and Secondary signatory templates designed to designate approval authority for the motorcycle safety course classes. The Sponsor shall keep a record of Online Data Exchange System signatories, signatory ID's and clerical additions.

Rulemaking Authority 322.02(6), 322.025, 322.0255(1), (2), (4), (6), (7), 322.12(5)(a) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History—New _____.

15A-12.005 Additional Program Requirements.

(1) An organization authorized to conduct the motorcycle safety education program shall adhere to the following:

(a) All RiderCoaches must abide by the FRTP Rules of Professional Conduct, HSMV Form 72201 (a copy of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms).

(b) Sponsors must attend required meetings, advise FRTP of organizational changes, location of services, schedules of classes and provide copies of incident reports.

(c) Sponsors must submit reports on student completion in the format required by the FRTP. All completions will be entered within three days of the conclusion of the class into the Online Data Exchange System.

(d) Sponsors must provide proper insurance coverage as required by MSF.

(e) Sponsors and RiderCoaches will cooperate with FRTP staff or their consultants during program regulation visits.

(f) Sponsor shall produce and maintain specific records as identified below:

(i) Student Observation/Incident Report, HSMV Form 77008 (a copy of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms), where applicable. The Sponsor shall submit copies of all incident reports to the Department within 30 days of occurrence.

(ii) The student has one year from completion date of a license waiver course to secure the endorsement on their driver license. DHSMV Driver License Operations Manual, Motorcycle Licensing Procedures, MP 3 – Motorcycle Also Requirements, DHSMV Issued: 08/00/05, Revised: 04/21/10.

(g) The Sponsor, upon request, shall permit FRTP and its representatives to inspect the program, its public facilities, equipment and records that are required by these administrative rules to be maintained in the operation of the program.

(h) Sponsors must maintain training materials and equipment. All cosmetic damage to state loaned motorcycles must be repaired at least annually. Any motorcycle that has been involved in a crash will be immediately removed from service. The Sponsor must ensure that it is inspected and ridden by a RiderCoach or Certified Range Aid to ensure proper repair prior to student use.

(i) Sponsors must maintain all ranges and meet safety codes.

(j) The Sponsor is solely responsible for the performance of all aspects of these administrative rules. The Sponsor may subcontract aspects of these requirements but assumes full responsibility for the performance of that subcontractor.

(2) A Sponsor shall not use any name other than its registered name with the Secretary of State, for advertising or publicity purposes, nor shall a Sponsor advertise or imply that it is "recommended," or "endorsed" by FRTP or the State of Florida.

(3) No Sponsor, RiderCoach or employee shall advertise or represent themselves to be an agent or employee of FRTP or allow the use of any advertisement which would reasonably have the effect of leading the public to believe that they are or were an employee or representative of FRTP.

(4) No Sponsor shall make a false or misleading claim in any of its advertisements.

(5) No Sponsor shall use any form of advertising which is obscene, lewd, or pornographic.

(6) The electronic Online Data Exchange System requires reports to be submitted within three days of course completion. If any portion of the documentation is incorrect or incomplete, it may be addressed via email to the Sponsor or the documentation will be returned to the Sponsor for correction and must be resubmitted by the Sponsor within 3 working days of receipt.

(7) By submission of the online reports, the Sponsor certifies their correctness. All such reports are subject to audit by the State or its designee.

(8) The Sponsor shall direct all required correspondence and reports to the Department which shall bear an original signature of the Sponsor's designated representative.

(9) The Sponsor shall issue each student a current edition of the BRC Student Handbook or S/TEP Student Handbook, which shall be an original and not photocopied. For the ERC, the Sponsor shall provide a set of classroom cards to the students for use during the program.

(10) A student who fails either the Rider Course knowledge test or skills test shall be allowed one retest. The retest shall not be on the same day as the failure. The retest shall be at no cost to the student and shall occur within 60 days of the date of the failure.

Rulemaking Authority 322.02(6), 322.025, 322.0255(1), (2), (3), (6) (7), 322.12(5)(a) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History--New _____.

15A-12.006 Regulation of Authorized Program.

(1) FRTP will regulate and periodically visit each Sponsor site to ensure compliance and quality assurance with these administrative rules, Florida Statutes, and compliance with all applicable MSF or ESC Agreements and course requirements. FRTP staff and contractors are authorized by MSF and ESC to act in their behalf to insure program compliance. The FRTP staff, consultants or representatives under these administrative rules shall:

(a) Conduct announced or unannounced site visits, or place unannounced rider(s) in a class.

(b) Check the range for size and safety compliance. If there is an immediate safety issue the range shall be shut down. A formal report shall be made on the Quality Assurance Audit Form, HSMV 92786.

(c) During a site visit, all representatives of the Sponsor shall cooperate with FRTP's representative(s), and, upon request, shall exhibit all records, instructional aids, manuals, or such other materials as necessary for the review.

(2) The FRTP representative visiting the Sponsors will produce a report on the Quality Assurance Audit Form, HSMV Form 92786 (a copy of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms). A copy of the report shall be provided to the Sponsor.

(a) Sponsors shall be responsible for ensuring any deficiencies noted in the report are remedied in the time allotted. Failure to do so shall be considered administrative rule violations, which are cause for suspension or termination of authorization to provide motorcycle safety education.

(b) The Quality Assurance Audit Form, HSMV Form 92786 (a copy of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms), outlines the steps that will be taken by the FRTP, when the Code of Conduct or the Department "Letter of Authorization", are not adhered to.

(c) On the first observation the FRTP representative documents in a comprehensive report what they saw and why it was viewed as a problem. This report is submitted to FRTP for review. A notice will be provided to the RiderCoach and Sponsor. The RiderCoach and Sponsor will be allowed to provide explanations and reasoning as to their actions. If the explanation and/or reasoning is/are acceptable, then no further action will be deemed necessary. If the explanations and reasoning so warrant, advise the RiderCoach and Sponsor of the necessary corrective measure(s) to be implemented by them to correct it.

(3) In order to better facilitate site visits, the Sponsor shall provide the Department a quarterly Rider Course schedule no later than the 15th of the month preceding the new quarter, listing the dates of the classes and the names of the RiderCoaches who will be teaching on those dates. The course schedule shall be sent to FRTP-Schedules@flhsmv.gov. The Sponsor shall notify the Department of any changes in course schedules (a monthly submission is permissible).

Rulemaking Authority 322.02(6), 322.0255(2), (3), (6) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History--New _____.

15A-12.007 RiderCoaches.

(1) RiderCoaches, as personnel, must complete the RiderCoach Apprentice Program (RCAP), as established by the MSF, prior to being employed by any Sponsor.

(2) RiderCoaches are to be MSF certified and Florida recognized, maintaining certification, so that they may instruct the motorcycle safety courses. Prospective Rider Coaches must comply with the following:

- (a) Find a Sponsor School in their area to sponsor them.
 - (b) Complete a Basic Rider Course.
 - (c) Fill out the RiderCoach Apprentice Program Application, HSMV Form 77058, copies of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms, and submit it to the address on the application.
 - (d) The RiderCoach will be placed in a RiderCoach Preparation Course (RCP).
 - (e) After successful completion of the RCP, the student will be a recognized FRTP RiderCoach and certified by the Motorcycle Safety Foundation (MSF). The RiderCoach identification card will be sent to the RiderCoach by MSF.
- (3) RiderCoaches are to be Motorcycle Safety Foundation (MSF) certified and Florida recognized maintaining certification so that they may instruct the motorcycle safety courses.
- (a) Maintaining Florida RiderCoach Status:
 - (i) For RiderCoaches initially trained at an FRTP sponsored or recognized RiderCoach Preparation Course (RCP), a probationary recognition is automatic. This is based on the individual completing the RCAP and attending an RCP.
 - (ii) In order to gain full recognition, the RiderCoach must be observed and receive an average grade in all areas of the Quality Assurance Audit.
 - (iii) Continued FRTP recognition is predicated upon successful completion of the one-year probationary period, and the RiderCoach maintaining national Rider Course RiderCoach Certification, teach or team teach a minimum of one complete Basic Rider Course annually, and attend one FRTP RiderCoach Update in a certification period. Updates will not be more than 30 months apart.
 - (b) RiderCoaches trained outside Florida can gain FRTP recognition by doing the following:
 - (i) Contact Course Sponsor in the area you want to teach in and discuss the possibility of employment.
 - (ii) If Sponsor School agrees to employment, complete a RiderCoach Personal Information Qualification Form (provided by Sponsor School), HSMV Form 77122, copies of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms, and submit the form to the appropriate Regional Coordinator.
 - (iii) The Sponsor can use the RiderCoach, with a current FRTP recognized RiderCoach, for two classes before they are observed.
 - (iv) The RiderCoach must be observed by an FRTP or FRTP approved RiderCoach Trainer (RCT).
 - (v) The RiderCoach must attend the next available FRTP update. Updates must be within six months of observation.
 - (vi) All new FRTP recognized RiderCoaches will be placed on probationary status for one year.
- (4) The Sponsors shall employ only RiderCoaches who are recognized by FRTP and certified by MSF or ESC.

(5) RiderCoaches and Sponsors must adhere to the professional standards adopted by FRTP as established by the MSF and the ESC; FRTP Rules of Professional Conduct, HSMV Form 72201, a copy of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms.

(6) RiderCoaches trained in another state, must, prior to teaching in Florida, complete a BRC RiderCoach Information Sheet; submit a driver's record and criminal history background, and a copy of their MSF RiderCoach card to the area Regional Coordinator. Then they will be evaluated by FRTP staff or their designee. They must also attend a RiderCoach update within six months of evaluation.

(7) RiderCoaches must maintain their certification and a valid driver license with a motorcycle endorsement.

(8) RiderCoaches must sign and abide by the FRTP's RiderCoach Rules of Professional Conduct, teach or team teach a minimum of one complete BRC or S/TEP annually, attend one FRTP RiderCoach Update and one professional development activity in their certification period (two years).

(9) RiderCoaches must recertify with MSF on-line and must forward recertification surveys to Sponsors.

(10) RiderCoaches shall ensure that no assistance is given any student in a manner that provides unfair advantage in passing the skills and/or knowledge tests. RiderCoaches cannot conduct tests for their relatives.

(11) RiderCoaches can also gain Florida recognition by completing the FRTP Intern/Mentoring Program.

(a) For RiderCoaches who were initially trained at an FRTP sponsored RiderCoach Preparation Course (RCP) or Sidecar and Trike Education program (S/TEP), recognition is automatic upon completion of the Intern/Mentoring Program.

(b) RiderCoaches seeking Florida recognition must complete the Intern/Mentoring Program and attend an FRTP Update. Both must be completed within 9 months of applying for FRTP recognition.

(i) RiderCoach candidates will automatically be entered into the Intern/Mentoring Program when they successfully complete the RCP.

(ii) Under the Intern/Mentoring Program, new RiderCoaches and those seeking Florida recognition will be required to team-teach a minimum of 3 Basic Rider Courses (BRC) with an FRTP recognized RiderCoach.

(iii) An Internship Report – RiderCoach Mentor Form, HSMV Form 77079 (copies of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms), will need to be completed for each class. The RiderCoach Intern will also need to complete a RiderCoach Intern Form, HSMV Form 77078 (copies of which may be obtained as set forth in Rule 15A-12.009, F.A.C., Forms), for each class. Completed forms will be sent to the e-mail or mailing address on the forms.

(iv) Once FRTP receives all of the forms listed in (10)(b)(iii), above, the candidate will gain full FRTP RiderCoach recognition.

Rulemaking Authority 112.011, 322.02(6), 322.0255(3), (6) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History--New _____.

15A-12.008 Program Compliance.

(1) Administrative non-compliance is the failure to meet requirements for reporting, notifications, record keeping and similar acts that do not compromise testing integrity or public safety. The first occurrence requires a written reprimand and further violations requires a suspension of the authorization to provide motorcycle safety education.

(2) Discrepancy in test procedure is the failure to properly administer a required portion of a test procedure, such as the omission of a required maneuver. The first occurrence will result in a suspension of the authorization to provide motorcycle safety education, and a repeated occurrence may result in program termination.

(3) A major discrepancy in testing procedures is a failure to include all required parts, use of an unsafe vehicle for testing, or other action that significantly compromises the integrity of the testing process. A violation will result in a suspension of the authorization to provide motorcycle safety education for the first occurrence and further violations may result in program termination.

(4) Fraud is defined as the abuse of authorities granted under these administrative rules to gain profit through the issuance of test waivers for students who have not passed a complete test or have not completed the course in its entirety.

(5) The authorization to conduct motorcycle safety education may be cancelled if a Sponsor refuses to allow public access to all documents subject to Chapter 119, F.S., fails to comply with any part of these administrative rules, commits an act that compromises the integrity of the program, or uses a RiderCoach who is not Florida recognized.

(6) Upon termination of the authorization, all loaned equipment and program materials must be returned to FRTP within 10 calendar days of the termination.

Rulemaking Authority 120.60, 322.02(6), 322.0255(1), (3), (4), (6), FS. Law Implemented 322.0255, 322.12(5)(a) FS. History--New _____.

15A-12.009 Forms.

The forms listed below are incorporated by reference for administration of the FRTP program. Copies of the forms may be obtained from the FRTP website, under forms "Forms", or by contacting the Department of Highway Safety and Motor Vehicles, Bureau of Driver Education and DUI Programs, Florida Rider Training Program, 2900 Apalachee Parkway, Neil Kirkman Building, MS 88, Room B211 B214, Tallahassee, Florida 32399-0571.

(1) Form HSMV 72201. "FRTP Rules of Professional Conduct"; October 2006; Rules 15A-12.005 and 15A-12.007, F.A.C.

(2) Form HSMV 77008. "Student Observation/Incident Report"; October 2009; Rule 15A-12.005, F.A.C.

(3) Form HSMV 77108, "BRC Skill Evaluation Score Sheet"; October 2003.

(4) Form HSMV 77110, "ERC Skill Evaluation Score Sheet"; October 2003.

(5) Form HSMV 92786, "Quality Assurance Audit Form"; February 2010; Rule 15A-12.006, F.A.C.

(6) Form HSMV 77076S, "Florida Rider Training Program (FRTP), Motorcycle Riding Course for Endorsement, Approval Form for Newly Developed Course"; February 2010.

(7) Form HSMV 77077S, "Florida Rider Training Program (FRTP), Advanced Motorcycle Riding Course, Approval Form for Newly Developed Course"; February 2010.

(8) Form HSMV 77079, "Internship Report – RiderCoach Mentor Form"; June 2010.

(9) Form HSMV 77078, "RiderCoach Intern Form"; June 2010.

(10) Form HSMV 77058, "RiderCoach Apprentice Program Application"; April 2009.

(11) Form HSMV 77122, "RiderCoach Personal Information Qualification Form"; July 2010.

Rulemaking Authority 322.02(6), 322.0255(2), (6), 322.12(5)(a) FS. Law Implemented 322.0255, 322.12(5)(a) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Barbara Lauer, Bureau of Driver Education and DUI Programs, 2900 Apalachee Parkway, Room B214, Tallahassee, FL 32399-0500, (850)617-2534

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009; November 26, 2008

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NOS.:	RULE TITLES:
15C-17.001	Requirements
15C-17.002	Exemptions and Restrictions
15C-17.003	Record Retention

PURPOSE AND EFFECT: The Purpose and Effect of this rule is to implement a secure electronic process for the temporary transfer of license plates.

SUMMARY: Electronic Temporary Registration (ETR) is a legislatively authorized program associated with issuing temporary license plates. This program allows all temporary license plate issuers to electronically report the issuance of temporary license plates to the Department. Dealerships issue temporary license plates to customers and electronically submit customer and vehicle information to the Department in

real time. Real time access to temporary license plate data provides law enforcement with critical information in protecting the citizens of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has been prepared by the agency.

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

RULEMAKING AUTHORITY: 320.0609(8)(c) FS.

LAW IMPLEMENTED: 320.0609(8)(c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Julie Baker, Assistant Bureau Chief, 2900 Apalachee Parkway, MS-70, Tallahassee, Florida 32399; juliebaker@flhsmv.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

15C-17.001 Requirements.

(1) Every Electronic Temporary Registration (ETR) provider pursuant to Chapter 15C-16, F.A.C. must also provide a method to issue an electronic temporary plate transfer.

(2) Every motor vehicle dealer licensed under Chapter 320 shall report a temporary plate transfer via the ETR System, a tax collector's office, or a license plate agency prior to the license plate being placed on a newly acquired vehicle.

(3) The dealer must provide verification to the ETR provider that background checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the ETR provider allowing access to the system and registering authorized users. The principals or prospective users shall have no convictions of a felony involving fraudulent crimes related to motor vehicles including, but not limited to, identity fraud, embezzlement or other related economic crimes by the principals or prospective users within the last five years. If there were any felony convictions against any principal or prospective user beyond the five years, they must have had their civil rights restored and provide proof of this prior to being authorized to access the system. This does not include any felony convictions involving the actual operation of a motor vehicle.

Rulemaking Authority 320.0609(8)(c) FS. Law Implemented 320.0609(8) FS. History--New _____.

15C-17.002 Exemptions and Restrictions.

(1) In order to be temporarily transferred, the registration must have more than 30 days of valid registration remaining. If the current registration does not meet this requirement, an electronic temporary registration must be issued pursuant to Chapter 15C-16, F.A.C.

(2) When a temporary plate transfer transaction cannot be performed due to connectivity issues, every issuer of temporary plate transfers must perform the following:

(a) Provide written documentation to the customer indicating the transfer could not take place due to a connection failure.

(b) Issue a pre-printed temporary license plate pursuant to subsection 15C-16.002(2), F.A.C.

Rulemaking Authority 320.0609(8)(c) FS. Law Implemented 320.0609(8) FS. History--New _____.

15C-17.003 Record Retention.

Any person or entity authorized to conduct temporary plate transfers shall maintain all records relating to the transfer for a period of 5 years, and such records shall be open to inspection by the department or its agents during reasonable business hours.

Rulemaking Authority 320.0609(8)(c) FS. Law Implemented 320.0609(8) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Boyd Walden, Chief, Bureau of Titles and Registrations, Division of Motor Vehicles, 2900 Apalachee Parkway, MS-68, Tallahassee, Florida 32399-0500

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Julie Jones, Executive Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 26, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 9, 2010

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

Division of Motor Vehicles

RULE NOS.:	RULE TITLES:
15C-18.001	Electronic Filing System
15C-18.002	Electronic Filing System Features
15C-18.003	Tax Collector Responsibilities
15C-18.004	EFS Agent Participation Requirements
15C-18.005	Service Providers; Certification; Requirements
15C-18.006	Electronic Filing System Requirements; Disclosure to Customer
15C-18.007	Enforcement; Service Providers; EFS Agents; Tax Collectors

PURPOSE AND EFFECT: To administer and establish operating requirements for the electronic filing system and for the users of the Department's electronic filing system, including but not limited to: establishing participation requirements; certification of service providers; electronic filing system requirements; and enforcement authority for noncompliance.

SUMMARY: The electronic filing system allows authorized users to conduct title and registration transactions for their customers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 320.03(10) FS.

LAW IMPLEMENTED: 320.03(10) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Julie Baker, Assistant Bureau Chief, 2900 Apalachee Parkway, MS-70, Tallahassee, Florida 32399; juliebaker@flhsmv.gov

THE FULL TEXT OF THE PROPOSED RULES IS:

15C-18.001 Electronic Filing System.

(1) Purpose and Scope. This rule prescribes and defines the Department of Highway Safety and Motor Vehicles' Electronic Filing System and the participation requirements, certification of service providers, system requirements and enforcement authority for noncompliance.

(2) Definitions. The words or terms as used in this rule shall have the following meanings:

(a) "Certified Service Provider" means a Department approved provider of electronic registration and titling or other motor vehicle, vessel, mobile home, or off-highway vehicle transactions allowed under the Electronic Filing System. The Certified Service Provider hosts an approved system for interface between EFS agents and the Department.

(b) "Department" means the Department of Highway Safety and Motor Vehicles.

(c) "Electronic Filing System" means the system owned by and under the jurisdiction of and regulated by the Department which allows authorized EFS agents to process title and registration transactions.

(d) "Electronic Filing System (EFS) agent" means an entity authorized by the Department to process title and registration transactions using the Electronic Filing System as defined in Section 320.03(10), F.S.

(e) "Indicia" means any document, validation decal, paper stock or metal license plate necessary in titling and registration transactions.

(f) "Inquiry" means accessing the Department's database for information that does not result in the issuance of a title certificate or registration credential.

(g) "Motor Vehicle" includes, for the purposes of this rule only, motor vehicles, vessels, mobile homes or off-highway vehicles.

(h) "Tax Collector" means one of the 64 state constitution or 3 charter appointed tax collectors in the 67 counties of Florida who serve as agents of the Department for the delivery of title and registration services.

(3) The Department and all Tax Collectors must allow any entity who meets the requirements set forth in this rule to participate as an EFS agent. Neither the Department nor a Tax Collector may deny an eligible EFS agent from participating. The Department, Tax Collectors, EFS agents, and Certified Service Providers shall comply with the provisions of these rules and may not add additional requirements not set forth in either the statute or these rules.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History--New _____.

15C-18.002 Electronic Filing System Features.

The Electronic Filing System allows an authorized EFS agent to process title and registration transactions for products they sell including, but not limited to:

(1) New and used motor vehicles.

(2) Direct and lease purchases.

(3) License plates transferred from one motor vehicle to another.

(4) Registration renewal for customers at the time of purchase.

(5) Inquiry capabilities subject to applicable fees as set forth in Section 320.05(3)(e), F.S.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History--New _____.

15C-18.003 Tax Collector Responsibilities.

Tax Collectors are responsible for:

(1) Appointing EFS agents in their county after the Department notifies said Tax Collector that the entity is authorized.

(2) Referring any requests to become an authorized EFS agent to the Department.

(3) Reviewing supporting documentation from EFS transactions processed in the county. The Tax Collector shall ensure all transactions and corrections are processed in accordance with law and Department procedure.

(4) Receiving funds collected electronically from EFS transactions from the Certified Service Provider and remitting State funds in accordance with law and Department procedure.

(5) Distribution of indicia to authorized EFS agents. The Tax Collector's responsibility is limited to distribution of indicia pursuant to Department procedure.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History–New _____.

15C-18.004 EFS Agent Participation Requirements

(1) Entities requesting authorization to become an EFS agent must meet the following requirements:

(a) Sell products that must be titled or registered.

(b) Provide title and registration services on behalf of its consumers.

(c) Enter into a contract with a Certified Service Provider.

(d) Apply to the Department on a form prescribed by the Department.

(e) Have no unresolved issues regarding non-sufficient funds received by either the Department or Tax Collector.

(f) Have no convictions of a felony involving fraudulent crimes related to motor vehicles including, but not limited to, identity fraud, embezzlement or other related economic crimes by the principals or prospective users within the last five years. If there were any felony convictions against any principal or prospective user beyond the five years, they must have had their civil rights restored and provide proof of this prior to being authorized to access the system. This does not include any felony convictions involving the actual operation of a motor vehicle. The EFS agent must provide verification to the Certified Service Provider that background checks are performed on all principals or prospective users and meet the requirements set forth in this rule prior to the Certified Service Provider allowing access to the system and registering authorized users.

(g) Must be current on all applicable tax payments.

(h) Must be current on all State and or local licenses.

(i) Prior disciplinary actions by the Department may be used as a determining factor in denial of an entity as an EFS agent.

(2) EFS agents may only stock regular series license plates and registration decals unless they receive specific authority from the Department to stock additional indicia types.

(a) The EFS agent must ensure that all indicia is secured in a locked area during non-business hours. Indicia not being used shall also be secured in a locked area.

(b) Only those users authorized by the Certified Service Provider shall have access to indicia.

(3) Upon authorization from the Department the Tax Collector shall appoint an entity as an authorized electronic filing system agent for that county.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History–New _____.

15C-18.005 Service Providers; Certification; Requirements.

(1) The Department shall certify Service Providers who meet minimum requirements as set forth in this rule.

(2) Entities requesting approval to become a Certified Service Provider must meet the following requirements prior to being approved by Department:

(a) Enter into a contract with the Department.

(b) Pass a structured test with the Department.

(c) Provide a performance bond for \$2 million with the Department.

(3) The Certified Service Provider shall:

(a) Provide support, assistance and training to any EFS agents using their system.

(b) Follow installation procedures as set forth by the Department.

(c) Maintain all records of electronic fund transfers, inventories and files of transactions for a period of three fiscal years.

(d) Maintain all contractual agreements for a period of five fiscal years after completion or termination of the contract.

(e) Make all records available for inspection or audit at any time during normal business hours by the Department.

(f) Ensure all EFS agent principals or prospective users have had background checks and maintain lists of authorized users.

(g) Transfer all funds collected in connection with the processing of all registration and title transactions and other approved services via Electronic Funds Transfer to the applicable Tax Collector office within two business days of the date the transaction is electronically submitted to the Tax Collector's office.

(h) Provide at its own expense all equipment necessary to provide an interface between the Certified Service Provider's server and the Department's server.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History–New _____.

15C-18.006 Electronic Filing System Requirements; Disclosure to Customer.

(1) Certified Service Providers must provide reports as set forth below. The Electronic Filing System developed by a Certified Service Provider must at a minimum include the following reporting capabilities:

(a) Bundle reporting which includes all completed transactions from the prior business day and includes the following data: transaction ID number, owner name, number of license plate, expiration date, title number, agency fees, system control number, customer number, stock number, sales tax revenue, registration tax, title fees, total registration tax and title fees and total funds remitted.

(b) An inventory report reflecting inventory on hand, unassigned, available, issued, transmitted, damaged, missing, returned, or reserved. Such report shall include series of inventory with beginning and ending numbers.

(c) A pull ticket report which includes a control number, new owner of vehicle or vessel being purchased, VIN or hull number, make and body or vessel type. If the license plate is being transferred, the plate number shall be included.

(d) Registration certificate.

(e) Title application receipt.

(f) Provide an approved HSMV 84003 with a list of license plates that have been voided, along with a reason for the void.

(g) Provide a report for each county, by authorized EFS agent, listing all current users.

(h) Provide a list to the Department of all authorized users of the Electronic Filing System.

(2) The system must provide a report of all completed transactions for the previous date.

(3) Certified Service Providers must ensure that access and data are secure. The EFS agent must ensure that access and data are only used by authorized persons.

(4) An EFS agent that desires to change its Certified Service Provider shall submit the request to the Department on a form prescribed by the Department.

(5) If an EFS agent charges a fee to the customer for use of the electronic filing system in a title or registration transaction, the EFS agent may not disclose or disguise this as a State or Government fee.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History–New _____.

15C-18.007 Enforcement; Service Providers; EFS Agents; Tax Collectors.

(1) Enforcement authority for compliance with the requirements of the electronic filing system with regard to Certified Service Providers is granted to the Department. The Department shall have the authority to terminate any contract or agreement with any Certified Service Provider for any violation of the statute, the rules, or the terms of the contract. Additionally, the following are prohibited and may result in the termination of certification as a service provider:

(a) Providing Electronic Filing System services to a client who is not an authorized EFS agent.

(b) Distributing indicia to a client who is not an authorized EFS agent.

(c) Willful misrepresentation of EFS policies, procedures, contractual terms or other title and registration policies or procedures.

(d) Using Department information for reasons other than authorized Electronic Filing System services.

(e) Failure to correct errors as required by the Department.

(f) Failure to execute electronic funds transfer in the specified time frame.

(2) Enforcement authority for compliance and the requirements of the electronic filing system with regard to EFS agents is granted to the Department. The Department shall have the authority to revoke an EFS agent's ability to use the electronic filing system for any violation of the statute, the rules or the terms of the contract. This rule shall not prevent the Department from imposing any additional sanctions or fines as allowed by other applicable laws or rules including, but not limited to Section 320.27, F.S. Additionally, the following are prohibited:

(a) Failure to comply with Department procedures.

(b) Unauthorized access of data by users.

(c) Failure to pay applicable Department records fees for information not resulting in the issuance of a title certification or registration credential.

(d) Failure to comply with minimum security requirements, including failure to safeguard equipment which provides access to the Electronic Filing System.

(e) Failure to execute electronic funds transfer.

(f) Failure to remain in good standing with the Tax Collector or State, including lapse or revocation of any state of local license.

(g) Failure to correct errors or clear pending transactions as required by the Department.

(h) Charging title and registration fees in excess of those allowed by law.

(i) Improper security and control of license plate and decal inventory or other Tax Collector provided indicia.

(3) Enforcement authority for non-compliance with Rule 15C-18.003, F.A.C., is granted to the Department and may result in the Department or its authorized representative handling EFS services for that county.

Rulemaking Authority 320.03(10)(a) FS. Law Implemented 320.03(10)(a), (b) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Boyd Walden, Chief, Bureau of Titles and Registrations,
Division of Motor Vehicles, 2900 Apalachee Parkway, MS-68,
Tallahassee, Florida 32399-0500

NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Lee Ann Korst, Deputy Executive
Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-404.107
RULE TITLE: Use of Force with Mentally Disordered Inmates

PURPOSE AND EFFECT: The purpose and effect is to repeal Rule 33-404.107, F.A.C.

SUMMARY: Rule 33-404.107, F.A.C., is being repealed, as the language of the rule is duplicative of language in proposed Rule 33-602.210, F.A.C.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.35, 945.49 FS.

LAW IMPLEMENTED: 944.09, 944.35, 945.49 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-404.107 Use of Force with Mentally Disordered Inmates.

Rulemaking Specific Authority 944.09, 944.35, 945.49 FS. Law Implemented 944.09, 944.35, 945.49 FS. History–New 5-27-97, Formerly 33-40.007, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dean Aufderheide, Mental Health Services Director

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter A. McNeil, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 23, 2010

DEPARTMENT OF CORRECTIONS

RULE NO.: 33-601.217
RULE TITLE: Elderly Offender Housing

PURPOSE AND EFFECT: The purpose and effect of the proposed rulemaking is to remove reference to the Correctional Privatization Commission, as the commission no longer exists.

SUMMARY: The proposed rule removes references to the Correctional Privatization Commission, as the commission no longer exists, and is amended to reflect recent changes to Section 944.804, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency.

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

RULEMAKING AUTHORITY: 944.09, 944.804 FS.

LAW IMPLEMENTED: 944.09, 944.804 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.217 Elderly Offender Housing.

(1) Definitions.

(a) No change.

(b) State Classification Office (SCO) – refers to a staff member at the central office level who is responsible for the review of inmate classification decisions. Duties include approving, disapproving, or modifying or rejecting ICT recommendations.

(c) Elderly Offender – an inmate age 50 or older in a state correctional institution or facility operated by the Department of Corrections or a state correctional facility operated by a private entity under contract with the Department of Management Services or the Correctional Privatization Commission.

(d) Geriatric Facility or Dorm River Junction Work Camp – a geriatric facility or dorm within a facility authorized designated by Section 944.804, F.S., for generally healthy elderly offenders who can perform general work appropriate for their physical and mental condition.

(e) No change.

(2) Placement criteria. Inmates shall be recommended for placement at a geriatric facility or dorm River Junction Work Camp through routine classification assignment.

(a) Inmates shall meet the following criteria for housing at a geriatric facility or dorm RJCI:

1. No change.
2. Medium, minimum, or community custody;
3. No change.
4. Are not otherwise deemed to be a security risk for placement; and
5. No change.

(b) An inmate The following inmates shall not be eligible for housing at a geriatric facility or dorm RJCI if he:

1. Is close ~~Close~~ or maximum custody;
2. Has ~~Have~~ a current or prior conviction for any sex offense;
3. Has ~~Have~~ a current or prior conviction for first degree murder;
4. Has ~~Have~~ an escape history or escape arrest with unknown disposition;
5. Has ~~Have~~ a violent felony or INS detainer;
6. Has ~~Have~~ an ex-death sentence;
7. Has ~~Have~~ a life sentence without parole eligibility;
8. Has ~~Have~~ been released from close management status within the last six months; or
9. Has ~~Have~~ a special medical need that which cannot be accommodated in the work camp setting.

Rulemaking Specific Authority 944.09, 944.804 FS. Law Implemented 944.09, 944.804 FS. History–New 9-15-02, Amended 4-1-04, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
George Sapp, Deputy Secretary of Institutions
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Walter McNeil, Secretary
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 23, 2009
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 11, 2009

DEPARTMENT OF MANAGEMENT SERVICES

Technology Program

RULE NO.: 60FF-5.003
RULE TITLE: E911 State Grant Programs

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify E911 state grant programs.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify E911 state grant programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting John C. Ford, Chair, at the address listed below. Any person who wishes to provide information regarding the

statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. The following is a summary of the SERC:

- The number of individuals and entities likely to be required to comply with the rule is 67.
- The costs associated with this rule are minimal and limited to the grant application costs and costs for grant reporting.
- No increased reporting, staffing, legal or fee requirements are anticipated.
- The proposed change is not expected to impact small business.

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

RULEMAKING AUTHORITY: 365.172(6)(a)11. FS.
LAW IMPLEMENTED: 365.172(6)(a)3.b., 365.172(9)(a), (b), (c), 365.173(2)(i) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 160Q, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULE IS:

60FF-5.003 E911 State Grant Programs.

The E911 State Grant program is a grant program provided for the purpose of assisting State of Florida counties with the installation of Enhanced 911 (E911), Phase II and Next Generation 911 systems.

- (1) No change.
- (2) General conditions.

(a) Each county applying for E911 State Grant funds shall complete and submit W Form 3A, "Application for the E911 State Grant Program," effective 08/1/10 ~~7/1/2008~~, which is incorporated herein by reference and which may be obtained from the E911 Board office at the following address:

State of Florida E911 Board
ATTN: Administrative Assistant
4050 Esplanade Way
Building 4030 – Suite 160
Tallahassee, Florida 32399-0950

The applicant must provide one the original of the pages for Application Form items 1 through 10 and the associated quotes for the grant application postmarked or delivered on or before November 1 grant application and nine copies postmarked or delivered to the E911 Board's Administrative Office on or before the date specified in the announcement notification and the grant application.

(b) The E911 Board will approve grants for leased equipment only if the applicant county can demonstrate that a lease agreement would be financially beneficial to the grant program as a whole.

(c) No change.

(d) Grant applications totaling \$25,000.00 or more must be accompanied by at least three written substantiated competitive quotes from different vendors. The E911 Board will compare the three quotes to any existing state contract in order to determine appropriate funding. Any county that has made a good faith effort to obtain three competitive quotes and has not been able to obtain the quotes can request E911 Board review based on substantiated proof of request for quotes or posting of the request with documentation of the limited responses. Sole source funding will be considered on a case-by-case basis. Justification and documentation for sole source funding should be provided with this application. Sole source funding will be approved if provided in accordance with Chapter 287, F.S., or with provision of a letter from the county's purchasing department that the project is a sole source procurement based on the county's purchasing requirements and it. ~~The letter should be provided with this the application.~~

(e) through (g) No change

(h) Grant funds shall be deposited in a bank account maintained by the grantee county, and each grant shall be assigned a unique accounting code designation for deposits, disbursements, and expenditures. All E911 State Grant funds in the account shall be accounted for separately from other grantee funds. Utilization of the earned interest funds shall be authorized through an approved Request for Change Form and expenditure documentation shall be included in the final report. Grant funds including accrued interest may be used between the beginning and ending dates of the grant, unless an extension is requested and authorized by the E911 Board. Extension of time will not be granted unless the county has executed a contract for the grant equipment and/or services, or demonstrates good cause for failure to execute a contract within twelve months of award. Grant extensions shall be limited to a maximum of one additional year when approved by the Board.

(i) Grantee counties must submit quarterly reports to the E911 Board, summarizing the expenditures and activities of the grant funds activities. The reports are due 30 days after the end of the reporting period, which ends March 31, June 30, September 30, and December 31, March 31, and June 30. In lieu of submitting a signed quarterly Grant Budget/Expenditure Report form, the updated form can be e-mailed to the Board's administrative/technical staff. The quarterly and final reports will be considered late if not received by the Board Staff prior to the next scheduled Board Meeting after the due date.

(j) No change.

(k) The County's Board of County Commission Chairperson shall be notified when overdue quarterly reports, final document and final reports are not received before the next E911 Board meeting following the month after the end of the quarter in which they are due. Grant funds are not transferable to any other entity. If equipment purchased using grant funds is sold or transferred within three (3) years of the end of the grant period, the grantee county must return the grant funds to the E911 Board on a pro rata basis.

(l) Funding continuance will be based on timely submission of quarterly reports. The E911 Board will adjust the amount awarded to a county based upon the availability of funds, eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission.

(m) Grant awards will be withheld for any county that has a grant with a past-due quarterly report or past-due final documentation and closeout, of previous E911 board grant awards.

(n) Responsibility for property and equipment obtained under a grant cannot be transferred under any circumstances. If a sale or transfer of such property or equipment occurs within five years after a grant ends, funds must be returned on a pro rata basis.

(o) The amount availability of funds in the Trust Fund for allocation each year is subject to an annual appropriation by the Legislature. The E911 Board will adjust the amount awarded to a county based upon the availability of funds, eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission.

(3)(a) The E911 State Grant program will operate on the following schedule:

(b) Schedule:

1. Counties submit applications: by November ~~October~~ 1;
2. E911 Board evaluates applications: November – December ~~October – November~~;
3. Board votes on applications at regularly scheduled meetings: November ~~October~~ – December;
4. Board notification of award and issuance of checks to counties approved for funding before January 30 is contingent upon legislative funding release.
5. Implementation period: One year from receipt of award and funds;
6. Expiration of the right to incur costs: Two years from receipt of award and funds.

Rulemaking Specific Authority 365.172(6)(a)11. FS. Law implemented 365.172(6)(a)3.b., 365.173(2)(i), 365.172(9)(a), (b), (c) FS. History–New 12-7-08, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
E911 Board
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2010

DEPARTMENT OF MANAGEMENT SERVICES

Technology Program

RULE NO.: 60FF-5.005
 RULE TITLE: Emergency Grants

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the emergency grants program.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the emergency grants program.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting John C. Ford, Chair, at the address listed below. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. The following is a summary of the SERC:

- The number of individuals and entities likely to be required to comply with the rule is 67.
- The costs associated with this rule are minimal and limited to the grant application costs and costs for grant reporting.
- No increased reporting, staffing, legal or fee requirements are anticipated.
- Only counties applying for grants are impacted.
- The proposed change is not expected to impact small business.

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

RULEMAKING AUTHORITY: 365.172(6)(a)11. FS.
 LAW IMPLEMENTED: 365.172(6)(a)3.b., 365.172(2)(g), 365.172(i) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 160Q, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULE IS:

60FF-5.005 Emergency Grants.

The E911 Emergency Grant program is a grant program establishing an expedited schedule for approval of grants, provided to assist counties with the emergency restoration of Enhanced 911 throughout the State of Florida resulting from natural and man-made disasters or events.

- (1) No change.
- (2) General conditions:

(a) Each County applying for Emergency grant funds shall complete and submit W Form 5A, "Application for the E911 Emergency Grant Program," effective 07/01/2010 ~~7/1/2008~~, which is incorporated herein by reference and which may be obtained from the E911 Board office at the following address:

State of Florida E911 Board
 ATTN: Administrative Assistant
 4050 Esplanade Way, Building 4030 – Suite 160
 Tallahassee, Florida 32399-0950.

The applicant must provide one ~~the~~ original of the pages for Application Form items 1 through 9 and the associated quotes for the grant application.

- (b) through (c) No change.

(d) Grant applications totaling \$25,000.00 or more must be accompanied by at least three written substantiated competitive quotes from different vendors. The E911 Board will compare the three quotes to any existing state contract in order to determine appropriate funding. Any county that has made a good faith effort to obtain three competitive quotes and has not been able to obtain the quotes can request E911 Board review based on substantiated proof of request for quotes or posting of the request with documentation of the limited responses. Sole source funding will be approved on a case-by-case basis. Justification and documentation for sole source funding shall ~~should~~ be provided with the ~~this~~ application. Sole source funding will be approved if provided in accordance with Chapter 287, F.S., or with provision of a letter from the county's purchasing department that the project is a sole source procurement based on the county's purchasing requirements, which should be provided with this ~~the~~ application.

(e) Priorities for awarding of grants will be determined by the E911 Board. Grant priorities may be adjusted by the Board and published with the grant application package three (3) months prior to the application submission date. The grant priority list is available as an addendum with the grant application at the start of each grant cycle at the address shown in paragraph (2)(a) above.

~~(f) The E911 Board may approve funding salary requests on an annual basis.~~

- ~~(f)~~ ~~(g)~~ No change.
- ~~(g)~~ ~~(h)~~ No change.

~~(h)~~ ~~(i)~~ Grant funds shall be deposited in a bank account maintained by the grantee county, and each grant shall be assigned a unique accounting code designation for deposits,

disbursements, and expenditures. All ~~E911 Emergency Grant~~ funds in the account shall be accounted for separately from other grantee funds. Utilization of the earned interest funds shall be authorized through an approved Request for Change Form and expenditure documentation shall be included in the final report. Grant funds including accrued interest may be used only between the beginning and ending dates of the grant, unless an extension is requested and authorized by the E911 Board. Extension of time will not be granted unless the county has executed a ~~submits an executed~~ contract for the grant equipment and/or services, or demonstrates good cause for failure to execute a contract within twelve months of award during the grant period. Grant extensions shall be limited to a maximum of one additional year when approved by the Board.

(i) ~~(j)~~ Grantee counties must submit quarterly reports to the E911 Board, summarizing the expenditures and activities of the grant funds. The reports are due 30 days after the end of the reporting period, which ends March 31 and June 30 September 30, December 31, ~~March 31, and June 30~~. In lieu of submitting a signed quarterly Grant Budget/Expenditure Report form, the updated form can be e-mailed to the Board's administrative/technical staff. The quarterly and final reports will be considered late if not received by the Board Staff prior to the next scheduled Board Meeting after the due date.

(j) ~~(k)~~ No change.

(k) The County's Board of County Chairperson shall be notified when overdue quarterly reports, final document and final reports are not received before the next E911 Board meeting following the month after the end of the quarter in which they are due.

(l) Funding continuance will be based on timely submission of quarterly reports. Grant funds are not transferable to any other entity. If equipment purchased using grant funds is sold or transferred within three (3) years of the end of the grant period, the grantee county must return the grant funds to the E911 Board on a pro rata basis.

(m) Grant awards will be withheld for any county that has a grant with a past-due quarterly report or past-due final documentation and closeout, of previous E911 Board grant awards. The E911 Board will adjust the amount awarded to a county based upon the availability of funds, eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission.

(n) Responsibility for property and equipment obtained under a grant cannot be transferred under any circumstances. If a sale or transfer of such property or equipment occurs within five years after a grant ends, funds must be returned on a pro rata basis.

(o) The amount and availability of funds in the Trust Fund for allocation each year is subject to an annual appropriation by the Legislature. The E911 Board will adjust the amount awarded to a county based upon the availability of funds, eligibility of requested items, published quotes, increased effectiveness of grant funds, minimum system requirements for performing the needed E911 function as specified in the State E911 plan, or documented factors provided in the grant application submission.

(3)(a) E911 Emergency Grant Program Schedule – Following the natural and man-made disasters or events and submission of the grant application, the E911 Board will hold an emergency meeting in accordance with Uniform Rule 28-102.003, F.A.C., for the purpose of acting upon emergency matters affecting the public health, safety or welfare.

(b) Schedule:

	Schedule
1. Counties submit a Applications: Event	Event
2. E911 Board Members evaluate applications: Within 5 days	Within 5 days
3. Board votes on applications to fund at regularly scheduled meeting: within 5 days	Within 5 days
4. Board sends notification of award and issuance of funding and issues checks to counties approved for funding: Within 10 days	Within 10 days
5. Implementation period: One year from receipt of award and funds	One year from receipt of award and funds.
6. Expiration of the right to incur costs: Two years from receipt of award and funds	

Rulemaking Authority 365.172(6)(a)11. FS. Law implemented 365.172(6)(a)3.b., 365.173(2)(g), 365.173(2)(i) FS. History–New 10-19-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: E911 Board
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2010
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2010

DEPARTMENT OF MANAGEMENT SERVICES

Technology Program

RULE NO.: 60FF-5.006
 RULE TITLE: Requirements for County Carry Forward Funds and Excess Funding

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to add new language to clarify the requirements for county carry forward funds and excess funding.

SUMMARY: The rule amendment will delete unnecessary language and to add new language to clarify the requirements for county carry forward funds and excess funding.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting John C. Ford, Chair, at the address listed below. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. The following is a summary of the SERC:

- The number of individuals and entities likely to be required to comply with the rule is 67.
- No cost to the department in implementing the proposed rule.
- No increased reporting, staffing, legal or fee requirements are anticipated.
- The proposed change is not expected to impact small business.

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

RULEMAKING AUTHORITY: 265.172(6)(a)11. FS.

LAW IMPLEMENTED: 365.173(2)(c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 160Q, Tallahassee, Florida 32399-0950

THE FULL TEXT OF THE PROPOSED RULE IS:

60FF-5.006 Requirements for County Carry Forward Funds and Excess Funding.

The carry forward funding provision provides counties with the ability to carry forward funding for E911 capital outlay, capital improvements, or equipment replacement expenditures. The excess recovery provision provides a 30 ~~20~~ percent limitation on the total E911 fee revenue retained during a calendar year as carry forward. Any overage not utilized by the County for allowable E911 expenditures shall be returned to the E911 Board in accordance with this rule.

(1) No change.

(2) General conditions: All counties shall provide financial information on the calendar year fee revenues received, the county calendar year E911 expenditures and the carry forward amount for the calendar year. The information shall be

provided on the E911 Board Form 6A, "County Carry Forward Funds and Excess Funding Form," effective 07/02/2010 ~~3/20/2009~~, which is incorporated herein by reference and which may be obtained on the Florida E911 website at URL <http://florida911.myflorida.com/> or from the E911 Board office at the following address:

State of Florida E911 Board
 Attn: Administrative Assistant
 4050 Esplanade Way, Building 4030 – Suite 160
 Tallahassee, Florida 32399-0950

(3) Carry Forward Funding and Excess Recovery Parameters. The county shall determine the calculated total fee revenue funding disbursed to the county by the E911 Board during a calendar year.

(a) The 30 ~~20~~ percent limitation does not apply to funds disbursed to a county:

1. Through the E911 State Grant Program;
2. Through the Emergency Grant Program;
- ~~3.2.~~ No change
- ~~4.3.~~ No change

(b) No change.

(4) Excess recovery.

(a) Any excess calendar year E911 funding greater than the county's total expenditures for permissible E911 costs described in paragraph (3)(b), including the 30 ~~20~~ percent carry forward allowance, must be returned to the E911 Board. Counties shall deliver revenues from the fee to the E911 Board within 120 days after the end of the calendar year. If unused in a project in accordance with sub-subparagraph (3)(b)1. and 2. ~~(a)1.d. or (3)(a)1.e.~~ the fee revenue shall be returned within 60 days of project completion. If not under contract a project in accordance sub-subparagraph (3)(b)2. ~~(a)1.e.~~, the fee revenue shall be returned by the end of the fiscal year.

(b) through (c) No change.

Rulemaking Authority 365.172(6)(a)11. FS. Law implemented 365.173(2)(c) FS. History–New 10-6-09, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: E911 Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2010

DEPARTMENT OF MANAGEMENT SERVICES

Technology Program

RULE NO.: 60FF-5.007
 RULE TITLE: Requirements for T1 and Primary Rate Interface Fee Remittance Submitted by or on Behalf of Non-wireless Service Providers

PURPOSE AND EFFECT: The Board proposes the new rule to clarify procedures for non-wireless service provider fee remittance collections for T1/PRI Circuits.

SUMMARY: The new rule will clarify procedures for non-wireless service provider fee remittance collections for TI/PRI Circuits.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting John C. Ford, Chair, at the address listed below. Any person who wishes to provide information regarding the statement of estimated costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice. The following is a summary of the SERC:

- The number of individuals and entities likely to be required to comply with the rule is 115.
- No cost to the department in implementing the proposed rule.
- No increased reporting, staffing, legal or fee requirements are anticipated.
- The proposed change is not expected to impact small business.

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

RULEMAKING AUTHORITY: 365.172(2)(a) FS.
 LAW IMPLEMENTED: 365.172(9)(a), (b), (c), 365.173(2)(b), (c) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John C. Ford, Chair, E911 Board, 4030 Esplanade Way, Suite 160Q, Tallahassee, Florida 32399-2334

THE FULL TEXT OF THE PROPOSED RULE IS:

60FF-5.007 Requirements for T1 and Primary Rate Interface Fee Remittance Submitted by or on Behalf of Non-wireless Service Providers.

(1) All non-wireless service providers shall remit fees pursuant to Section 365.172(8), F.S.

(2) Fees shall be submitted to the E911 Board within 60 days after the end of the month in which the fee was collected, together with a monthly report of the number of service

identifiers in each county. Fee remittance submission information and requirements are detailed in Rule 60FF-5.004. The information shall be submitted to the E911 Board at the following address:

State of Florida E911 Board
 ATTN: Financial Management Services
 Post Office Box 7117
 Tallahassee, Florida 32399-0950.

(a) The rate of the fee shall be set by the board, but may not exceed 50 cents per month per each service identifier. The fee shall apply uniformly and be imposed throughout the state, except for those counties that, before July 1, 2007, had adopted an ordinance or resolution establishing a fee less than 50 cents per month per access line.

(3) Definitions

(a) "Primary Rate Interface" (PRI) A digital transmission link and service that can be channelized and split into 23 or 24 voice or data grade channels for communications.

(b) "T-1" A digital transmission link and service that can be channelized and split into 23 or 24 voice or data grade channels for communications.

(4) Each local exchange carrier shall bill the fee to the local exchange subscribers as five service-identified access lines for each digital transmission link and service (T-1 and PRI) basis, up to a maximum of 25 access lines per account bill rendered.

Rulemaking Authority 365.172(6)(a)11., 365.172(8) FS. Law Implemented 365.172(8) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: E911 Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: E911 Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 2010

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.325
 RULE TITLE: Choctawhatchee River Basin TMDLs

PURPOSE AND EFFECT: The purpose of the rule is to adopt new Total Maximum Daily Loads (TMDLs), and their allocations, for total nitrogen (TN) and total phosphorus (TP)

that have caused low dissolved oxygen (DO) in the Choctawhatchee River Basin. This rule also renumbers certain existing TMDLs.

SUMMARY: These new TMDLs address low DO impairments in the Choctawhatchee River Basin. Specifically, the TMDL rules being proposed for adoption are for Minnow Creek and Sikes Creek. These waterbodies were verified as impaired using the methodology established in Chapter 62-303, F.A.C., Identification of Impaired Surface Waters. The TN and TP targets were set to meet a DO criterion of 5.0 mg/L. The target loads of TN and TP were modeled using the Hydrologic Simulation Program – Fortran (HSPF) model. This rulemaking has been given OGC Case Number 10-1869.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 403.061, 403.067 FS.

LAW IMPLEMENTED: 403.061, 403.062, 403.067 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Thursday, September 16, 2010, 2:00 p.m.

PLACE: Florida Department of Environmental Protection, Bob Martinez Center, 2600 Blair Stone Road, Room 609, Tallahassee, FL 32399

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Ms. Pat Waters at (850)245-8449. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jan Mandrup-Poulsen, Division of Environmental Assessment and Restoration, Bureau of Watershed Restoration, Mail Station 3555, Florida Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8448

THE FULL TEXT OF THE PROPOSED RULE IS:

62-304.325 Choctawhatchee River Basin TMDLs.

(1) through (2) No change.

(3) Camp Branch. The TMDL for Camp Branch is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources must meet the facility's permit condition. The WLA is granted to the City of Bonifay Wastewater Treatment Facility (WWTF);

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 88 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

~~Minnow Creek. The TMDL for Minnow Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:~~

~~(a) The WLA for wastewater sources is not applicable;~~

~~(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;~~

~~(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 81 percent reduction of sources contributing to exceedances of the criteria, and~~

~~(d) The Margin of Safety is implicit.~~

~~(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.~~

(4) Minnow Creek. The TMDL for Minnow Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable;

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 81 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Camp Branch. The TMDL for Camp Branch is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources must meet the facility's permit condition. The WLA is granted to the City of Bonifay Wastewater Treatment Facility (WWTF);

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require an 88 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(5) Minnow Creek. The dissolved oxygen TMDLs for Minnow Creek are 21,310 lbs/year of TN and 3,195 lbs/year of TP, and are allocated as follows:

(a) The WLA for wastewater sources is not applicable;

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LAs for nonpoint sources are to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criterion, which, based on the average of the calculated loadings from the 2003 – 2008 period, will require a 30 percent reduction of TN and 31 percent reduction of TP at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LAs for TN and TP have been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream TN and TP concentrations. However, it is not the intent of the TMDL to abate natural background conditions.

Sikes Creek. The TMDL for Sikes Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require a 48 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(6) Sikes Creek. The TMDL for Sikes Creek is 400 counts/100mL for fecal coliform, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable.

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2002 to 2009 period, will require a 48 percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for fecal coliform has been expressed as the percent reduction needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(7) Sikes Creek. The dissolved oxygen TMDL for Sikes Creek is 21,819 lbs/year of TN, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable;

(b) The WLA for discharges subject to the Department's NPDES Municipal Stormwater Permitting Program is not applicable;

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the dissolved oxygen criterion, which, based on the average of the calculated loadings from the 2004-2008 period, will require a 24 percent reduction of TN at sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA for TN has been expressed as the percent reductions needed to attain the applicable Class III criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream TN concentration. However, it is not the intent of the TMDL to abate natural background conditions.

Rulemaking Specific Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History—New 8-3-06, Amended 8-26-10, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Drew Bartlett, Deputy Director, Division of Environmental Assessment and Restoration
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Michael Sole, Secretary
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-9.013
 RULE TITLE: Standards for the Use of Controlled Substances for the Treatment of Pain

PURPOSE AND EFFECT: The proposed rule amendments are intended to set forth the appropriate standards for all physicians who prescribe or dispense controlled substances for the treatment of pain.

SUMMARY: The proposed rule amendments clarify the Board’s rule with regard to the appropriate standards for all physicians who prescribe or dispense controlled substances for the treatment of pain.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

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

RULEMAKING AUTHORITY: 458.309(1), 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.326, 458.331(1)(g), (t), (v) FS.
 IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.013 Standards for the Use of Controlled Substances for the Treatment of Pain.

(1) through (2) No change.

(3) Standards. The Board has adopted the following standards for the use of controlled substances for pain control:

(a) Evaluation of the Patient. A complete medical history and physical examination must be conducted and documented in the medical record. The medical record ~~shall~~ ~~should~~ document the nature and intensity of the pain, current and past treatments for pain, underlying or coexisting diseases or conditions, the effect of the pain on physical and psychological function, and history of substance abuse. The medical record also ~~shall~~ ~~should~~ document the presence of one or more recognized medical indications for the use of a controlled substance.

(b) Treatment Plan. The written treatment plan ~~shall~~ ~~should~~ state objectives that will be used to determine treatment success, such as pain relief and improved physical and psychosocial function, and ~~shall~~ ~~should~~ indicate if any further diagnostic evaluations or other treatments are planned. After treatment begins, the physician ~~shall~~ ~~should~~ adjust drug therapy, if necessary, to the individual medical needs of each patient. Other treatment modalities or a rehabilitation program may be necessary depending on the etiology of the pain and the extent to which the pain is associated with physical and psychosocial impairment.

(c) Informed Consent and Agreement for Treatment. The physician ~~shall~~ ~~should~~ discuss the risks and benefits of the use of controlled substances with the patient, persons designated by the patient, or with the patient’s surrogate or guardian if the patient is incompetent. The patient ~~shall~~ ~~should~~ receive prescriptions from one physician and one pharmacy where possible. If the patient is determined to be at high risk for medication abuse or have a history of substance abuse, the physician ~~shall~~ ~~should~~ employ the use of a written agreement between physician and patient outlining patient responsibilities, including, but not limited to:

1. through 3. No change.

(d) Periodic Review. ~~Based At reasonable intervals based~~ on the individual circumstances of the patient, the physician ~~shall~~ ~~should~~ review the course of treatment and any new information about the etiology of the pain. Continuation or modification of therapy ~~shall~~ ~~should~~ depend on the physician’s evaluation of the patient’s progress. If treatment goals are not being achieved, despite medication adjustments, the physician

shall ~~should~~ reevaluate the appropriateness of continued treatment. The physician shall ~~should~~ monitor patient compliance in medication usage and related treatment plans.

(e) Consultation. The physician shall ~~should~~ be willing to refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention must ~~should~~ be given to those pain patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation, and may require consultation with or referral to an expert in the management of such patients.

(f) Medical Records. The physician is required to keep accurate and complete records to include, but not be limited to:

- 1. The complete medical history and a physical examination, including history of drug abuse or dependence, as appropriate;
- 2. through 7. No change.
- 8. Instructions and agreements; ~~and~~
- 9. Drug testing results; and
- ~~10.9.~~ Periodic reviews. Records must remain current, and be maintained in an accessible manner, and readily available for review, and must be in full compliance with Rule 64B8-9.003, F.A.C., and Section 458.331(1)(m), F.S.

(g) No change.

Rulemaking Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.326, 458.331(1)(g), (t), (v) FS. History–New 12-21-99, Amended 11-10-02, 10-19-03,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010

DEPARTMENT OF HEALTH

Board of Medicine

RULE NO.: 64B8-11.001 RULE TITLE: Advertising

PURPOSE AND EFFECT: The proposed rule amendment is intended to add the American Board of Interventional Pain Physicians to the Board’s rule of recognizing agencies for the purpose of advertising.

SUMMARY: The American Board of Interventional Pain Physicians is being added to the Board’s advertising rule as a recognizing agency.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board has determined that the proposed rule amendments will not have an impact on small business.

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

RULEMAKING AUTHORITY: 458.309 FS.

LAW IMPLEMENTED: 456.072(1)(t), 458.331(1)(d), (l), (n), (o), 458.3312 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-11.001 Advertising.

(1) through (7) No change.

(8) The recognizing agencies currently approved by the Board of Medicine include:

(a) through (c) No change.

(d) American Board of Interventional Pain Physicians (Approved June 2010).

Rulemaking Specific Authority 458.309 FS. Law Implemented 456.072(1)(t), 458.331(1)(d), (l), (n), (o), 458.3312 FS. History–New 3-31-80, Formerly 21M-24.01, Amended 11-15-88, Formerly 21M-24.001, Amended 12-5-93, Formerly 61F6-24.001, Amended 4-3-95, 4-16-96, 5-29-97, 5-7-97, Formerly 59R-11.001, Amended 1-31-01, 9-1-02, 1-16-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rules Committee, Board of Medicine
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 18, 2010

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-3.002 RULE TITLE: Qualifications for Examination

PURPOSE AND EFFECT: The Board proposes these changes to delete the health certification, require the submission of a high school diploma, to adopt and incorporate by reference licensure forms and add the Board’s website where the forms may be obtained.

SUMMARY: The purpose of this amendment is to delete the health care certification, require the submission of a high school diploma, to adopt and incorporate by reference licensure forms and add the Board's website where the forms may be obtained.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 464.006 FS.

LAW IMPLEMENTED: 456.013, 464.008 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-3.002 Qualifications for Examination.

(1) An applicant seeking certification to take the licensure examination shall submit a completed Application for Nursing Licensure by Examination, form number DH-MQA 1094, 08/10, Application for Nursing Licensure by Re-Examination, form number DH-MQA 1120 10/08, or Application for Nursing Licensure by Endorsement, form number DH-MQA 1095, 08/10, hereby incorporated by reference demonstrating, on forms provided by the Department, evidence that he or she meets the qualifications prescribed by the Nurse Practice Act, Chapter 464, F.S. These forms are available from the Board office or on the Board's website: www.doh.state.fl.us/mqa/nursing. The demonstration shall include Such evidence shall consist of:

~~(a) Certification by a physician licensed pursuant to Chapter 458 or 459, F.S., physician's assistant licensed pursuant to Chapter 458 or 459, F.S., or A.R.N.P. certified pursuant to Chapter 464, F.S., that the applicant is in good mental and physical health.~~

~~(a)(b) A high school diploma, or a high school diploma equivalent.~~

~~(b)(c) For graduates of an approved nursing program, a notice of graduation or of completion of the requirements for graduation. For graduates of an approved program equivalent, an official transcript or equivalent documentation which identifies all courses completed with a minimum acceptable passing score established by the institution or program at which each course was completed that meet graduation requirements. For graduates of programs in~~ If the applicant is

~~seeking to qualify to write the examination on the basis of education received in a country other than the United States, the applicant must obtain a report by a credentialing agency that meets the requirements of Rule 64B9-3.014, F.A.C.~~

~~(c)(d) For an applicant writing the examination for practical nurses on the basis of practical nursing education equivalency, a completed Practical Nurse Equivalence (PNEQ) Application Letter, form number DH-MQA 1233, 03/10, hereby incorporated by reference documentation from the professional nursing school which states the number of completed clock hours or theoretical and clinical instruction comparable to practical nursing program requirements as set forth in Rule Chapter 64B9-2, F.A.C., or an official certified transcript which sets forth graduation from an approved professional program. The form is available from the Board office or on the Board's website: www.doh.state.fl.us/mqa/nursing.~~

~~(d)(e) Successful completion of any one of the approved English competency examinations with:~~

~~1. through 8. No change;~~

~~9. A valid U.S. High School Diploma;~~

~~10.9. Completion of a college level course for academic credit in a U.S. institution; or~~

~~(2) through (5) No change.~~

Rulemaking Specific Authority 464.006 FS. Law Implemented 456.013, 464.008 FS. History—New 4-27-80, Amended 3-16-81, 8-2-81, 7-11-83, Formerly 21O-8.21, Amended 3-3-87, 12-8-87, 6-8-88, Formerly 21O-8.021, Amended 1-30-94, Formerly 61F7-3.002, Amended 9-25-96, Formerly 59S-3.002, Amended 7-27-98, 4-19-00, 5-8-01, 9-23-03, 1-29-07, 11-22-07,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 23, 2010

DEPARTMENT OF HEALTH

Board of Nursing

RULE NO.: 64B9-8.005 RULE TITLE: Unprofessional Conduct

PURPOSE AND EFFECT: The proposed rule is to establish professional guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct.

SUMMARY: The proposed rule is to establish guidelines for the administration of conscious sedation and to update the instances of unprofessional conduct in the nursing occupation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 464.006, 464.018(1)(h) FS.

LAW IMPLEMENTED: 464.018(1)(h) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joe R. Baker, Jr., Executive Director, Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B9-8.005 Unprofessional Conduct.

(1) through (12) No change.

~~(13)~~~~(14)~~ Using force against a patient, striking a patient, or throwing objects at a patient;

~~(14)~~~~(15)~~ Using abusive, threatening or foul language in front of a patient or directing such language toward a patient;

~~(15)~~~~(13)~~ Practicing beyond the scope of the licensee's license, educational preparation or nursing experience, including but not limited to: administration or monitoring the administration of any medication intended to create an altered level of consciousness that is a deeper level than moderate sedation for a surgical, diagnostic or therapeutic procedure by a registered nurse or licensed practical nurse; provided:

(a) A registered nurse may, pursuant to physician order, administer or monitor the administration of medications to achieve deep sedation to a patient who is continuously monitored and mechanically ventilated with a secured, artificial airway. Examples of medications used for deep sedation in this situation include, but are not limited to, propofol, pentothal and dexmedetomidine. Due to the potential for rapid, profound changes in sedative/anesthetic depth and the lack of antagonist medications, even if moderate sedation is intended, patients receiving propofol should receive care consistent with that required for deep sedation. Therefore the administration of propofol should only be performed by a practitioner experienced in general anesthesia and not by a registered nurse, with the exception of a patient who is continuously monitored and mechanically ventilated with a secured, artificial airway. When a physician is actively managing a patient's sedation, a registered nurse may monitor the patient under circumstances that may include both moderate and deep sedation.

(b) A registered nurse may administer prescribed pharmacologic agents to non-mechanically ventilated patients for the purpose of moderate sedation in anticipation of anxiety and or discomfort during a time-limited surgical, diagnostic or therapeutic procedure. The registered nurse must continuously

monitor the patient throughout the procedure and have no other responsibilities that would require leaving the patient unattended or would compromise continuous monitoring during the procedure. The registered nurse must document the patient's level of consciousness at least every five minutes during the procedure. In the event a deeper level of sedation (such as deep sedation or general anesthesia) results from the administration of prescribed pharmacologic agents, the procedure must be stopped and the level of sedation returned to moderate sedation with the assistance of the prescribing physician or credentialed anesthesia provider.

(c) A registered nurse or licensed practical nurse may, pursuant to physician order, administer or monitor the administration of medications for palliative sedation in a hospice program.

(d) In order to administer or monitor any pharmacologic agents in accordance with paragraph (a) or (b) above, a registered nurse must:

1. Prior to any administration or monitoring of any pharmacologic agents, successfully complete a program of study which reflects the extent of privileges requested and which will include a criteria-based competency evaluation. At a minimum, course content will include: pharmacology and physiology, physical assessment and monitoring techniques, airway anatomy, airway management techniques and an opportunity for skill development. The evaluative criteria will cover knowledge and psychomotor skills in assessment and monitoring, principles of pharmacodynamics and pharmacokinetics (onset, duration, distribution, metabolism, elimination, intended and adverse effects, interactions, dosages and contraindications), basic and difficult airway management, mechanical ventilation, and cardiopulmonary resuscitation. The registered nurse must also be certified in advanced cardiac life support;

2. Complete a patient assessment and ensure that the practice setting requires that the physician prescribing the pharmacologic agent has evaluated the patient based on established criteria;

3. Pharmacologic agents that may be administered by a registered or practical nurse pursuant to paragraphs (b) and (c) shall not include medications that are intended to result in loss of consciousness such as propofol, pentothal, dexmedetomidine, or any medication which the manufacturer's package insert states should be administered only by individuals trained in the administration of general anesthesia.

4. Ensure that the practice setting requires that the prescribing physician is immediately available throughout the procedure and recovery period;

5. Ensure that written policies and procedures for managing patients who receive moderate sedation are reviewed periodically and are readily available within the practice setting;

6. Ensure that the practice setting has in place a quality assurance and performance improvement process that measures patient, process and structural outcome indicators; and

7. Evaluate the patient for discharge readiness based on specific discharge criteria and ensure that the practice setting requires that the physician approves of the patient discharge.

(e) The following definitions apply for purposes of this rule:

1. Deep sedation means a medication-induced depression of consciousness that allows patients to respond purposefully only after repeated or painful stimulation. The patient cannot be aroused easily, and the ability to maintain a patent airway independently may be impaired with spontaneous ventilation possibly inadequate. Cardiovascular function usually is adequate and maintained.

2. General anesthesia means the patient cannot be aroused, even by painful stimulation, during this medication-induced loss of consciousness. Patients usually require assistance in airway maintenance and often require positive pressure ventilation due to depressed spontaneous ventilation or depression of neuromuscular function. Cardiovascular function may also be impaired.

3. Moderate sedation means a minimally depressed level of consciousness that allows a surgical patient to retain the ability to maintain a patent airway independently and continuously and respond appropriately to verbal commands and physical stimulation.

4. Immediately available means having a health care provider trained in advanced cardiac life support and resuscitation skills available to assist with patient care within five minutes.

5. Palliative sedation means the use of medications intended to provide relief of intractable or refractory symptoms by inducing varying degrees of unconsciousness in imminently dying patients.

6. Refractory symptoms means symptoms that cannot be adequately controlled in a tolerable time frame despite use of alternate therapies, and seem unlikely to be controlled by further invasive or noninvasive therapies without excessive or intolerable acute or chronic side effects or complications.

Rulemaking Authority 464.006, 464.018(1)(h) FS. Law Implemented 464.018(1)(h) FS. History—New 11-28-79, Amended 3-16-81, 10-8-81, 9-11-83, Formerly 210-10.05, Amended 4-21-86, 2-5-87, 8-2-90, 3-12-91, 9-16-91, 4-8-92, 9-29-92, Formerly 210-10.005, Amended 9-7-93, Formerly 61F7-8.005, Amended 11-6-94, 5-1-95, 11-16-95, Formerly 59S-8.005, Amended 2-18-98, 3-23-00, 2-17-02, 7-5-06, 12-11-06, 4-28-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Nursing

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 2009

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: RULE TITLE:

64B10-16.002 Preceptor

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify preceptor training.

SUMMARY: The rule amendment will add new language to clarify preceptor training.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 456.013(1)(a), 468.1685 (1), 468.1695(4) FS.

LAW IMPLEMENTED: 468.1695 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-16.002 Preceptor.

(1) through (3) No change.

(4) The applicant must have attended a six-hour preceptor training seminar approved by the Board as set forth in Rule 64B10-16.0025, F.A.C., within three years immediately preceding the application and a two-hour refresher course as set forth in Rule 64B10-16.0025, F.A.C. every bi-ennium thereafter. Failure to complete the refresher course shall result in the loss of preceptor certification.

(5) through (9) No change.

Rulemaking Specific Authority 456.013(1)(a), 468.1685(1), 468.1695(4) FS. Law Implemented 468.1695 FS. History—New 9-24-81, Formerly 21Z-16.02, Amended 12-18-88, 11-11-92, Formerly 21Z-16.002, Amended 2-28-94, Formerly 61G12-16.002, Amended 2-22-96, 9-4-96, 10-20-96, Formerly 59T-16.002, Amended 10-12-97, 6-5-07, 10-2-08, 3-25-09,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 23, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 26, 2010

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE NO.: 64B10-16.0025
RULE TITLE: Preceptor Training Seminar
PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify the procedure for continued Board approval for preceptor training seminars.
SUMMARY: The rule amendment will add new language to clarify the procedure for continued Board approval for preceptor training seminars.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 468.1685(1) FS.
LAW IMPLEMENTED: 468.1695(5) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Nursing Home Administrators/MQA, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B10-16.0025 Preceptor Training Seminar.
- (1) To receive Board approval, preceptor training seminars shall consist of six (6) hours of training in the supervision of AITs and interns to include:
 - (1) through (5) renumbered (a) through (e) No change.
 - (2) To continue Board approval, preceptor refresher courses shall consist of (2) hours of training in the areas listed in subsection 1.

Rulemaking Specific Authority 468.1685(1) FS. Law Implemented 468.1695(5) FS. History–New 11-21-95, Formerly 59T-16.0025, Amended 8-6-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Nursing Home Administrators
NAME OF AGENCY HEAD WHO APPROVED THE
PROPOSED RULE: Board of Nursing Home Administrators
DATE PROPOSED RULE APPROVED BY AGENCY
HEAD: July 23, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT
PUBLISHED IN FAW: March 26, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-3.009
RULE TITLE: False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure
PURPOSE AND EFFECT: The Board is revising the font of the disclaimer for advertising free or discounted services.
SUMMARY: The font size for advertising free or discounted services is being revised.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 463.005 FS.
LAW IMPLEMENTED: 456.072(1)(a), (m), 463.014, 463.016(1)(f), (g) FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B13-3.009 False, Fraudulent, Deceptive and Misleading Advertising Prohibited; Policy; Definitions; Affirmative Disclosure.
- (1) through (7) No change.
 - (8) Any advertisement for free or discounted services must contain the disclaimer required by Section 456.062, F.S., no less than Times New Roman 6 in-at least Times New Roman 14 point font size or Courier New 12 point font size.

Rulemaking Specific Authority 463.005 FS. Law Implemented 456.072(1)(a), (m), 463.014, 463.016(1)(f), (g) FS. History–New 11-13-79, Amended 4-17-80, 8-20-81, Formerly 21Q-3.09, Amended 1-8-86, 12-16-86, Formerly 21Q-3.009, 61F8-3.009, 59V-3.009, Amended 1-2-02, 11-13-06, 11-5-07, 4-21-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.001 RULE TITLE: Examination Requirements
PURPOSE AND EFFECT: The Board is revising the examination requirements.
SUMMARY: The rule will revise the passing grade score the applicant must attain.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 456.017(1), 463.005, 463.006(2) F.S.
LAW IMPLEMENTED: 456.017(1), 463.006(2) F.S.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

- 64B13-4.001 Examination Requirements.
- (1) through (2) No change.
 - (3) Part II of the Florida licensure examination shall consist of a clinical portion and a pharmacology/ocular disease portion.
 - (a) through (e) No change.
 - (f) An applicant must attain a score of 80 ~~70~~ percent or better in order to secure a passing grade on the pharmacology/pathology portion of the practical examination.
 - (4) No change.

Rulemaking Authority 456.017(1), 463.005, 463.006(2) FS. Law Implemented 456.017(1), 463.006(2) FS. History--New 11-13-79, Amended 5-28-80, 7-10-80, 8-20-81, 2-14-82, 6-6-82, 10-3-82, 4-10-84, 5-29-85, Formerly 21Q-4.01, Amended 7-21-86, 11-20-86, 7-27-87, 7-11-88, 7-18-91, 4-14-92, Formerly 21Q-4.001, Amended 2-14-94, Formerly 61F8-4.001, Amended 8-8-94, 11-21-94, 4-21-96, Formerly 59V-4.001, Amended 7-27-99, 7-15-02, 3-8-04, 4-22-10,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Optometry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 16, 2010

DEPARTMENT OF HEALTH

Board of Optometry

RULE NO.: 64B13-4.007 RULE TITLE: Optometry Faculty Certificate
PURPOSE AND EFFECT: The Board proposes the rule amendment to update and incorporate by reference the application form.
SUMMARY: The rule will update the application form.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
RULEMAKING AUTHORITY: 456.017(1), 463.005 FS.
LAW IMPLEMENTED: 463.0057 FS.
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bruce Deterding, Executive Director, Board of Optometry, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257

THE FULL TEXT OF THE PROPOSED RULE IS:

64B13-4.007 Optometry Faculty Certificate.
To obtain a optometric faculty certificate pursuant to Section 463.007, F.S., the applicant must submit an Initial Optometry Faculty Certificate Application, form number DH-MQA 1134, (5/10 8/08) incorporated herein by reference and the fees set forth in Rule 64B13-6.001, F.A.C. The form is available from the Board office or website: <http://www.doh.state.fl.us/mqa/optometry>.

Rulemaking Authority 463.005 FS. Law Implemented 463.0057 FS. History--New 4-2-09, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Optometry
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Optometry
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2010
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NOS.:	RULE TITLES:
65A-24.010	Purpose
65A-24.011	Implementation
65A-24.012	Legal Base and Authority
65A-24.014	Terms, Definitions, Abbreviations, Acronyms
65A-24.015	General Eligibility
65A-24.016	Eligible Categories
65A-24.017	Time Limitations for Program Administration
65A-24.018	Ineligible Categories of Assistance
65A-24.019	Reconsideration Review and State Fair Hearing
65A-24.020	Fraud, Duplication of Benefits, Grant Misapplication, Exemptions from Garnishment
65A-24.021	Criminal and Civil Penalties
65A-24.023	Applications, Locations, Time Limitations
65A-24.024	Document, Substantiate, Verify

PURPOSE AND EFFECT: Chapter 65A-24, F.A.C., Individual and Family Grant Program, will be repealed as the program was combined into the Federal Assistance to Individuals and Households Program administered by the Federal Emergency Management Agency under the authority of 42 U.S.C. §5174.

SUMMARY: Chapter 65A-24, F.A.C., Individual and Family Grant Program will be repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 414.45 FS.

LAW IMPLEMENTED: 414.35 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291, cindy_keil@dcf.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-24.010 Purpose.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.010, Repealed.

65A-24.011 Implementation.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.011, Repealed.

65A-24.012 Legal Base and Authority.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.012, Amended 9-28-99, Repealed.

65A-24.014 Terms, Definitions, Abbreviations, Acronyms.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.014, Amended 9-28-99, Repealed.

65A-24.015 General Eligibility.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.015, Amended 9-28-99, Repealed.

65A-24.016 Eligible Categories.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.016, Amended 9-28-99, Repealed.

65A-24.017 Time Limitations for Program Administration.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.017, Amended 9-28-99, Repealed.

65A-24.018 Ineligible Categories of Assistance.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History--New 10-1-87, Formerly 10C-24.018, Amended 9-28-99, Repealed.

65A-24.019 Reconsideration Review and State Fair Hearing.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History–New 10-1-87, Formerly 10C-24.019, Amended 9-28-99, Repealed

65A-24.020 Fraud, Duplication of Benefits, Grant Misapplication, Exemptions from Garnishment.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History–New 10-1-87, Formerly 10C-24.020, Amended 9-28-99, Repealed

65A-24.021 Criminal and Civil Penalties.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History–New 10-1-87, Formerly 10C-24.021, Repealed

65A-24.023 Applications, Locations, Time Limitations.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History–New 10-1-87, Formerly 10C-24.023, Amended 9-28-99, Repealed

65A-24.024 Document, Substantiate, Verify.

Rulemaking Specific Authority 414.45 FS. Law Implemented 414.35 FS. History–New 10-1-87, Formerly 10C-24.024, Amended 9-28-99, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE:
Nathan Lewis

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: George H. Sheldon

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: RULE TITLE:

69B-210.005 Unlawful Inducements, Generally

PURPOSE AND EFFECT: Section 626.9521(1), F.S., provides that no person shall engage in any trade practice which is defined in this part as an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. Section 626.9611(1), F.S., authorizes the Department to adopt reasonable rules as are necessary or proper to identify specific unfair methods of competition or unfair or deceptive acts or practices which are prohibited by Section 626.9541, F.S.

SUMMARY: The proposed rule defines the term “unlawful inducement” and also provides examples of acts and practices that are unlawful inducements to purchase insurance prohibited by Section 626.9541(1)(h), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 624.308 (1), 626.9611 FS.

LAW IMPLEMENTED: 626.112(8), 626.572, 626.611(11), 626.621(6), 626.753, 626.9521, 626.9541(1)(h), (m), 626.9611 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 20, 2010, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lorna Noren at (850)413-5634 or Lorna.Noren@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lorna Noren, Special Investigator, Division of Insurance Agents and Agency Services, Bureau of Investigation, 200 E. Gaines Street, Tallahassee, FL 32399-0320, (850)413-5634 or Lorna.Noren@MyFloridaCFO.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-210.005 Unlawful Inducements, Generally.

(1) The term “unlawful inducement” as used in this rule means, except as otherwise provided by law or by any filed or approved rates or rating manuals:

(a) Permitting, or offering to make, or making, any contract or agreement concerning a contract other than that which is plainly expressed in the insurance contract issued thereon; or

(b) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as an inducement to the insurance contract or a renewal of the insurance contract, any unlawful rebate of premiums payable on the insurance contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever which is not specified in the insurance contract.

(2) This rule is not applicable to the business of title insurance and does not apply to insurers. All lists contained within this rule are intended as examples and are not exhaustive.

(3) Except as otherwise expressly provided by law, by Section 626.572, F.S., and Section 626.9541(1)(m), F.S., or by any filed or approved rates or rating manuals, the following examples of inducements, when not specified by the insurance contract, are unlawful inducements and constitute unfair insurance trade practices under Sections 626.9521 and 626.9541, F.S.:

(a) Paying, crediting, allowing, or giving, or offering to pay, credit, allow, or give, directly or indirectly, an inducement to the purchase of insurance.

(b) Facilitating any discount, reduction, credit, or paying any portion of any premium, fee or cost of underwriting, policy fee, or claim cost.

(c) Facilitating any discount, reduction, credit, or paying any fee or portion of the cost of an inspection, inspection report, appraisal, or survey, including wind inspection.

(d) Bringing about any discount, reduction, credit, or paying any portion of the premium or any portion of the cost of premium financing.

(e) Making possible any lowered, credited, or discounted commission, except as provided in Section 626.572, F.S.

(f) Providing membership in any organization, society, association, guild, union, alliance or club at a discount, reduced rate, or at no cost.

(g) Making or offering to make a charitable or other tax-deductible contribution on behalf of the purchaser.

(h) Offering or providing any service or incentive in conjunction with the sale of insurance.

(i) Providing or offering stocks, bonds, securities, property, or any dividend or profit accruing or to accrue thereon.

(j) Providing or offering employment in exchange for the purchase of insurance.

(k) Providing, or offering to provide, any other payment, award, special favor, advantage, or incentive, tangible or intangible, direct or indirect, that encourages or is reasonably calculated to encourage a consumer to enter into a contract for insurance.

Rulemaking Authority 624.308 (1), 626.9611 FS. Law Implemented 626.112(8), 626.572, 626.611(11), 626.621(6), 626.753, 626.9521, 626.9541(1)(h), (m), 626.9611 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lorna Noren, Division of Insurance Agent s and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NO.: 69B-210.010
RULE TITLE: Unlawful Inducements, Title Insurance

PURPOSE AND EFFECT: Section 626.9521(1), F.S., provides that no person shall engage in any trade practice which is defined in this part as an unfair method of competition or an unfair or deceptive act or practice involving the business of insurance. Section 626.9611(1), F.S., authorizes the Department to adopt reasonable rules as are necessary or proper to identify specific unfair methods of competition or unfair or deceptive acts or practices which are prohibited by Section 626.9541, F.S.

SUMMARY: The proposed rule defines the term “unlawful inducement” and also provides examples of acts and practices that are unlawful inducements to purchase title insurance prohibited by Section 626.9541(1)(h), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business.

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

RULEMAKING AUTHORITY: 624.308(1), 626.9611 FS.

LAW IMPLEMENTED: 626.112(8), 626.572, 626.611(11), 626.621(6), 626.8411, 626.8437(8), 626.844(5), 626.9521, 626.9541(1)(h), (m), 626.9611 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: September 20, 2010, 2:30 p.m.

PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Lorna Noren at (850)413-5634 or Lorna.Noren@MyFloridaCFO.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lorna Noren, Special Investigator, Division of Insurance Agents and Agency Services, Bureau of Investigation, 200 E. Gaines Street, Tallahassee, FL 32399-0320 (850)413-5634 or Lorna.Noren@MyFloridaCFO.com.

THE FULL TEXT OF THE PROPOSED RULE IS:

69B-210.010 Unlawful Inducements, Title Insurance.

(1) The term “unlawful inducement” as used in this rule means, except as otherwise provided by law or by any filed or approved rates or rating manuals:

(a) Permitting, or offering to make, or making, any contract or agreement concerning a contract other than that which is plainly expressed in the title insurance contract issued thereon; or

(b) Paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as an inducement to the title insurance contract, any unlawful rebate of premiums payable on the title insurance contract, any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatsoever which is not specified in the title insurance contract.

(2) All lists contained within this rule are intended as examples and are not exhaustive.

(3) For purposes of this rule, the term “interested party” means a real estate professional, real estate salesperson, mortgage broker, lender, real estate developer, builder, property appraiser, surveyor, escrow agent, closing agent, or any other person or entity involved in a real estate transaction for which title insurance could be issued; or any representative of such a person or entity.

(4) As they relate to the transaction of title insurance, except as otherwise expressly provided by law, by Section 626.572, F.S., and Section 626.9541(1)(m), F.S., or by any filed and approved rates or rating manuals, the following inducements, when not specified by the title insurance contract, are unlawful inducements and constitute unfair insurance trade practices under Sections 626.9521 and 626.9541, F.S.:

(a) Facilitating any discount, reduction, credit, or paying any fee or portion of the cost of an inspection, inspection report, appraisal, or survey, including wind inspection.

(b) Providing membership in any organization, society, association, guild, union, alliance or club at a discount, reduced rate, or at no cost.

(c) Making or offering to make a charitable or other tax-deductible contribution on behalf of the purchaser.

(d) Offering or providing any service or incentive in conjunction with the sale of title insurance not specified in the policy or contract.

(e) Providing or offering stocks, bonds, securities, property, or any dividend or profit accruing or to accrue thereon.

(f) Providing or offering employment in exchange for the purchase of title insurance.

(g) Printing or paying for the printing of bulletins, flyers, post cards, labels, etc. for an interested party.

(h) Furnishing or paying for the furnishing of office equipment (fax machines, telephones, copy machines, etc.) to an interested party.

(i) Providing or paying for cellular telephone contracts for an interested party.

(j) Providing simulated panoramic home and property tours to real estate salespersons or real estate professionals which they in turn utilize in order to promote their listings.

(k) Providing or paying for giftcards or gift certificates to or for an interested party.

(l) Sponsoring and hosting, or paying for the sponsoring and hosting, of open houses for real estate salespersons or real estate professionals to promote their listings.

(m) Providing or paying for food or beverages at events designed to promote an interested party’s businesses.

(n) Paying advertising costs to advertise and promote the listings of real estate salespersons or real estate professionals in periodicals or publications.

(o) Paying an interested party to fill out processing (order) forms in exchange for title insurance contracts.

(p) Providing “leads” or mailing lists to an interested party at no cost or a reduced cost.

(q) Entering into affiliated business arrangements in an attempt to provide kickbacks to an interested party.

(r) Providing, or offering to provide, any other payment, award, special favor, advantage, or incentive, tangible or intangible, direct or indirect, that encourages or is reasonably calculated to encourage an interested party to refer business to a title insurance agent or agency, regardless of whether a written or verbal agreement exists regarding the referral.

Rulemaking Authority 624.308(1), 626.9611 FS. Law Implemented 626.112(8), 626.572, 626.611(11), 626.621(6), 626.8411, 626.8437(8), 626.844(5), 626.9521, 626.9541(1)(h), (m), 626.9611 FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Lorna Noren, Division of Insurance Agents and Agency Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 22, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

DEPARTMENT OF FINANCIAL SERVICES

Division of Insurance Agents and Agency Services

RULE NOS.:	RULE TITLES:
69B-211.011	Photo Identification Required
69B-211.012	Exemptions to Photo Identification Requirement

PURPOSE, EFFECT AND SUMMARY: The rule repeals the requirement that licensees must have a photograph on their licensure identification cards and repeals the exemptions for

that requirement. The Department will permit licensees to print insurance license identification cards electronically via internet connection.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

RULEMAKING AUTHORITY: 624.308 FS.

LAW IMPLEMENTED: 624.307(1), 624.501(20)(c), 626.301 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: Wednesday, September 15, 2010, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Matt Tamplin, (850)413-5460 or Matt.Tamplin@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Matt Tamplin, Chief, Bureau of Agent & Agency Licensing, Division of Agent & Agency Services, Department of Financial Services, 200 E. Gaines Street, Room 416, Larson Building, Tallahassee, FL 32399-0320, (850)413-5460

THE FULL TEXT OF THE PROPOSED RULES IS:

69B-211.011 Photo Identification Required.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.501(20)(c), 626.301 FS. History–New 6-4-92, Formerly 4-211.011, Repealed.

69B-211.012 Exemptions to Photo Identification Requirement.

Rulemaking Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.301 FS. History–New 6-4-92, Formerly 4-211.012, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Matt Tamplin, Chief, Bureau of Agent & Agency Licensing, Division of Agent & Agency Services, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2010

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NO.: 69W-301.002 **RULE TITLE:** Processing of Applications

PURPOSE AND EFFECT: Rule 69W-301.002, F.A.C., is amended to reflect the latest versions of applicable forms incorporated by reference in the rule. The rule is also amended to clarify and consolidate the procedures for filing documents and fees with the Office. The process for filing documents and fees with the Office is currently spread throughout Rule Chapters 69W-600, 69W-700, 69W-800, and 69W-900, F.A.C. For clarity, these provisions are relocated to Rule 69W-301.002, F.A.C., which is the general provision governing the application submission process. The rule is also amended to implement electronic filing requirements for Canadian dealers, dealers that are not members of the Financial Industry Regulation Authority (FINRA), issuer/dealers, securities registrations filings submitted under Section 517.081, F.S., and securities notification filings submitted under Section 517.082, F.S. Currently, the Office accepts paper submissions for these particular filings. Under the proposed rule amendments, these filings will be required to be made electronically through the Office’s Regulatory Enforcement and Licensing (REAL) System. Electronic filing is currently required under the rules for FINRA dealers (through the Central Registration Depository) and investment advisers (through the Investment Adviser Registration Depository).

SUMMARY: The proposed rule amendments: 1) reflect the latest versions of applicable forms incorporated by reference in the rule; 2) clarify and consolidate the procedures for filing documents and fees with the Office, and 3) implement electronic filing requirements for Canadian dealers, dealers that are not members of the FINRA (including their branch offices and associated persons), issuer/dealers (including their associated persons and branch offices), securities registrations filings submitted under Section 517.081, F.S., and securities notification filings under Section 517.082, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory costs has been prepared. Under the proposed rule, issuer dealers (including their branch offices and associated persons), Canadian dealers, non-FINRA dealers (including their branch offices and associated persons), offerings for securities registrations submitted under Section 517.081, F.S., and securities notification filings submitted under Section 517.082, F.S., will be required to file applicable forms and fees through the Office’s REAL System. Currently, the individuals and

entities identified above may file forms and fees manually (“in paper”) or electronically with the Office. The rule eliminates the ability to file forms manually. There are no additional fees associated with filing electronically. In order to file electronically, an applicant/registrant would need a desk or lap-top computer, and internet access. There will be no additional costs to the agency as the result of the proposed changes.

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

RULEMAKING AUTHORITY: 517.03(1), 517.12, 517.1201, 517.081, 517.082 FS.

LAW IMPLEMENTED: 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-301.002 Processing of Applications.

(1) Forms. Application forms for all license actions covered by these rules may be obtained from the Office of Financial Regulation at no cost. All applications must be in the format required by the Office of Financial Regulation. Requests for forms should be sent directly to: The Office of Financial Regulation, Division of Securities, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(2) Electronic Filing of Application and Fee. Applications in the format required by the Office of Financial Regulation, accompanied by the prescribed fee for the requested license action, shall be filed electronically with the Office of Financial Regulation. Forms and fees deemed received are subject to the Office’s Request for Additional Information requirements found in subsection 69W-301.002(3), F.A.C. Application forms and fees shall be filed as follows:

~~(a) at the address indicated in subsection (1) above; however,~~ All ~~all~~ dealers who are members of the Financial Industry Regulatory Authority (formerly known as the National Association of Securities Dealers) (FINRA), Inc. (“NASD”) shall file such items through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.001 and 69W-600.0091, F.A.C. ~~Chapter 69W-600, F.A.C.,~~ as prescribed therein.

~~(b) All~~ However, all Federal Covered Advisers shall file such items through the Investment Adviser Registration Depository (IARD) of the FINRA in accordance with the provisions of Section 517.1201, Florida Statutes, and Rule 69W-600.0092, F.A.C.

(c) Investment advisers shall may file the required forms and fees with the Investment Adviser Registration Depository (IARD) in accordance with the provisions of Rules 69W-600.001 and 69W-600.0093, F.A.C. ~~Issuers may file the required forms and fees with the Securities Registration Depository (SRD) in accordance with the provisions of Rule 69W-400.004 or 69W-800.001, F.A.C., upon implementation of the system in this state.~~

(d) Issuer/Dealers shall file the required forms and fees electronically on the Office’s website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office’s website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rules 69W-400.002, 69W-600.001 and 69W-600.004, F.A.C.

(e) Dealers that are not members of FINRA shall file the required forms and fees electronically on the Office’s website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office’s website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule 69W-600.001, F.A.C.

(f) Canadian dealers shall file the required forms and fees electronically on the Office’s website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office’s website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule 69W-600.0015, F.A.C.

(g) All dealers who are members of the Financial Industry Regulatory Authority (FINRA) shall file requests for Branch Office registration through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.004 and 69W-600.0091, F.A.C.

(h) Investment Advisers shall file requests for Branch Office registration through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.004 and 69W-600.0093, F.A.C.

(i) Issuer/Dealers shall file requests for Branch Office registration on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule 69W-600.004, F.A.C.

(j) Dealers that are not members of FINRA shall file requests for Branch Office registration electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule 69W-600.004, F.A.C.

(k) All dealers who are members of the Financial Industry Regulatory Authority (FINRA) shall file requests for Associated Person registration through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.002 and 69W-600.0091, F.A.C.

(l) Federal Covered Advisers shall file requests for Associated Person registration through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.002 and 69W-600.0092, F.A.C.

(m) Investment Advisers shall file requests for Associated Person registration through the Central Registration Depository (CRD) of the FINRA in accordance with the provisions of Rules 69W-600.002 and 69W-600.0093, F.A.C.

(n) Issuer/Dealers shall file requests for Associated Person registration on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rules 69W-600.002 and 69W-600.004, F.A.C.

(o) Dealers that are not members of FINRA shall file requests for Associated Person registration electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule 69W-600.002, F.A.C.

(p) An applicant for registration of securities pursuant to Section 517.081, F.S., shall file electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule Chapter 69W-700, F.A.C.

(q) An applicant for Notification Registration pursuant to Section 517.082, F.S., shall file electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation of submission is issued by the Office upon successful filing of an application and payment of all fees. Such filings shall be made in accordance with Rule Chapter 69W-800, F.A.C.

(3) through (6) No change.

(7)(a) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rule Chapters 69W-100 through 69W-900, F.A.C.:

1. OFR-S-1-91, Application for Registration of Securities, effective _____ (~~Revised 10/97~~);
2. OFR-S-7-91, Exhibit 1 (General Issue), effective (~~Revised 10/97~~);
3. OFR-S-5-91, Uniform Consent to Service of Process, effective _____ (~~Revised 1/91~~);
4. OFR-S-6-91, Corporate Resolution, effective _____ (~~Revised 1/91~~);
5. OFR-S-10-91, Report of Sales of Securities and Use of Proceeds Therefrom, effective _____ (~~Revised 1/91~~);
6. Form BD, Uniform Application for Broker-Dealer Registration (5/2002), effective _____ (~~Revised 7/99~~);
7. Form ADV, Uniform Application for Investment Adviser Registration (1/2008), effective _____ (~~Revised 10/03~~);
8. Form U-4, Uniform Application for Securities Industry Registration or Transfer (5/2009), effective _____ (~~Revised 10/05~~);
9. Form BDW, Uniform Request for Broker-Dealer Withdrawal (4/2007), effective _____ (~~Revised 8/99~~);
10. Form ADV-W, Notice of Withdrawal from Registration as Investment Adviser (3/2008), effective _____ (~~Revised 10/03~~);
11. Form U-5, Uniform Termination Notice for Securities Industry Registration (5/2009), effective _____ (~~Revised 10/05~~);
12. Form BR, Uniform Branch Office Registration Form (10/2005), effective _____ (~~Revised 10/05~~);

13. OFR Form DA-5-91, Issuer/Dealer Compliance Form, effective ~~(Revised 1/91)~~;

14. Form FL921250Z, Florida Fingerprint Card (5/11/99), effective ~~(Revised 1/91)~~; and

15. OFR Form CAN, Canadian Dealer Notification, effective ~~(New 6-10-07)~~.

(b) This rule also incorporates by reference:

1. OFR Form S-3-91, Notification Registration, effective ~~(Revised 1/91)~~;

2. Form U-1, Uniform Application to Register Securities (Effective 10/97);

3. Form U-2, Uniform Consent to Service of Process (Effective 10/1/96);

4. Form U-2A, Uniform Corporate Resolution (Effective 10/1/96);

5. Form U-7, Small Corporate Offering Registration Form (Effective 10/97);

6. OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, effective ~~(Effective 10/97)~~;

7. OFR-S-13-97, Florida Guide to Small Business Investments, effective ~~(Effective 10/97)~~; and

8. OFR-S-14-97, Promotional Shares Escrow Agreement, effective ~~(Effective 10/97)~~; and

9. CUBA FORM, Disclosure of Business Activities in Cuba Form, effective _____.

(c) Social security number. The following forms contain a field that allows, but does not require, an individual to submit his or her social security number: Form ADV, Uniform Application for Investment Adviser Registration (~~1/2008 Revised 10/03~~); Form U-4, Uniform Application for Securities Industry Registration or Transfer (~~5/2009 Revised 10/05~~); and Form U-5, Uniform Termination Notice for Securities Industry Registration (~~5/2009 Revised 10/05~~). If provided, an individual's social security number will be used by the Office of Financial Regulation to facilitate the identification of the individual to obtain the required criminal justice information, which may expedite the processing of the forms. Social security numbers obtained through the submission of the above-listed forms are subject to the confidentiality provisions of Section 119.071(5), F.S.

(d) All forms referenced in this rule are incorporated by referenced and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399.

Rulemaking Specific Authority 517.03(1), 517.12, 517.1201, 517.081(2), 517.082(4) FS. Law Implemented 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS. History—Revised and Transferred from 3E-300.01, 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 2-1-87, 12-8-87, 7-29-90, 7-31-91, 6-16-92, 1-10-93, 3-13-94, 10-1-96, 10-23-97, 6-22-98, 6-10-99, 5-7-00, 7-10-02, Formerly 3E-301.002, Amended 3-16-06, 6-10-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NOS.:	RULE TITLES:
69W-600.001	Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser
69W-600.0015	Canadian Dealer Notification
69W-600.002	Application for Registration as Associated Person
69W-600.004	Registration of Issuer/Dealers, Principals and Branch Offices
69W-600.005	Examinations/Qualifications
69W-600.006	Fingerprint Requirements
69W-600.007	Changes in Name and Successor Registration Requirements
69W-600.008	Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent
69W-600.009	Registration Renewals
69W-600.0091	Central Registration Depository System
69W-600.0092	Investment Adviser Registration Depository for Federal Covered Advisers
69W-600.0093	Investment Adviser Registration Depository for Investment Advisers
69W-600.010	Notice of Civil, Criminal or Administrative Action
69W-600.012	Rules of Conduct
69W-600.013	Prohibited Business Practices for Dealers and Their Associated Persons
69W-600.0131	Prohibited Business Practices for Investment Advisers and Their Associated Persons
69W-600.0132	Custody Requirements for Investment Advisers
69W-600.014	Books and Records Requirements
69W-600.015	Financial Reporting Requirements – Statement of Financial Condition – Dealers and Investment Advisers

69W-600.016 Net Capital Requirements for Dealers and Investment Advisers

69W-600.017 Customer Protection Rule – Reserve Requirements and Custody of Customer Funds and Securities

69W-600.020 Continuing Education Requirements

PURPOSE AND EFFECT: The rules are amended to reflect the latest versions of materials incorporated by reference in the rules, including federal regulations, federal statutes, forms, Financial Industry Regulatory Authority (FINRA) rules, New York Stock Exchange rules, other stock exchange rules, National Association of Securities Dealers (NASD) rules, and Municipal Securities Rulemaking Board (MSRB) rules. The rules are amended to reflect the changes that are being proposed to Rule 69W-301.002, F.A.C., which is the general rule governing the application submission process. Currently, the process for filing applications and fees with the Office is spread throughout Rule Chapters 69W-600, 69W-700, 69W-800 and 69W-900, F.A.C. For clarity, the provisions specifying the process for filing the applications and fees with the Office are relocated to Rule 69W-301.002, F.A.C. This rule is also amended to require the electronic filing of certain applications, documents and fees that are currently accepted by the Office in paper form. The rules are also amended to replace references to the National Association of Securities Dealers (NASD) with the Financial Industry Regulatory Authority (FINRA). FINRA was created in July 2007 through the consolidation of NASD and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. Rule 69W-600.005, F.A.C., is amended to remove the reference to the examination requirement for investment adviser principals as there is no longer a principal investment adviser designation. Rule 69W-600.006, F.A.C., is amended to reflect the statutory requirement for fingerprint submissions for any direct owner, principal, or indirect owner that is required to be reported on the Form BD, Uniform Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, under Section 517.12(7), F.S. Rule 69W-600.0132, F.A.C., is amended to allow investment advisers under certain conditions to file unaudited financial statements with the Office in lieu the requirement for audited financial statements.

SUMMARY: The rules are amended to: 1) reflect the latest versions of materials incorporated by reference in the rules; 2) reflect the changes to the application filing process that are being proposed to Rule 69W-301.002, F.A.C.; 3) replace references to the National Association of Securities Dealers with the Financial Industry Regulatory Authority; 4) remove the reference to the examination requirement for investment adviser principals; 5) reflect the statutory requirement for fingerprint submissions for any direct owner, principal, or indirect owner that is required to be reported on the Form BD, Uniform Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, under

Section 517.12(7), F.S.; and 6) allow investment advisers under certain conditions to file unaudited financial statements with the Office in lieu the requirement for audited financial statements.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost has been prepared. The Office has determined that the rules will not have an adverse impact on small businesses.

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

RULEMAKING AUTHORITY: 517.03(1), 517.12(6), 517.12(9), 517.12(13), 517.12(15), 517.12(17), 517.1201, 517.121(1), 517.121(2), 517.1215, 517.1217, 215.405 FS.

LAW IMPLEMENTED: 517.081, 517.12, 517.12(4), 517.12(5), 517.12(6), 517.12(7), 517.1205, 517.12(8), 517.12(9), 517.12 (10), 943.053, 517.12(11), 517.12(12), 517.12(12)(b), 517.12(13), 517.12(15), 517.12(16), 517.12(18), 517.161, 517.161(1), 517.161(5), 517.1201(1), 517.1201(2), 517.121, 517.121(1), 517.121(2), 517.1215, 517.1217, 517.301(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bill Reilly, Chief, Bureau of Securities Regulation, Division of Securities, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399, phone (850)410-9805, E-mail: Bill.Reilly@floft.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69W-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) Applications for initial and renewal registration of dealers, issuer/dealers, and investment advisers shall be filed ~~as on the forms~~ prescribed by the Financial Services Commission in ~~Rule subsection~~ 69W-301.002(7), F.A.C., and shall include all information required by such forms, any other information the Financial Services Commission or Office of Financial Regulation may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. ~~Except as otherwise provided in Rule 69W-600.0091 or 69W-600.0093, F.A.C., the Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Financial Services. For dealers that are members of the National Association of Securities Dealers (NASD), such application shall be filed with the Office of Financial Regulation through the Central Registration Depository (CRD) of the NASD in accordance with Rule 69W-600.0091, F.A.C. For investment advisers, such~~

~~application shall be filed with the Office of Financial Regulation through the Investment Adviser Registration Depository (IARD) of the NASD in accordance with Rule 69W-600.0093, F.A.C.~~

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. For registration as a dealer or issuer/dealer, a Uniform Application for Broker-Dealer Registration, Form BD, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. ~~For dealers that are members of the NASD, such application shall be filed with the Office of Financial Regulation through the CRD in accordance with Rule 69W-600.0091, F.A.C.~~ For registration as an investment adviser, a Uniform Application for Investment Adviser Registration, Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. ~~shall be filed with the Office of Financial Regulation. Such application shall be filed with the Office of Financial Regulation through the Investment Adviser Registration Depository (IARD) of the NASD in accordance with Rule 69W-600.0093, F.A.C.;~~

2. No change.

3. A Uniform Application for Securities Industry Registration or Transfer, Form U-4, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., to register at least one principal as set forth in Rule 69W-600.002, F.A.C. ~~For any dealer that is a member of the NASD, or any investment adviser, the application for registration of any principal shall be filed through the CRD as set forth in Rule 69W-600.002, F.A.C.~~ In conjunction with filing its Form BD or Form ADV with the Office of Financial Regulation, the dealer, issuer/dealer, or investment adviser shall provide the Office of Financial Regulation written notification of the principal's name, CRD number, and social security number;

4. No change.

5. Proof of effective registration for dealers with the Securities and Exchange Commission (SEC). Where required by Section 517.12(16), F.S., applicants for registration as a dealer shall also provide the Office of Financial Regulation with proof of insurance coverage by the Securities Investor Protection Corporation. Evidence of current membership as a dealer with the ~~FINRA NASD~~ shall satisfy this requirement;

6. No change.

7. Applicants for registration as an issuer/dealer must file Issuer/Dealer Compliance Form (OFR-DA-5-91), which is incorporated by reference in subsection 69W-301.002(7), F.A.C., (Revised 1-94) to meet requirements under paragraphs 69W-600.004(1)(b), 69W-600.005(2)(d) and Rule 69W-400.002, F.A.C.;

8. through 9 No change.

(2) If the information contained in any application for registration as a dealer or investment adviser or in any amendment thereto, becomes inaccurate for any reason, the

dealer or investment adviser shall file an amendment on the Form BD or the Form ADV, respectively, correcting such information within 30 days. For applicants and registrants that are members of the ~~FINRA NASD~~, each such amendment, including those required by Rule 69W-600.007, F.A.C., shall be filed with the Office of Financial Regulation through the CRD system. For investment adviser applicants and registrants who file via the IARD, each such amendment, including those required by Rule 69W-600.007, F.A.C., may be filed with the Office of Financial Regulation through the IARD system in accordance with Rule 69W-600.0093, F.A.C. All other applicants and registrants shall file such amendments, including those required by Rule 69W-600.007, F.A.C., directly with the Office of Financial Regulation electronically through the Regulatory Enforcement and Licensing System.

(3) No change.

Rulemaking Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, Formerly 3E-600.001, Amended 3-16-06, 5-15-07, _____.

69W-600.0015 Canadian Dealer Notification.

All Canadian dealers making initial and renewal notice filing, or terminating a notice filing in this state shall file OFR Form CAN, Canadian Dealer Notification, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., and shall include all information required by such form, any other information the Office of Financial Regulation may require, and the fee required by Section 517.12(17)(b), F.S., with the Office of Financial Regulation. Such forms and fees shall be filed electronically in accordance with Rule 69W-301.002, F.A.C. Any notice filing made by a Canadian dealer with the Office of Financial Regulation shall be deemed received by the Office of Financial Regulation at such time as OFR Form CAN and the fee have been date stamped by the cashier's office of the Department of Financial Services. When requested by the Office of Financial Regulation, ~~OFR Form CAN~~ and all responses to any other requests for additional information shall be filed directly with the Office of Financial Regulation. ~~OFR Form CAN, Canadian Dealer Notification, is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.12 FS. History—New 5-15-07, Amended _____.

69W-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or associated person shall be filed on Form U-4, Uniform Application for Securities Industry Registration or Transfer, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., and shall include all information required by such form, any other information the

~~Office of Financial Regulation may require, and payment of the statutory fees required by Section 517.12(10), F.S. Such forms and fees shall be filed electronically in accordance with Rule 69W-301.002, F.A.C. Except as otherwise provided in Rule 69W-600.0091, 69W-600.0092, or 69W-600.0093, F.A.C., the Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Financial Services. For dealers that are members of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Office of Financial Regulation through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 69W-600.0091, F.A.C. For federal covered advisers, such application shall be filed with the Office of Financial Regulation through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 69W-600.0092, F.A.C. For investment adviser applicants and registrants who file via the IARD, such application shall be filed with the Office of Financial Regulation through the CRD of the NASD in accordance with Rule 69W-600.0093, F.A.C.~~

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Form U-4. As used on the Form U-4, the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. ~~For dealers that are members of the NASD, such application shall be filed with the Office of Financial Regulation through the CRD of the NASD.~~ Form U-4, Uniform Application for Securities Industry Registration or Transfer, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

2. through 3. No change.

4. Evidence of examinations/qualifications set forth in ~~Rule subsection 69W-600.005(2), F.A.C.~~

5. A complete Florida Fingerprint Card (FL921250Z) when required under Section 517.12(7), F.S., and Rule 69W-600.006, F.A.C., provided by the Office of Financial Regulation and taken by an authorized law enforcement agency and accompanied by a non-refundable \$43.25 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(c) If the information contained in any Form U-4 becomes inaccurate for any reason before or after the associated person becomes registered, the associated person through the dealer or investment adviser, as applicable, shall be responsible for correcting the inaccurate information within thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Form U-4, the associated person through the dealer or investment adviser shall also provide the Office of Financial

Regulation with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in Rule 69W-600.010, F.A.C. For associated persons who have filed by using the CRD of the ~~FINRA NASD~~, such amendments shall be made through the CRD ~~system of the NASD~~. All other applicants and registrants shall file such amendments electronically with the Office of Financial Regulation through the Regulatory Enforcement and Licensing System. Form U-4, Uniform Application for Securities Industry Registration or Transfer, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) No change.

Rulemaking Specific Authority 215.405, 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), (10), 517.1205, 943.053 FS. History—New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, 12-11-03, Formerly 3E-600.002, Amended 3-16-06, 5-15-07, 12-24-07, 12-25-08,_____.

69W-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) through (2) No change.

(3)(a) Every branch office of a registered Florida dealer or investment adviser shall be registered with the Office of Financial Regulation prior to engaging in business therefrom. Such registration shall consist of an application filed with the Office of Financial Regulation on the forms prescribed by the Office of Financial Regulation and payment of the statutory fees required by Section 517.12(10), F.S. Such forms and fees shall be filed electronically in accordance with Rule 69W-301.002, F.A.C. ~~The Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Financial Services.~~ Such office may or may not be designated as an Office of Supervisory Jurisdiction (OSJ) at the discretion of the registrant. A manager for each branch office shall be designated and registered with the Office of Financial Regulation as a principal. For such offices not designated as an OSJ, the branch office manager need not be located at the office(s) for which he is delegated supervisory responsibility; however, in such cases, the registrant must specify in writing to the Office of Financial Regulation, the names of the associated persons designated as resident agent in charge as well as the branch office manager. ~~For any dealer that is a member of the NASD, or any investment adviser, the application for registration of any branch office shall be filed with the Office of Financial Regulation through the CRD.~~

(b) No change.

(c) If the information contained in any branch office registration form becomes inaccurate or incomplete for any reason before or after the branch office becomes registered, including changing the location of the branch office or the supervisory personnel thereof, the dealer or investment adviser

shall amend the information by filing a complete and originally executed Form BR, with the Office of Financial Regulation within thirty (30) days of the change and denoting thereon that the information reported is an amendment to a previous filing. For any dealer that is a member of the FINRA NASD, or any investment adviser, the Form BR shall be filed with the Office of Financial Regulation through the CRD, as set forth in Rules 69W-301.002, 69W-600.0091 and 69W-600.0093, F.A.C. this rule. Issuer/Dealers and Dealers that are not members of FINRA A non-NASD member registrant may amend the branch office registration information by submitting a Form BR directly with the Office of Financial Regulation electronically through the Regulatory Enforcement and Licensing System, in accordance with Rule 69W-301.002, F.A.C. Form BR, Uniform Branch Office Registration Form, is incorporated by reference in subsection 69W-301.002(7), F.A.C. Failure to file any amendment or written notification, as provided herein, shall be considered a violation of Section 517.12(13), F.S.

(d) No change.

Rulemaking Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5), (6), (10) FS. History–New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, 5-27-01, 7-31-02, Formerly 3E-600.004, Amended 3-16-06, 5-15-07, _____.

69W-600.005 Examinations/Qualifications.

(1) through (2) No change.

(3) Examination Requirements for Investment Adviser Representative ~~and Principal~~: An individual applying to be registered as an investment adviser or investment adviser representative shall provide the Office of Financial Regulation with proof of passing, within two years of the date of application for registration, one of the following examinations: 1. the Uniform Investment Adviser Law Examination (Series 65) or 2. the General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66).

(4) No change.

(5) The examination requirement for ~~investment adviser principals~~, investment adviser representatives, and associated persons of issuer dealers shall not apply to an individual who currently holds one of the following professional designations: 1. Certified Financial Planner (TM) or CFP® awarded by the Certified Financial Planner Board of Standards, Inc.; 2. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, PA; 3. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; 4. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; 5. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.12(8) FS. History–New 12-5-79, Amended 9-20-82, Formerly 3E-600.05, Amended 8-1-91, 1-11-93, 4-18-96, 4-2-00, 10-30-03, Formerly 3E-600.005, Amended _____.

69W-600.006 ~~Associated—Persons’~~ Fingerprints Requirements.

(1) Fingerprints filed in accordance with Section 517.12(7), F.S., shall be on fingerprint cards supplied by the Office of Financial Regulation taken by an authorized law enforcement agency, and accompanied by a non-refundable \$43.25 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) The ~~fingerprint card~~ requirement to file a fingerprint card and fee with the Office of Financial Regulation is waived for those associated persons ~~pending requesting~~ registration in Florida with a Financial Industry Regulatory Authority (FINRA) member firm and such fingerprint card ~~has with a dealer which is registered with a national securities exchange or national securities association or the Securities and Exchange Commission, provided that fingerprints have been submitted and processed by FINRA on behalf of the member firm with which said associated person is pending registration, for such persons~~ pursuant to the provisions of SEC rule 17f-2 (17 C.F.R. § 240.17f-2 (2010) 2006), ~~which is hereby incorporated by reference, by said person’s current employer.~~

(3) Notwithstanding any exemptions found in SEC rule 17f-2 (17 C.F.R. § 240.17f-2 (2010)), any direct owner, principal, or indirect owner that is required to be reported on Form BD, Uniform Application for Broker-Dealer Registration, or Form ADV, Uniform Application for Investment Adviser Registration, pursuant to Section 517.12(7), F.S., who is not currently registered in Florida with the firm they are seeking to join or act as a direct owner, principal, or indirect owner shall submit to the Office fingerprint cards supplied by the Office of Financial Regulation taken by an authorized law enforcement agency, and accompanied by a non-refundable \$43.25 processing fee. Such fingerprint card and fee shall be filed directly with the Office until such time as FINRA has the capability to electronically display the fingerprint card results to Florida via the CRD system. Form FL921250Z (Florida Fingerprint Card), Form BD, and Form ADV are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(4) The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 215.405, 517.03 FS. Law Implemented 517.12(7), 943.053 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.06, Amended 8-1-91, Formerly 3E-600.006, Amended 5-15-07, 12-24-07, 12-25-08,_____.

69W-600.007 Changes in Name and Successor Registration Requirements.

(1) Where only a change in the name of an applicant or registrant as dealer, investment adviser or associated person occurs, notices of such fact shall be filed as an amendment on the forms prescribed by the Office of Financial Regulation within thirty (30) calendar days of the date of such change. For registrants who are a member of the Financial Industry Regulatory Authority (FINRA) NASD, such amendment shall be filed with the Office of Financial Regulation through the CRD System pursuant to subsection 69W-600.001(2), F.A.C. Any amendments to organizational documents or accompanying letters of explanation shall be promptly submitted directly to the Office of Financial Regulation when specifically requested by the Office of Financial Regulation.

(2) Where there is a change in legal entity of a proprietary, partnership, or corporate registrant, the successor entity shall file with the Office of Financial Regulation an amendment to Form BD, Uniform Application for Broker-Dealer Registration, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. or Form ADV, Uniform Application for Investment Adviser Registration, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., within thirty (30) calendar days of the date of such change. For registrants who are a member of the FINRA NASD, such amendment shall be filed with the Office of Financial Regulation through the CRD System pursuant to subsection 69W-600.001(2), F.A.C. Any amendments to organizational documents, accompanying letters of explanation, or current financial statements of the successor shall be promptly submitted directly to the Office of Financial Regulation when specifically requested by the Office of Financial Regulation.

(3) Merger Situations: Where there is a merger of dealer or investment adviser registrants involving (a) the assumption by the successor of substantially all assets and liabilities of the merged entities, and (b) the continuation of the activities of the merged entities successor entity, the merging entities shall file notification with the Office of Financial Regulation denoting such changes as are applicable within thirty (30) calendar days prior to the date of such change. The successor entity shall file an amendment to Form BD, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., or Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. denoting such changes as are applicable within thirty (30) calendar days of date of such change. For registrants who are a member of the FINRA NASD, each such amendment shall be filed with the Office of Financial Regulation through the CRD System pursuant to subsection 69W-600.001(2), F.A.C. A copy of the plan of merger/merger agreement,

amended organizational documents, accompanying letters of explanation, or current financial statements of the successor (merged) entity shall be promptly provided directly to the Office of Financial Regulation when specifically requested by the Office of Financial Regulation.

(4) through (6) No change.

Rulemaking Specific Authority 517.03(1), 517.12(13) FS. Law Implemented 517.12(13) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.07(4), Amended 10-15-86, 12-8-87, 8-1-91, 6-16-92, 1-11-93, 6-22-98, 8-9-98, 6-10-99, 5-10-00, 7-31-02, Formerly 3E-600.007, Amended 3-16-06,_____.

C.f. See Rule 69W-301.002(7) for forms referenced herein which have been previously adopted by the Office of Financial Regulation.

69W-600.008 Termination of Registration as Dealer, Investment Adviser, Branch Office, Principal or Agent.

(1) Where a registrant withdraws, cancels, or otherwise terminates registration, or is terminated for any reason, notice of such fact shall be filed with the Office of Financial Regulation on the forms prescribed by the Financial Services Commission, in accordance with Rule 69W-301.002(7), F.A.C., within twenty (20) calendar days of the date of termination. Such forms shall be filed electronically in accordance with Rules 69W-301.002, 69W-600.0091, 69W-600.0092 and 69W-600.0093, F.A.C.

(2) Any dealer which is a member of the Financial Industry Regulatory Authority (FINRA) National Association of Securities Dealers (“NASD”) or any associated person or branch office of a member firm shall file any withdrawals, cancellations, or terminations of registrations with the Office of Financial Regulation through the Central Registration Depository (“CRD”) of the FINRA NASD.

(3) Any investment adviser shall file any withdrawals, cancellations, or terminations of registration with the Office of Financial Regulation through the Investment Adviser Registration Depository (“IARD”) of the FINRA. Any associated person or branch office of an investment adviser shall file any withdrawals, cancellations, or terminations of registration with the Office of Financial Regulation through the Central Registration Depository of the FINRA. Any withdrawals, cancellations, or terminations of registrations for branch offices shall be filed directly with the Office of Financial Regulation as prescribed in paragraph 69W-600.004(3)(c), F.A.C.

(4) through (5) No change.

(6) The forms to be utilized for providing notice to the Office of Financial Regulation under subsections (1), (2) and (3) above, and which are incorporated by reference in subsection 69W-301.002(7), F.A.C., are:

(a) Notice of Withdrawal from Registration as Investment Adviser (Form ADV-W).

(b) Uniform Request for Broker Dealer Withdrawal (Form BDW).

(c) Uniform Branch Office Registration Form (Form BR).

(d) Uniform Termination Notice for Securities Industry Registration (Form U-5).

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.12(12)(b), 517.161(5) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.08, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 6-22-98, 6-10-99, 5-10-00, 5-27-01, Formerly 3E-600.008, Amended 3-16-06, _____.

69W-600.009 Registration Renewals.

(1) No change.

(2) In addition to verifying registration with the Office of Financial Regulation as provided in subsection (1), to renew its registration and that of its branch offices and associated persons, each dealer or investment adviser shall pay all renewal fees as required by Section 517.12(11), F.S.

(a) Renewal fees for ~~FINRA NASD~~ member firms, associated persons of ~~FINRA NASD~~ member firms, and branch offices of ~~FINRA NASD~~ member firms, shall be submitted through the CRD by December 31 of the year the registration expires.

(b) No change.

(c) Renewal fees for ~~non-FINRA non-NASD~~ member firms, associated persons of ~~non-FINRA non-NASD~~ member firms and all branch offices of ~~non-FINRA non-NASD~~ member firms shall be filed electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website sent directly to the Office of Financial Regulation. A confirmation of submission is issued by the Office upon successful filing of a renewal and payment of all fees. The Office of Financial Regulation shall deem a fee received as payment at such time as it has been date stamped by the cashier's office of the Department of Financial Services. All renewal fees must be received by the Office of Financial Regulation by December 31 of the year the registration expires.

(3) For FINRA members, federal covered advisers and investment advisers, failure ~~Failure~~ to submit the requisite amount of fees as provided for in subsection (2) of this rule by December 31 of the year of expiration of the registration shall result in such registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received. However, an expired registration may be reinstated in accordance with the provisions of Section 517.12(11), F.S., provided that all requisite information and fees are date stamped by the cashier's office of the Department of Financial Services on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the

year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day will be considered timely received. In the event that the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration shall become the revenue of the state pursuant to Section 517.12(10), F.S., and shall not be returnable.

(4) For issuer/dealers, Canadian dealers, and dealers that are not members of FINRA, failure to submit the requisite amount of fees as provided for in subsection (2) of this rule by December 31 of the year of expiration of the registration shall result in such registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received. However, an expired registration may be reinstated in accordance with Section 517.12(11), F.S., provided that all requisite information and fees are filed electronically on the Office's website at www.flofr.com through the Regulatory Enforcement and Licensing (REAL) System of the OFR on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day will be considered timely received. If the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration shall become the revenue of the state pursuant to Section 517.12(10), F.S., and shall not be returnable.

Rulemaking Specific Authority 517.03(1), 517.12(6), (15) FS. Law Implemented 517.12(6), (10), (11), (15) FS. History—New 12-5-79, Amended 9-20-82, 8-29-83, Formerly 3E-600.09, Amended 1-7-88, 6-16-92, 11-14-93, 2-5-01, 5-27-01, Formerly 3E-600.009, Amended 5-15-07, _____.

69W-600.0091 Central Registration Depository System.

(1) All ~~FINRA NASD~~ member dealers requesting initial registration, amendment or termination of registration in this state shall file the appropriate Form BD or BDW, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., and the assessment fee required by Section 517.12(10) or (11), F.S., with the Central Registration Depository System ("CRD") of the ~~FINRA NASD~~. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as a dealer filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BD and the application fee. The application

fee shall be deemed received by the Office of Financial Regulation on the “payment date” reflected on the CRD “disbursement detail” report.

(2) All ~~FINRA NASD~~ member dealers registered in this state requesting initial registration, amendment, or termination of a branch office of such member dealer shall file the appropriate Form BR and the application fee required by Section 517.12(10) or (11), F.S., with the CRD. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as a branch office filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BR and the application fee. The application fee shall be deemed received by the Office of Financial Regulation on the “payment date” reflected on the CRD “disbursement detail” report.

(3) All ~~FINRA NASD~~ member dealers registered in this state requesting initial registration, amendment, reaffiliation or termination of an associated person of such member dealer shall file Form U-4 or U-5, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the ~~FINRA NASD~~. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as an associated person of an ~~FINRA NASD~~ member dealer filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation on the date designated in the “Status Date” field on the line notated “FL” with a “Registration Status” of “pending” as indicated on the CRD “Registrations with Current Employers” screen.

~~Rulemaking Specific~~ Authority 517.03, 517.12(15) FS. Law Implemented 517.12(10), (11), (15) FS. History—New 8-29-83, Formerly 3E-600.091, Amended 8-1-91, 6-16-92, 4-30-96, 9-19-00, Formerly 3E-600.0091, Amended 5-15-07,_____.

69W-600.0092 Investment Adviser Registration Depository for Federal Covered Advisers.

(1) All federal covered advisers making, amending, or terminating a notice filing in this state shall file Form ADV, Part 1, or Form ADV-W and the assessment fee required by Section 517.1201(1) or (2), F.S., with the Investment Adviser Registration Depository (IARD) of the FINRA in accordance with subsection 69W-301.002(2), F.A.C ~~NASD~~. When requested by the Office of Financial Regulation, Form ADV, Part 2, and all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any notice filing made by a federal covered adviser with the Office of Financial Regulation through the IARD shall be deemed received by the Office of Financial Regulation upon receipt of the Form ADV and the filing fee. The filing fee shall be deemed received by

the Office of Financial Regulation on the “payment date” reflected on the CRD “disbursement detail” report. Forms ADV and ADV-W are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) All federal covered advisers who notice file in this state and who request initial registration, amendment, reaffiliation or termination of an associated person of such federal covered adviser shall file the Form U-4 or Form U-5, and the assessment fee required by Section 517.12(10) or (11), F.S. with the CRD of the FINRA in accordance with Rule 69W-301.002(2), F.A.C. ~~NASD~~. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Forms U-4 and U-5 are incorporated by reference in subsection 69W-301.002(7), F.A.C.

~~Rulemaking Specific~~ Authority 517.03, 517.12(6), (15), 517.1201 FS. Law Implemented 517.1201(1), (2), (15) FS. History—New 7-31-02, Formerly 3E-600.0092, Amended 3-16-06, 5-15-07,_____.

69W-600.0093 Investment Adviser Registration Depository for Investment Advisers.

(1) All investment advisers requesting initial registration, amendment, or termination of registration in this state shall file the Form ADV, Part 1 and 2, or ADV-W and the assessment fee required by Section 517.12(10) or (11), F.S., with the Investment Adviser Registration Depository (IARD) of the FINRA in accordance with subsection 69W-301.002(2), F.A.C ~~NASD. Form ADV, Part 2, and a~~ All responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. ~~Investment advisers shall file Form ADV, Part 2 with the IARD at such time as the IARD develops the capability to process the form.~~ Applications for registration as an investment adviser filed with the Office of Financial Regulation through the IARD shall be deemed received by the Office of Financial Regulation upon receipt of the Form ADV and the filing fee. The filing fee shall be deemed received by the Office of Financial Regulation on the “payment date” reflected on the CRD “disbursement detail” report. Forms ADV and ADV-W are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) All investment advisers registered in this state through the IARD requesting initial registration, amendment, or termination of a branch of such investment adviser shall file Form BR and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the FINRA in accordance with subsection 69W-301.002(2), F.A.C ~~NASD~~. However, all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Applications for registration as a branch office filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BR and the application fee. The application fee shall be deemed received by the Office of Financial Regulation on the

“payment date” reflected on the CRD “disbursement detail” report. Form BR is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(3) All investment advisers registered in this state through the IARD requesting initial registration, amendment, reaffiliation or termination of an associated person of such investment adviser may file Form U-4 or Form U-5 and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the FINRA in accordance with subsection 69W-301.002(2), F.A.C. NASD. However, all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Forms U-4 and U-5 are incorporated by reference in subsection 69W-301.002(7), F.A.C.

~~(4) All investment advisers currently registered with the Office of Financial Regulation shall transition their Florida registrations onto IARD of the NASD, and the Florida registrations of their associated persons onto the CRD of the NASD, by June 30, 2007. All investment advisers who transition onto IARD of the NASD shall file a complete Form ADV through the IARD of the NASD within 30 days after the transition date. All associated persons who transition onto the CRD of the NASD shall file a complete Form U-4 through the CRD of the NASD within 30 days after the transition date. Form U-4 and Form ADV are incorporated by reference in subsection 69W-301.002(7), F.A.C.~~

Rulemaking Specific Authority 517.03, 517.12(6), (15) FS. Law Implemented 517.12(10), (11), (15) FS. History–New 7-31-02, Formerly 3E-600.0093, Amended 3-16-06, 5-15-07, _____.

69W-600.010 Notice of Civil, Criminal or Administrative Action.

(1) through (2) No change.

(3) Any applicant or registrant in this state who is a member of the Financial Industry Regulatory Authority (FINRA) (formerly known as the National Association of Securities Dealers, Inc.) (“NASD”) shall file such notifications with the Office of Financial Regulation through the Central Registration Depository (“CRD”) of the FINRA NASD in accordance with Rule 69W-600.0091, F.A.C. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation.

(4) Any applicant or registrant in this state who is a federal covered adviser or investment adviser shall file such notifications with the Office of Financial Regulation through the Investment Adviser Registration Depository (IARD) of the FINRA in accordance with Rules 69W-600.0092 and 69W.600.0093, F.A.C. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation.

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.12(6), (12), 517.161 FS. History–New 12-5-79, Amended 9-20-82, Formerly 3E-600.10, Amended 9-19-00, Formerly 3E-600.010, Amended _____.

69W-600.012 Rules of Conduct.

(1) Confirmation of Transactions: Every dealer registered in this state, including those defined as issuer/dealers under Rule 69W-200.001, F.A.C., shall give or send to the customer a written confirmation at or before completion of each transaction. Such confirmation shall set forth at least the following:

(a) through (c) No change.

(d) Compliance with SEC Rule 10b-10 (17 CFR § 240.10b-10 (2010)) and the confirmation, preparation and disclosure requirements of SEC Rule 17a-3 (17 CFR § 240.17a-3 (2010)) or MSRB Rules G-8 and G-15, as those rules existed on June 23, 2010 July 1, 2003, shall be deemed compliance with this rule.

(2) through (4) No change.

(5) It shall be ~~unlawful and~~ a violation of Section 517.301(1), F.S., for any dealer or associated person to engage in any “device, scheme, or artifice to defraud” which shall include selling or effecting the purchase of any security into, in, or from offices in this state in violation of: ~~sections 9, 10, 11A or 15(c) of the Securities Exchange Act of 1934 or of SEC Rules 9b-1, 10b-1 et seq., 11Aa3-1, 15c1-1 et seq., or 15c2-1 et seq. (17 CFR 240.9b-1; 17 CFR 240.10b-1 et seq.; 17 CFR 240.11Aa3-1; 17 CFR 240.15c1-1 et seq.; or 17 CFR 240.15c2-1 et seq., respectively), as such provisions existed on July 1, 2003; or section 15(g) of the Securities Exchange Act of 1934 or of SEC Rules 15g-1, et seq. (17 CFR 240.15g-1 et seq.) as such provisions existed on July 1, 2003; or Regulation M (17 CFR 242.100-.105) as such provisions existed on July 1, 2003.~~

(a) Sections 9, 10, 11A, 15(c) or 15(g) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78i, 78j, 78k-1, 78o(c) or 78o(g) (2006 & Supp. III));

(b) SEC Rules 9b-1 (17 CFR § 240.9b-1(2010));

(c) SEC Rules 10b-1 through 10b-21 (17 CFR §§ 240.10b-1 through 240.10b-21 (2010));

(d) SEC Rules 15c1-1 through 15c1-9 (17 CFR §§ 240.15c1-1 through 240.15c1-9 (2010));

(e) SEC Rules 15c2-1 through 15c2-12 (17 CFR §§ 240.15c2-1 through 240.15c2-12 (2010));

(f) SEC Rules 15g-1 through 15g-9 (17 CFR §§ 240.15g-1 through 240.15g-9 (2010));

(g) Regulation M (17 CFR 242.100 through 242.105 (2010)); or

(h) SEC Rule 601 (17 C.F.R. § 242.601 (2010)).

(6) All federal statutes, federal regulations, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are incorporated by reference and may be obtained by mail

from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.121, 517.301(1) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.12, Amended 12-25-89, 10-14-90, 8-1-91, 6-16-92, 1-11-93, 4-11-94, 1-3-99, 8-19-99, 10-30-03, Formerly 3E-600.012, Amended _____.

69W-600.013 Prohibited Business Practices for Dealers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) Extending, arranging for, or participating in arranging for credit to a customer in violation of Regulation T, Credit by Brokers and Dealers, (12 C.F.R. §§ 220.1-220.132 (2010 2006)), which is incorporated by reference.

(b) Executing any transaction in a margin account without obtaining from its customer a written margin agreement prior to settlement date for the initial transaction in the account.

(c) Failing to segregate customers' free securities or securities in safekeeping.

(d) Hypothecating a customer's securities in violation of SEC Rule 8c-1, (17 C.F.R. § 240.8c-1 (2010 2006)), which is incorporated by reference.

(e) Failing to execute a customer's order.

(f) Executing orders for the purchase by a customer of securities not registered under Section 517.081 or 517.082, F.S., unless the securities are exempted under Section 517.051, F.S., or the transaction is exempted under Section 517.061, F.S.

(g) Representing itself as a financial or investment planner, consultant, or advisers, when the representation does not fairly describe the nature of the services offered, the qualifications of the person offering the services, and the method of compensation for the services.

(h) With respect to any customer, transaction or business in this state, violating any of the following:

1. Financial Industry Regulatory Authority (FINRA) Rules 2000 through 7740, National Association of Securities Dealers (NASD) Conduct Rules 2000 through 3370, Conduct Rules, Marketplace Rules, or the Uniform Practice Code of the NASD National Association of Securities Dealers (NASD), Rules 11100 through 11900, as such rules existed on June 23, 2010. The foregoing NASD regulations, along with the

interpretive materials for those regulations, are published in the NASD manual dated March 2006, which is incorporated by reference.

2. For members of the New York Stock Exchange, Rule 405, 412, or 435, or 445 of the New York Stock Exchange, as such rules and interpretative supplementary materials existed on June 23, 2010 May 31, 2006. The foregoing New York Stock Exchange rules, including the interpretative supplementary materials, are incorporated by reference.

3. Section 2, 4, 5, or 6 of the Securities Act of 1933, (15 U.S.C.A. §§ 77b, 77c, 77d, 77e, or 77f (2006 & Supp. III Thomson/West 2006 (current through P.L. 109-229)), or SEC Rules 134, 134a, 135a, 144, 144A, 156, 419, 481, or 482, (17 C.F.R. §§ 230.134, 230.134a, 230.135a, 230.144, 230.144A, 230.156, 230.419, 230.481 or 230.482 (2010 2006)). The foregoing sections of the Securities Act of 1933 and rules of the SEC are incorporated by reference.

4. Section 15(b)(4)(E) of the Securities Exchange Act of 1934, (15 U.S.C.A. § 78o(b)(4)(E) (2006 & Supp. III Thomson/West 2006 (current through P.L. 109-229)); Regulation SHO, Regulation of Short Sales, (17 C.F.R. §§ 242.200-242.203 (2010 2006)); or NASD Conduct Rule 3210, as it existed on June 23, 2010. The foregoing provisions of the Securities Exchange Act of 1934 and Regulation SHO, Regulation of Short Sales, are incorporated by reference. NASD Conduct Rule 3210, as it existed on July 3, 2006, is incorporated by reference.

5. Section 15B of the Securities Exchange Act of 1934, (15 U.S.C.A. § 78o-4 (2006 & Supp. III Thomson/West 2006 (current through P.L. 109-229)), or the following rules of the Municipal Securities Rulemaking Board (MSRB), which have been promulgated under Section 15B: MSRB Definitional Rules D-1 to D-12, inclusive, and General Rules G-1 to G-41 G-34, inclusive, as those rules existed on June 23, 2010 May 31, 2006. Section 15B of the Securities Act of 1934 and the foregoing MSRB rules, including the MSRB interpretative letters and notices construing those rules, are incorporated by reference.

6. To the extent that any of the rules described in subparagraphs 1. through 5. of this section or their interpretation by the FINRA, NASD, NYSE, MSRB, or SEC, as appropriate, conflict or are inconsistent with other provisions of the Florida Securities and Investor Protection Act or rules promulgated pursuant thereto, this paragraph of this rule shall not be deemed controlling.

(i) through (l) No change.

(m) Selling or offering for sale any security in a transaction exempt from registration pursuant to Section 517.061(17)(a)1., F.S., where the issuer of such securities has not filed with the SEC within the specified period of time all reports required by Sections 13 or 15D of the Securities Exchange Act of 1934, (15 A. §§ 78m, 78o-6 (2006 & Supp.

III Thomson/West 2006 (current through P.L. 109-229)). The foregoing sections of the Securities Exchange Act of 1934 are incorporated by reference.

(n) through (o) No change.

(2) The following are deemed demonstrations of unworthiness by an associated person of a dealer under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) Borrowing money or securities from a customer, except when persons are in compliance with FINRA NASD Conduct Rule 32402370(a)(1), (a)(2)(A)-(C) only, and FINRA NASD Conduct Rule 32402370(b)-(c), as these rules existed on June 23, 2010 which are incorporated by reference in subparagraph (1)(h)1-;

(b) Acting as a custodian for money, securities or an executed stock power of a customer;

(c) Effecting transactions in securities, or investments as defined by Section 517.301(2), F.S., not recorded on the regular books or records of the dealer, which the associated person represents, unless the transactions are disclosed to, and authorized in writing by, the dealer prior to execution of the transactions;

(d) Operating an account under a fictitious name, unless disclosed to the dealer, which the associated person represents;

(e) Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the dealer, which the associated person represents;

(f) Dividing or otherwise splitting commissions, profits or other compensation in connection with the purchase or sale of securities in this state with any person not also licensed as an associated person for the same dealer, or for a dealer under direct or in indirect common control;

(g) Failing to furnish to each offeree of a Small Corporate Offering Registration (SCOR) a copy of the "Florida Guide to Small Business Investments", OFR-S-13-97, ~~revised May 1, 2004~~, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.; and

(h) Engaging in any of the practices specified in paragraph (1)(a), (b), (e), (f), (g), (h), (i), (k), (l), (m), (n) or (o).

(3) The federal statutes, federal regulations, Financial Industry Regulatory Authority (FINRA) rules, National Association of Securities Dealers (NASD) rules, New York Stock Exchange rules, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are hereby incorporated by reference and All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF>.

html. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1), 517.1217 FS. Law Implemented 517.081, 517.1217, 517.161(1) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.13, Amended 8-1-91, 6-16-92, 1-11-93, 11-7-93, 5-5-94, 9-9-96, 10-20-97, 1-25-00, 10-30-03, Formerly 3E-600.013, Amended 10-23-06, 1-18-09,

69W-600.0131 Prohibited Business Practices for Investment Advisers and Their Associated Persons.

(1) The following are deemed demonstrations of unworthiness by an investment adviser or an associated person of an investment adviser under Section 517.161(1)(h), F.S., without limiting that term to the practices specified herein:

(a) With respect to any customer, transaction or business in, to or from this state, engaging in any conduct prohibited by, or failing to comply with the requirements of, the following: Sections 204, 204A, 205, 206, 207, 208 of the Investment Advisers Act of 1940, (15 U.S.C.A. §§ 80b-4, 80b-4a, 80b-5, 80b-6, 80b-7, 80b-8 (2006 & Supp. III Thomson/West 2006 (current through P.L. 109-237)), or SEC Rules 204-3, 205-1, 205-2, 205-3, 206(3)-1, 206(3)-2, 206(4)-1, 206(4)-3, and 206(4)-4, (17 C.F.R. §§ 275.204-3, 275.205-1, 275.205-2, 275.205-3, 275.206(3)-1, 275.206(3)-2, 275.206(4)-1, 275.206(4)-3, and 275.206(4)-4 (2010 2006)), ~~promulgated under the Investment Advisers Act of 1940. The foregoing provisions of the Investment Advisers Act of 1940 and rules of the SEC are incorporated by reference.~~

(b) through (q) No change.

(r) Entering into, extending or renewing any investment advisory contract contrary to the provisions of Section 205 of the Investment Advisers Act of 1940, 15 U.S.C.A. § 80b-5 (2006 & Supp. III) (Thomson/West 2006 (current through P.L. 109-237)), ~~which is incorporated by reference in paragraph (a) of this subsection.~~ This provision shall apply to all advisers and investment adviser representatives registered or required to be registered under this Act, notwithstanding whether such adviser or representative would be exempt from federal registration pursuant to Section 203(b) of the Investment Advisers Act of 1940, (15 U.S.C.A. § 80b-3(b) (2006 & Supp. III Thomson/West 2006 (current through P.L. 109-237))), ~~which is incorporated by reference;~~

(s) Including, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of Chapter 517, F.S., or with any provision of, or with any rule, regulation, or order issued under, the Investment Advisers Act of 1940 (15 U.S.C. § 80b-1 through 80b-21 (2006 & Supp. III)), ~~which is incorporated by reference;~~

(t) Taking any action, directly or indirectly, with respect to those securities or funds in which any client has any beneficial interest, where the investment adviser has custody or

possession of such securities or funds when the adviser's action is subject to and does not comply with the requirements of Rule 69W-600.0132, F.A.C.

(u) No change.

(2) The federal statutory and regulatory provisions referenced herein shall apply to investment advisers, investment adviser representatives and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. 110-290).

(3) The federal statutes and federal regulations referenced in this rule are hereby incorporated by reference and All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1), 517.1215 FS. Law Implemented 517.12(4), 517.1215, 517.161(1), FS. History–New 1-25-00, Amended 10-30-03, Formerly 3E-600.0131, Amended 10-23-06, 1-18-09, _____.

69W-600.0132 Custody Requirements for Investment Advisers.

(1) Definitions. For purposes of this section:

(a) through (b) No change.

(c) "Qualified custodian" means the following independent institutions or entities that are not affiliated with the adviser by any direct or indirect common control and have not had a material business relationship with the adviser in the previous two years:

1. through 2. No change.

3. A registered futures commission merchant registered under Section 4f(a) of the Commodity Exchange Act (7 U.S.C. § 6f (2006 & Supp. III)), holding the client assets in customer accounts, but only with respect to clients' funds and security futures, or other securities incidental to transactions in contracts for the purchase or sale of a commodity for future delivery and options thereon; and

4. No change.

(2) Safekeeping required. If the investment adviser is registered or required to be registered, it is unlawful and deemed to be a fraudulent, deceptive, or manipulative act, practice or course of business for the investment adviser to have custody of client funds or securities unless:

(a) through (e) No change.

(f) Direct Fee Deduction. An adviser who has custody as defined in sub-subparagraph (1)(a)1.b. of this rule by having fees directly deducted from client accounts must also provide the following safeguards:

1. through 4. No change.

5. Waiver of Audited Financial Statements. An investment adviser having custody solely because it meets the definition of custody as defined in sub-subparagraph (1)(a)1.b. of this rule and who complies with the safekeeping requirements in paragraphs (2)(a)-(f) of this rule may file unaudited financial statements and must comply with the requirements as set forth in paragraph 69W-300.002(4)(c), F.A.C.

(g) through (h) No change.

(3) Exceptions.

(a) Shares of mutual funds. With respect to shares of an "open-end company" as defined in Section 5(a)(1) of the Investment Company Act of 1940, (15 U.S.C. § 80a-5(a)(1) (2006 & Supp. III)), ("mutual fund"), the investment adviser may use the mutual fund's transfer agent in lieu of a qualified custodian for purposes of complying with subsection (2) of this rule;

(b) through (c) No change.

(d) Registered investment companies. The investment adviser is not required to comply with this rule with respect to the account of an investment company registered under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 through 80a-64 (2006 & Supp. III)) [15 U.S.C. 80a-1 to 80a-64].

(e) through (f) No change.

(4) The federal statutes referenced in this rule are hereby incorporated by reference and All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>.

Rulemaking Specific Authority 517.03(1), 517.1215 FS. Law Implemented 517.1215 FS. History–New 10-23-06, Amended _____.

69W-600.014 Books and Records Requirements.

Except as otherwise provided herein, every dealer, investment adviser, branch office, and associated person conducting business in this state shall prepare and maintain on a current basis, and preserve for the periods of time specified, such records, prescribed herein, as are appropriate for said dealer's, investment adviser's, branch office's, or associated person's course of business, and are sufficient to provide an audit trail of all business transactions by said dealer, investment adviser, associated person, or branch office. Associated persons who conduct business from a registered branch office in this state shall be exempt from the provisions of this rule.

(1) All dealers are required to prepare and maintain appropriate books and records relating to their business as described in either SEC Rules 17a-3 or 17a-4, (17 C.F.R. §§ 240.17a-3, 240.17a-4 (2010 2006)), or MSRB Rules G-7, G-8 and G-9, as such rules existed on June 23, 2010; and records evidencing compliance with NASD Conduct rule 3000, as such rule existed on June 23, 2010. ~~SEC Rules 17a-3 and 17a-4 are incorporated by reference.~~ MSRB Rules G-7, G-8, and G-9 are incorporated by reference in subparagraph 69W-600.013(1)(h)5., F.A.C. NASD Conduct Rule 3000 is incorporated by reference in subparagraph 69W-600.013(1)(h)1., F.A.C.

(2) All issuer/dealers are required to maintain at least the following records:

(a) through (b) No change.

(c) A record of all sales of securities made by, or on behalf of, the issuer as described in and in compliance with SEC Rule 17a-3(a)(1), (17 C.F.R. § 17a-3(a)(1) (2010 2006)), ~~which is incorporated by reference in subsection (1);~~

(d) through (e) No change.

(3) All investment advisers, notwithstanding the fact that the investment adviser is not registered or required to be registered under the Investment Advisers Act of 1940, shall prepare and maintain true, accurate and current records relating to their business as described in SEC Rule 204-2, (17 C.F.R. § 275.204-2 (2010 2006)), ~~which is incorporated by reference;~~ and have available for the Office of Financial ~~financial~~ Regulation at least the following records;:

(a) through (c) No change.

(d) A file containing a copy of each record required by SEC Rule 204-2(11), (17 C.F.R. § 275.204-2(11) (2010 2006)), ~~which is incorporated by reference in this subsection,~~ including any communication by electronic media that the investment adviser circulates or distributes, directly or indirectly, to two or more persons, other than persons connected with the investment adviser.

(e) A copy of each written statement and each amendment or revision given or sent to any client or prospective client of the investment adviser in accordance with the provisions of SEC Rule 204-3, (17 C.F.R. § 275.204-3 (2010 2006)), which is incorporated by reference in paragraph 69W-600.0131(1)(a), F.A.C., and a record of the dates that each written statement, and each amendment or revision was given or offered to be given to any client or prospective client who subsequently becomes a client.

(f) For each client that was obtained by the adviser by means of a solicitor to whom a cash fee was paid by the adviser, records required by SEC Rule 206(4)-3, (17 C.F.R. § 275.206(4)-3 (2010 2006)), which is incorporated by reference in paragraph 69W-600.0131(1)(a), F.A.C.

(g) All records required by SEC Rule 204-2(16), (17 C.F.R. § 275.204-2(16) (2010 2006)), ~~which is incorporated by reference in this subsection.~~

(h) through (k) No change.

(4) Notwithstanding other record preservation requirements of this rule, the following records or copies shall be required to be maintained in the business location of the investment adviser from which the customer or client is being provided or has been provided with investment advisory services:

(a) Records required to be preserved under paragraphs (a)(3), (a)(7)-(11), (a)(14)-(15), (b) and (c) inclusive, of SEC Rule 204-2 of the Investment Advisers Act of 1940, (17 C.F.R. § 275.204-2 (2010 2006)), which is incorporated by reference in subsection (3); and

(b) Records or copies required under the provision of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2 of the Investment Advisers Act of 1940 (17 C.F.R. § 275.204-2 (2010)), which records or related records identify the name of the investment adviser representative providing investment advice from that business location, or which identify the business location's physical address, mailing address, electronic mailing address, or telephone number. ~~SEC Rule 204-2, 17 C.F.R. § 275.204-2 (2006), is incorporated by reference in subsection (3);~~

(5) through (6) No change.

(7) All books and records described in this rule shall be preserved in accordance with the following:

(a) Those records required under subsection (1) of this rule shall be preserved for such periods of time as specified in either SEC Rule 17a-4, (17 C.F.R. § 240.17a-4 (2010 2006)), ~~which is incorporated by reference in subsection (1);~~ or MSRB Rule G-9, as such rule existed on June 23, 2010, which is incorporated by reference in paragraph 69W-600.013(1)(h), F.A.C.

(b) through (d) No change.

(e) Each investment adviser registered or required to be registered in this state and which has a business location in this state shall maintain at such business location:

1. The records or copies required under the provisions of paragraphs (a)(3), (a)(7)-(10), (a)(14)-(15), (b), and (c) of SEC Rule 204-2, (17 C.F.R. § 275.204-2 (2010 2006)), ~~which is incorporated by reference in subsection (3);~~ and

2. The records or copies required under the provisions of paragraphs (3)(a)-(k)(j) above related to customers or clients for whom the investment adviser representative provides or has provided investment advisory services; and

3. The records or copies required under the provisions of paragraphs (a)(11) and (a)(16) of SEC Rule 204-2, (17 C.F.R. § 275.204-2 (2010 2006)), which records or related records identify the name of the investment adviser representative or which identify the business location's physical address, mailing address, electronic mailing address, or telephone number. The records will be maintained for the period described in subsections (d) and (e) of SEC Rule 204-2, (17 C.F.R. § 275.204-2 (2010 2006)). The investment adviser shall

be responsible for ensuring compliance with the provision of this subsection. SEC Rule 204-2, (17 C.F.R. § 275-204-2 (2010 2006)), ~~is incorporated by reference in subsection (3).~~

(8) The federal regulations, federal statutes, and Municipal Securities Rulemaking Board (MSRB) rules referenced in this rule are hereby incorporated by reference and All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0374. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1), 517.121(1), 517.1215 FS. Law Implemented 517.121(1), 517.1215 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00, 10-30-03, Formerly 3E-600.014, Amended 10-23-06, 5-15-07, _____.

69W-600.015 Financial Reporting Requirements – Statement of Financial Condition – Dealers and Investment Advisers.

(1) No change.

(2) Every dealer registered pursuant to Section 517.12, F.S., and rules thereunder shall file annually with the Office of Financial Regulation, within ninety (90) days after the conclusion of said registrant's fiscal year, audited financial statements as prepared by an independent outside auditor, unless exempted under Rule 69W-300.002, F.A.C.

(a) through (b) No change.

(c) In lieu of the provisions of paragraph (b) above, the Office of Financial Regulation will accept those statements prepared and filed by a dealer in accordance with the provisions of SEC Rule 17a-5 (17 C.F.R. CFR § 240.17a-5 (2010)) and SEC Rule 17a-10 (17 C.F.R. CFR § 240.17a-10 (2010)), ~~as such rules existed on July 1, 2003.~~

(3) and (4) No change.

(5) The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1), 517.12(9), 517.121(2) FS. Law Implemented 517.12(9), 517.121(2) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.15, Amended 6-16-92, 10-30-03, 4-8-04, Formerly 3E-600.015, Amended _____.

69W-600.016 Net Capital Requirements for Dealers and Investment Advisers.

(1) No change.

(2) All dealer applicants and registrants shall meet and at all times maintain the net capital and ratio requirements as prescribed by SEC Rule 15c3-1 including any appendices thereto (17 C.F.R. § 240.15c3-1, 240.15c3-1a, 240.15c3-1b, 240.15c3-1c and 240.15c3-1d (2010)), computed in accordance with said rule, ~~as such rule existed on January 1, 1993.~~

(a) All reporting requirements as specified in (17 C.F.R. § 240.17a-11 (2010)), ~~as such rule existed on January 1, 1993,~~ when such regulation is referred in SEC Rule 15c3-1 shall be applicable with the exception that such reports and notifications required by said rule shall be forwarded to the Office of Financial Regulation as well as the other regulatory agencies specified, if applicable.

(b) All references to (17 C.F.R. § 240.17a-3 (2010)) and (17 C.F.R. § 240.17a-4 (2010)), ~~as such provisions existed on January 1, 1993,~~ in the foregoing and subsequent provisions of Office of Financial Regulation or SEC Rules as adopted by the Office of Financial Regulation, shall be read as to mean Office of Financial Regulation, Rule 69W-600.014, F.A.C.

(3) Issuer/dealer or investment adviser applicants or registrants shall meet the net capital requirements of this section:

(a) Investment advisers who have custody of client funds or securities or who receive payment of advisory fees six months or more in advance and in excess of \$500 per client shall maintain net capital in the amount of \$25,000 calculated as prescribed by SEC Rule 15c3-1 (17 C.F.R. CFR § 240.15c3-1 (2010)), including any ratio requirements and appendices thereto, ~~as such provisions existed on January 1, 1993.~~

(b) Investment advisers who do not have custody of client funds or securities or who do not receive payment for advisory services six months or more in advance and in excess of \$500 per client shall maintain net capital: (1) in the amount of \$5,000 calculated as prescribed by SEC Rule 15c3-1 (17 C.F.R. CFR § 240.15c3-1 (2010)), including any ratio requirements and appendices thereto, ~~as such provisions existed on January 1, 1993;~~ or (2) of at least \$2,500. For purposes of option (2) of this subsection, net capital shall be defined as assets minus liabilities in accordance with United States Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants, as such provisions existed on June 1, 1992.

(c) Investment advisers who compute net capital in accordance with SEC Rule 15c3-1, ~~as such rule existed on January 1, 1993,~~ may exclude liabilities which are subordinated to the claims of creditors pursuant to a subordination agreement, provided such agreement complies with all terms and conditions specified in Appendix D to SEC

Rule 15c3-1 (17 C.F.R. ~~CFR~~ § 240.15c3-1 and 240.15c3-1d (2010)), as such provision existed on January 1, 1993, except for the requirement that such agreement be filed with and approved by the Securities and Exchange Commission. Those investment advisers who have subordination agreements in effect prior to the effective date of this subsection shall not be required to comply with the conditions specified in Appendix D to SEC Rule 15c3-1. Should the investment adviser renegotiate or enter into a new subordination agreement, the agreement must comply with the provisions of Appendix D of SEC Rule 15c3-1.

(d) An issuer/dealer shall maintain net capital, defined as assets minus liabilities and computed in accordance with United States Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants, as such provisions existed on June 1, 1992, of at least \$5,000, unless required elsewhere by these rules to maintain a greater minimum net capital.

(4) through (5) No change.

(6) The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.12(9), (16) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.16, Amended 10-15-86, 8-1-91, 6-29-93, 11-22-93, Formerly 3E-600.016, Amended _____.

69W-600.017 Customer Protection Rule – Reserve Requirements and Custody of Customer Funds and Securities.

All Dealer applicants and registrants subject to the net capital provisions of subsection 69W-600.016(2), F.A.C., shall be required to prepare and maintain such records and accounts as specified in, and to comply in all other respects with, the provisions of SEC Rule 15c3-3 (17 C.F.R. ~~CFR~~ § 240.15c3-3 (2010)), which is hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399 as such provisions existed on February 28, 1992. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1), 517.12(9), 517.121(2) FS. Law Implemented 517.12(9), 517.121(2) FS. History—New 12-5-79, Formerly 3E-600.17, Amended 6-16-92, Formerly 3E-600.017, Amended _____.

69W-600.020 Continuing Education Requirements.

(1) Failure to comply with any of the applicable continuing education requirements set forth in any one of the following shall be deemed a demonstration of unworthiness by a dealer or associated person under Section 517.161(1)(h), F.S.:

(a)(4) NASD Membership and Registration Rule 1120 of the Financial Industry Regulatory Authority National Association of Securities Dealers, as such provisions existed on June 23, 2010 July 1, 2003;

(b)(2) Rule 345A 345-A of the New York Stock Exchange, as such provisions existed on June 23, 2010 July 1, 2003;

(c)(3) Rule G-3(h) of the Municipal Securities Rulemaking Board, as such provisions existed on June 23, 2010 July 1, 2003;

(d)(4) Rule 341A 341-A of the American Stock Exchange, as such provisions existed on June 23, 2010 July 1, 2003;

(5) Rule 9.3A of the Chicago Board of Options Exchange, as such provisions existed on July 1, 2003;

(e)(6) Article VI, Rule 11 9 of the Chicago Stock Exchange, as such provisions existed on June 23, 2010 July 1, 2003;

(7) Rule 9.27(e) of the Pacific Stock Exchange, as such provisions existed on July 1, 2003; or

(8) Rule 640 of the Philadelphia Stock Exchange, as such provisions existed on July 1, 2003.

(2) The rules of the NASD, New York Stock Exchange, Municipal Securities Rulemaking Board, American Stock Exchange and Chicago Stock Exchange referenced in this rule are hereby incorporated by reference and may be obtained by mail from Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.12(18), 517.161(1) FS. History—New 12-21-95, Amended 8-19-99, 10-30-03, Formerly 3E-600.020, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill Reilly, Chief, Bureau of Securities Regulation, Division of Securities, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399, phone (850)410-9805, E-mail: Bill.Reilly@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NOS.:	RULE TITLES:
69W-700.002	Filing of Prospectus
69W-700.015	Offering Price of Equity Securities
69W-700.028	Small Corporate Offering Registration (“SCOR” Offering)

PURPOSE AND EFFECT: The rules are amended to reflect the latest versions of federal regulations, federal statutes, and forms referenced in the rules. The rules are also clarified to reflect the appropriate forms that must be filed in connection with small corporate offering registrations.

SUMMARY: The rules are amended to reflect the latest versions of federal regulations, federal statutes, and forms referenced in the rules. The rules are also clarified to reflect the appropriate forms that must be filed in connection with small corporate offering registrations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory was prepared. The Office has determined that the proposed amendments will not have an adverse impact on small businesses.

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

RULEMAKING AUTHORITY: 517.03(1), 517.061(19) FS.

LAW IMPLEMENTED: 517.081(3), 517.081(7) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Epting, Chief, Bureau of Regulatory, Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69W-700.002 Filing of Prospectus.

(1) No change.

(2) Any prospectus which depicts the United States Securities and Exchange Commission’s statement pursuant to a registration statement filed under the Securities Act of 1933 or a letter of notification under Regulation A of the Securities Act of 1933 (17 C.F.R. §§ 230.251 through 230.263 (2010)) will be considered to be in substantial compliance with the requirement of subsection (1) above. The federal regulations referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the Code of Federal

Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.081(3) FS. History—(Formerly 3E-20.01) New 9-20-82, Formerly 3E-700.02, Amended 10-26-97, Formerly 3E-700.002, Amended _____.

69W-700.015 Offering Price of Equity Securities.

(1) The offering price of securities that an issuer is seeking to register shall not exceed:

(a) The established market price, for the securities of the same class as that proposed to be offered; or

(b) A proposed price that reflects a price earnings ratio of securities of similar issuers in the same industry; and further provided that the issuer has a consistent record of earnings for the preceding three (3) fiscal years; or

(c) The proposed offering price established by an underwriter under a firm underwriting commitment, if the underwriter is registered under the Securities Exchange Act of 1934 (15 U.S.C. §§ 78a through 78oo (2006 & Supp. III)) and has the financial ability to perform its commitment in light of its net capital position. The federal statutes referenced in this rule are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>.

(2) through (3) No change.

(4) As a condition to registration, the Office of Financial Regulation shall require an escrow of all promotional securities issued where the Office of Financial Regulation determines that the promoters are unfairly benefiting at the expense of the public shareholders. The escrow agreement shall comply with Section 517.181, F.S., on Form OFR-S-14-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., and shall include but not be limited to the following:

(a) through (d) No change.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—(Formerly 3E-20.15) New 9-20-82, Formerly 3E-700.15, Amended 11-30-97, Formerly 3E-700.015, Amended _____.

69W-700.028 Small Corporate Offering Registration (“SCOR” Offering).

(1) For the purpose of compliance with the registration provisions of Section 517.081(3)(g)2., the issuer shall file an application on Form OFR-S-12-97, SCOR (Small Corporate

Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. The application shall include:

(a) Three (3) copies of Form U-7, Small Corporate Offering Registration Form, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.;

(b) An irrevocable written Uniform Consent to Service of Process, Form U-2 or Form OFR-S-5-91, and Uniform Corporate Resolution, Form U-2A or Form OFR-S-6-91, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., as described in Section 517.101, F.S. It shall be the choice of the applicant to file either the Form U-2 or the Form OFR-S-5-91, either of which are acceptable to the office. It shall also be the choice of the applicant to file either the Form U-2A or Form OFR-S-6-91;

(c) Payment of the statutory fee as required in Section 517.081, F.S.;

(d) Exhibits, where applicable, as prescribed in Part II to Form OFR-S-12-97, SCOR (Small Corporate Offering Registration) Application to Register Securities, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) through (3) No change.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History—New 11-30-97, Formerly 3E-700.028, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Epting, Chief, Bureau of Regulatory, Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NOS.:	RULE TITLES:
69W-800.001	Filing – Notification Registration Including Shelf Filings
69W-800.003	Effective Registration
69W-800.004	Circulation of Preliminary Prospectus

PURPOSE AND EFFECT: Rule 69W-800.001, F.A.C., is amended to reflect the latest versions of federal regulations referenced in the rule, clarify the appropriate forms that must be filed for notification registrations and shelf filings, and reference the latest versions of forms. Rule 69W-800.003, F.A.C., is amended to clarify the registration process. The

proposed amendments to Rule 69W-800.003, F.A.C., reference Rule 69W-300.002, F.A.C., which is being amended to require the electronic filing of registration documents and fees through the Office's Regulatory Enforcement and Licensing System. Rule 69W-800.004, F.A.C., is amended to reflect the latest version of the Notification Registration form.

SUMMARY: Rule 69W-800.001, F.A.C., is amended to reflect the latest versions of federal regulations referenced in the rule, clarify the appropriate forms that must be filed for notification registrations and shelf filings, and reference the latest versions of forms. Rule 69W-800.003, F.A.C., is amended to clarify the registration process. The proposed amendments to Rule 69W-800.003, F.A.C., reference Rule 69W-300.002, F.A.C., which is being amended to require the electronic filing of registration documents and fees through the Office's Regulatory Enforcement and Licensing System. Rule 69W-800.004, F.A.C., is amended to reflect the latest version of the Notification Registration form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office has determined that the proposed amendments will not have an adverse impact on small businesses.

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

RULEMAKING AUTHORITY: 517.03(1) FS.

LAW IMPLEMENTED: 517.082 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-800.001 Filing – Notification Registration Including Shelf Filings.

(1) An application for Notification Registration or a shelf filing not in conflict with the provisions of Section 517.082(3), Florida Statutes, shall be filed on OFR FORM-S-3-91, Notification Registration (~~Revised 1-91~~), and Form U-1, Uniform Application to Register Securities (~~Effective 10/97~~), which are hereby incorporated by reference in subsection 69W-301.002(7), F.A.C. The application shall include:

(a) One (1) copy of the initial registration statement as filed with the United States Securities and Exchange Commission unless effective upon filing with the Office of Financial Regulation;

(b) An irrevocable written Uniform Consent to Service of Process, Form U-2 or Form OFR-S-5-91 and Uniform Corporate Resolution, Form U-2A or Form OFR-S-6-91, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., as described in Section 517.101, Florida Statutes. It shall be the choice of the applicant to file either the Form U-2 or the Form OFR-S-5-91, either of which are acceptable to the office. It shall also be the choice of the applicant to file either the Form U-2A or Form OFR-S-6-91;

(c) Payment of the statutory fee as required in Section 517.082, Florida Statutes;

(d) One (1) copy of the final pricing amendment/final prospectus as per the effective registration date with the Securities and Exchange Commission, except for Shelf Registration offerings to be made on a delayed or continuous basis pursuant to SEC Rule 415 (17 C.F.R. § 230.415 (2010)), which is incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399; and

(e) No change.

(2) through (6) No change.

~~(7) The forms adopted by the Office of Financial Regulation for registration under this section are as follows:~~

~~(a) OFR FORM S 3 91, Notification Registration (Revised 1 91);~~

~~(b) Form U-1, Uniform Application to Register Securities (effective 10/97);~~

~~(c) Form U-2, Uniform Consent to Service of Process and Form U-2A, Uniform Corporate Resolution (effective 10-1-96);~~

~~(d) OFR S 5 91, Uniform Consent to Service of Process (Revised 1 91);~~

~~(e) OFR S 6 91, Corporate Resolution (Revised 1 91);~~

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.082 FS. History–New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.001, Amended _____.

69W-800.003 Effective Registration.

(1) No change.

(2) A registration under Section 517.082, F.S., shall be filed in accordance with subsection 69W-301.002(2), F.A.C. The Office of Financial Regulation shall deem an application to be officially received at such time as it has been date stamped by the cashier's office of the Office of Financial Regulation accompanied by the required fee or upon acceptance by the Securities Registration Depository (SRD) and notice by SRD to this state of such filing;

(3) No change.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.082 FS. History–New 10-15-86, Amended 11-14-93, 10-1-96, Formerly 3E-800.003, Amended _____.

69W-800.004 Circulation of Preliminary Prospectus.

A preliminary prospectus if designated as such may be used by dealers registered with the Office of Financial Regulation, provided that the Notification Registration (OFR FORM-S-3-91) ~~(Revised 1 91), which is incorporated by reference in subsection 69W-301.002(7), F.A.C.,~~ has been filed with the Office of Financial Regulation and each purchaser of securities is provided not later than the time of the sale of securities with the offering circular contained in the definitive registration statement effective under the Securities Act of 1933 as referenced in Section 517.082, Florida Statutes.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.082 FS. History–New 10-15-86, Amended 12-8-87, 7-31-91, 10-1-96, 10-20-97, Formerly 3E-800.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@floir.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NO.: 69W-900.001
RULE TITLE: Disclosure of Business Activities in Cuba

PURPOSE AND EFFECT: The rule is amended to reflect the latest versions of federal regulations and federal statutes referenced in the rule. The rule is also amended to reflect the latest version of the Disclosure of Business Activities in Cuba Form.

SUMMARY: The rule is amended to reflect the latest versions of federal regulations and federal statutes referenced in the rule. The rule is also amended to reflect the latest version of the Disclosure of Business Activities in Cuba Form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office has determined that the proposed changes will not impact small businesses.

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

RULEMAKING AUTHORITY: 517.075 FS.

LAW IMPLEMENTED: 517.075 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-900.001 Disclosure of Business Activities in Cuba.

(1) For purposes of Section 517.075, Florida Statutes, a prospectus shall be defined as:

(a) A final prospectus containing the information required by Section 10(a) of the Securities Act of 1933 (15 U.S.C. § 77j(a) (2006 & Supp. III)), for securities registered pursuant to Section 517.082, Florida Statutes; or

(b) A final prospectus in the form prescribed by Rule 69W-700.003, F.A.C., for securities registered pursuant to Section 517.081, Florida Statutes.

(c) The term prospectus shall not include amendments or supplements to a prospectus that is part of a registration statement filed with the Securities and Exchange Commission under Rule 415 of the Securities Act of 1933 (17 C.F.R. CFR § 230.415 (2010)).

(d) The federal regulations and federal statutes referenced in this subsection are hereby incorporated by reference and may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399. Copies of the United States Code are also available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are also available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/index.html>.

(2) The disclosure and notice requirements of Section 517.075, Florida Statutes, apply only to issuers filing initial or renewal applications for securities registration pursuant to Section 517.081 or 517.082, Florida Statutes, on or subsequent to April 10, 1992, who:

(a) Conduct business or have affiliates who conduct business in or with Cuba;

(b) Commence doing business in or with Cuba after the issuer's securities become effective with the Office of Financial Regulation; or

(c) Are required by Florida Law to report a material change in information previously reported regarding business conducted in or with Cuba.

(3) The Office of Financial Regulation's CUBA FORM (4/92), which is hereby incorporated by reference in subsection 69W-301.002(7), F.A.C., and available from the Office of Financial Regulation, shall be used to notify the Office of Financial Regulation of any business or change in business as required by subsection (3) of Section 517.075, Florida Statutes.

(a) When required by Section 517.075, Florida Statutes, such form shall be filed with the Office of Financial Regulation.

(b) The obligation to provide updated information required by subsection 517.075(3), Florida Statutes, shall terminate when the distribution of the securities has been completed.

Rulemaking Specific Authority 517.075 FS. Law Implemented 517.075 FS. History--New 8-17-92, Formerly 3E-900.001, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

FINANCIAL SERVICES COMMISSION

Office of Financial Regulation

RULE NO.: 69W-1000.001
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: Section 517.1611(1), F.S., requires the Financial Services Commission to adopt disciplinary guidelines for each ground for which disciplinary action may be imposed by the Office of Financial Regulation against individuals and firms that are subject to regulation under Chapter 517, F.S., the Florida Securities and Investor Protection Act. The proposed rule implements this statutory requirement.

SUMMARY: The proposed rule sets forth disciplinary guidelines for each ground for which disciplinary action may be imposed by the Office of Financial Regulation against individuals and firms that are subject to regulation under Chapter 517, F.S., the Florida Securities and Investor Protection Act. Each violation of any provision of Chapter 517, F.S., or the rules adopted under the rulemaking authority of Chapter 517, F.S., constitutes a ground for disciplinary action by the Office. The level of sanction imposed for each violation of a ground for disciplinary action is reflected in the disciplinary guidelines. A list of aggravating and mitigating factors is provided in the rule. These factors will be used to determine the appropriate level of sanction within the range of

sanctions provided in the disciplinary guidelines. These factors will also be used when determining whether a deviation from the range of sanctions prescribed in the disciplinary guidelines is warranted.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Costs has been prepared. Under Chapter 517, F.S., the Florida Securities and Investor Protection Act, the Office may impose sanctions against any person who violates any provision of the chapter, including rules adopted or orders issued under the authority of the chapter. Sanctions authorized under Chapter 517, F.S., include, but are not limited to, fines, suspensions, and revocations. The disciplinary guidelines provide a framework for imposing sanctions. Anyone who commits a violation of Chapter 517, F.S., will be subject to statutorily authorized sanctions that are determined in accordance with the disciplinary guidelines. There are no transactional costs associated with the implementation of this rule. There will be no impact to small counties, cities or other state agencies.

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

RULEMAKING AUTHORITY: 517.1611(1) FS.

LAW IMPLEMENTED: 517.1611(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bill Reilly, Chief, Bureau of Securities Regulation, Division of Securities, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399, phone (850)410-9805, E-mail: Bill.Reilly@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-1000.001 Disciplinary Guidelines.

(1) Pursuant to Section 517.1611, F.S., disciplinary guidelines applicable to each ground for which disciplinary action may be imposed by the Office against an individual or a firm under Chapter 517, F.S., are hereby adopted. The disciplinary guidelines are contained in "Office of Financial Regulation, Division of Securities, Disciplinary Guidelines for Dealers, Investment Advisers and Associated Persons", which is hereby incorporated by reference. A copy of the disciplinary guidelines may be obtained by mail from the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399, or may be obtained electronically through the following website: <http://www.flofr.com/Securities/index.htm>.

(2) Each violation of any provision of Chapter 517, F.S., or the rules adopted under the rulemaking authority of Chapter 517, F.S., constitutes a ground for disciplinary action by the

Office. The level of sanction imposed for each violation of a ground for disciplinary action is reflected in the disciplinary guidelines. In determining an appropriate sanction for each violation of a ground for disciplinary action, the Office shall consider the circumstances set forth in subsection (5).

(3) In accordance with the disciplinary guidelines contained in this rule:

(a) The Office may impose a cease and desist order in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances; and

(b) The Office has determined that repeated disciplinary action for violations of the same or similar ground for disciplinary action should be punished more severely than a first disciplinary action for violation of a ground for disciplinary action. In most instances of repeated violations of a ground for disciplinary action, the disciplinary guidelines allow for increasingly severe sanctions.

(4) The list of grounds for disciplinary action is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Chapter 517, F.S.

(5) In accordance with Section 517.1611(1)(a), F.S., the Office will consider the following mitigating and aggravating circumstances in determining the appropriate level of sanction within the range of sanctions prescribed in this rule for each violation of a ground for disciplinary action:

(a) The individual's or firm's disciplinary history;

(b) Whether the individual or firm self-reported the conduct to regulatory authorities prior to examination or discovery by regulatory authorities;

(c) Whether the firm implemented corrective measures, prior to examination or discovery by regulatory authorities, to revise procedures to avoid recurrence of misconduct;

(d) Whether the individual or firm, prior to the entry of a Final Order, voluntarily made restitution or otherwise remedied the misconduct;

(e) Whether, at the time of the violation, the firm had controls and procedures that were implemented and reasonably designed to prevent or detect such a violation;

(f) Whether, at the time of the violation, the firm developed and implemented adequate training and educational initiatives;

(g) Whether the individual or firm demonstrated reasonable reliance on competent legal advice;

(h) Whether the individual or firm engaged in numerous acts to facilitate the violation or whether multiple clients were impacted by the acts or both;

(i) Whether the individual or firm engaged in the misconduct over an extended period of time;

(j) Whether the individual or firm attempted to conceal his or her misconduct or to lull into inactivity, mislead, deceive or intimidate a customer, regulatory authorities or, in the case of an individual respondent, the firm with which he or she is or was associated;

(k) With respect to other parties, including the investing public, the firm with which an individual respondent is associated or other market participants:

1. Whether the individual's or firm's misconduct resulted directly or indirectly in injury to such other parties, and

2. The nature and extent of the injury;

(l) Whether the individual or firm provided substantial assistance to the Office in its examination or investigation of the underlying misconduct, or whether the respondent attempted to impede or delay Office's examination or investigation, to conceal or withhold information from the Office, or to provide incomplete, inaccurate or misleading testimony or documentary information to the Office;

(m) Whether the individual's or firm's misconduct was the result of an intentional act, recklessness or negligence;

(n) Whether the firm with which an individual is or was associated disciplined the individual for the misconduct at issue prior to discovery by regulatory authorities and the extent of the discipline imposed by the firm;

(o) Whether the individual or firm engaged in the misconduct at issue, notwithstanding prior direct notice from the Office, another regulatory authority or the firm's staff, that the conduct may or will violate the provisions of Chapter 517, F.S.;

(p) Whether the individual or firm can demonstrate that the misconduct at issue was not reflective of their historical compliance record;

(q) Whether the individual's or firm's misconduct resulted in actual or potential financial or other gain or the value of such gain.

(r) The number, size and character of the transactions at issue;

(s) The age, financial status, and level of investment sophistication of the investor;

(t) Whether the violation is attributable to a principal, manager, supervisor or person exercising a similar function;

(u) The financial resources of the firm, nature of the firm's business, the number of individuals registered with the firm, the level of trading activity of the firm, other entities the firm controls, is controlled by, or is under common control with;

(v) Whether the violation of the ground for disciplinary action is the result of an individual acting alone or the result of two or more persons acting in furtherance of an agreement, scheme or plan; and

(w) Other relevant, case-specific circumstances.

(6) In accordance with Section 517.1611(1)(b), F.S., the Office will consider the circumstances in subsection (5) when determining whether a deviation from the range of sanctions prescribed in the disciplinary guidelines is warranted.

(7)(a) The fines imposed for violation of a ground for disciplinary action are up to \$2,000 for a level "A" fine, \$2,001 to \$5,000 for a level "B" fine, \$5,001 to \$7,500 for a level "C" fine and \$7,501 to \$10,000 for a level "D" fine. The mitigating and aggravating circumstances provided in subsection (5) may be applied to the fines imposed for violation of a ground for disciplinary action resulting in a range of fines of up to \$2,000 for a level "A" fine, \$2,001 to \$5,000 for a level "B" fine, \$5,001 to \$7,500 for a level "C" fine and \$7,501 to \$10,000 for a level "D" fine.

(b) A Notice of Noncompliance shall be a statement issued by the Office as described in Section 120.695, F.S. For the purpose of this rule, a Notice of Noncompliance is not considered an occurrence of a violation.

(c) A previous "occurrence" is the same or similar misconduct which was the subject of a Final Order entered by the Office prior to the acts or omissions which are the subject of the current action by the Office.

(8) The ranges for suspensions imposed by this rule are up to 5 days for an "A" level suspension; 6 to 30 days for a "B" level suspension; and, over 30 days for a "C" level suspension. A business day is defined as a day the major stock exchanges are open. Suspensions of 30 or fewer days are measured in business days while a suspension of 31 or more days is measured in calendar days. The mitigating and aggravating circumstances provided in subsection (5) may be applied to the suspensions imposed for violation of a ground for disciplinary action resulting in a range of suspension of up to 5 days for an "A" level suspension; 6 to 30 days for a "B" level suspension; and over 30 days for a "C" level suspension.

(9) In addition to the provisions of this rule, the Office may, when appropriate, seek civil remedies including the entry of an injunction, the appointment of a receiver by a court of competent jurisdiction, or any other remedy authorized by law.

Rulemaking Authority 517.1611(1) FS. Law Implemented 517.1611(1) FS. History—New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Bill Reilly, Chief, Bureau of Securities Regulation, Division of Securities, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399, phone (850)410-9805, E-mail: Bill.Reilly@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 29, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009 and May 28, 2010