

Section IV Emergency Rules

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF THE LOTTERY

RULE TITLE: Retailer FANTASY 5[®] Bonus Commission Program
 RULE NO.: 53ER06-5

SUMMARY OF THE RULE: The Florida Lottery will award a \$500 bonus commission to a retailer(s) each time the retailer(s) sells a winning top prize FANTASY 5 ticket.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER06-5 Retailer FANTASY[®] Bonus Commission Program.

(1) Effective February 6, 2006, the Florida Lottery will conduct, as a retailer sales incentive, a Retailer FANTASY 5 Bonus Commission Program ("Program") in which the Florida Lottery will award a \$500 bonus commission to each retailer that sells a winning top prize FANTASY 5 ticket. A retailer will receive a separate \$500 bonus commission for every winning top prize ticket sold by the retailer.

(2) Award of a top prize FANTASY 5 bonus commission is not dependent upon the winning top prize ticket being claimed by the winner.

(3) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the bonus commission award shall be paid the bonus commission earned provided said termination or inactivation was not due to noncompliance with Chapter 24, F.S., Chapter 53, F.A.C., or contract terms.

(4) A bonus commission will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply a bonus commission earned against a retailer's outstanding debt to the Florida Lottery, and to award the remaining balance of the bonus commission, if any.

(5) FANTASY 5 bonus commissions are subject to availability of funds appropriated for retailer incentives. This Program is subject to cancellation by future emergency rule if

retailer incentive funding is not appropriated or if the Florida Lottery determines that it is no longer in the state's best interest to use such funds for this purpose.

Specific Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History--New 2-3-06.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: February 3, 2006

DEPARTMENT OF THE LOTTERY

RULE TITLE: Retailer FLORIDA LOTTO[™] Bonus Commission Program
 RULE NO.: 53ER06-6

SUMMARY OF THE RULE: The Florida Lottery will award a bonus commission to the retailer(s) that sells one or more jackpot FLORIDA LOTTO tickets for a Wednesday or Saturday FLORIDA LOTTO drawing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER06-6 Retailer FLORIDA LOTTO[™] Bonus Commission Program.

(1) Effective February 6, 2006, the Florida Lottery will conduct, as a retailer sales incentive, a Retailer FLORIDA LOTTO Bonus Commission Program ("Program") in which the Florida Lottery will award a bonus commission to the retailer(s) that sells a winning jackpot FLORIDA LOTTO ticket for a Wednesday or Saturday FLORIDA LOTTO drawing.

(2) The bonus commission will start at \$10,000. In the event no winning jackpot ticket is sold for a FLORIDA LOTTO drawing, the bonus commission amount will increase by \$5,000 per draw until a winning jackpot ticket is sold, at which time the bonus commission will start over at \$10,000.

(3) If multiple winning jackpot FLORIDA LOTTO tickets are sold for the same drawing, the retailer(s) selling such tickets will share the bonus commission. Each retailer selling one or more of the winning jackpot tickets will receive a share of the available bonus equal to the number of winning jackpot tickets sold by that particular retailer divided by the total number of winning jackpot tickets sold for that drawing.

(4) Award of a jackpot FLORIDA LOTTO bonus commission is not dependent upon the winning jackpot ticket being claimed by the winner.

(5) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the bonus commission award shall be paid the bonus commission earned provided said termination or inactivation was not due to noncompliance with Chapter 24, F.S., Chapter 53, F.A.C., or contract terms.

(6) A bonus commission will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply a bonus commission earned against a retailer's outstanding debt to the Florida Lottery, and to award the remaining balance of the bonus commission, if any.

(7) FLORIDA LOTTO bonus commissions are subject to availability of funds appropriated for retailer incentives. This Program is subject to cancellation by future emergency rule if retailer incentive funding is not appropriated or if the Florida Lottery determines that it is no longer in the state's best interest to use such funds for this purpose.

Specific Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History—New 2-3-06, Replaces 53ER02-16, FAC.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: February 3, 2006

DEPARTMENT OF THE LOTTERY

RULE TITLE: Retailer MEGA MONEY™ Bonus

RULE NO.: 53ER06-7

Commission Program
SUMMARY OF THE RULE: The Florida Lottery will award a bonus commission to the retailer(s) that sells one or more a winning jackpot MEGA MONEY ticket(s) for a Tuesday or Friday MEGA MONEY drawing.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER06-7 Retailer MEGA MONEY™ Bonus Commission Program.

(1) Effective February 6, 2006, the Florida Lottery will conduct, as a retailer sales incentive, a Retailer MEGA MONEY Bonus Commission Program ("Program") in which the Florida Lottery will award a bonus commission to the retailer(s) that sells a winning jackpot MEGA MONEY ticket for a Tuesday or Friday MEGA MONEY drawing.

(2) The bonus commission will start at \$1,000. In the event no winning jackpot ticket is sold for a MEGA MONEY drawing, the bonus commission amount will increase by \$1,000 per draw until a winning jackpot ticket is sold, at which time the bonus commission will start over at \$1,000.

(3) If multiple winning jackpot MEGA MONEY tickets are sold for the same drawing, the retailer(s) selling such tickets will share the bonus commission. Each retailer selling one or more of the winning jackpot tickets will receive a share of the available bonus equal to the number of winning jackpot tickets sold by that particular retailer divided by the total number of winning jackpot tickets sold for that drawing.

(4) Award of a jackpot MEGA MONEY bonus commission is not dependent upon the winning jackpot ticket being claimed by the winner.

(5) Retailers whose Florida Lottery contracts are terminated or inactivated prior to the bonus commission award shall be paid the bonus commission earned provided said termination or inactivation was not due to noncompliance with Chapter 24, F.S., Chapter 53, F.A.C., or contract terms.

(6) A bonus commission will be considered compensation to the retailer for Internal Revenue Service purposes. The Florida Lottery reserves the right to apply a bonus commission earned against a retailer's outstanding debt to the Florida Lottery, and to award the remaining balance of the bonus commission, if any.

(7) MEGA MONEY bonus commissions are subject to availability of funds appropriated for retailer incentives. This Program is subject to cancellation by future emergency rule if retailer incentive funding is not appropriated or if the Florida Lottery determines that it is no longer in the state's best interest to use such funds for this purpose.

Specific Authority 24.105(9)(i), 24.109(1) FS. Law Implemented 24.105(9)(i), 24.112(1) FS. History—New 2-3-06.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: February 3, 2006

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 632, BANKROLL

RULE NO.: 53ER06-8

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 632, "BANKROLL," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:


53ER06-8 Instant Game Number 632, BANKROLL.

(1) Name of Game. Instant Game Number 632, "BANKROLL."

(2) Price. BANKROLL lottery tickets sell for \$1.00 per ticket.

(3) BANKROLL lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning BANKROLL lottery ticket, the ticket must meet the applicable requirements of Rule 53ER06-4, F.A.C.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

1 ONE	2 TWO	3 THREE	4 FOUR	5 FIVE	6 SIX
7 SEVEN	8 EIGHT	9 NINE	10 TEN	11 ELEVN	12 THELV
13 THRTN	14 FORTN	15 FIFTN	16 SIXTN	17 SVNTN	18 EGHTN
19 NINTN	20 THENTY	 WIN			

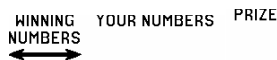
(5) The "WINNING NUMBERS" play symbols and play symbol captions are as follows:

1 ONE	2 TWO	3 THREE	4 FOUR	5 FIVE	6 SIX
7 SEVEN	8 EIGHT	9 NINE	10 TEN	11 ELEVN	12 THELV
13 THRTN	14 FORTN	15 FIFTN	16 SIXTN	17 SVNTN	18 EGHTN
19 NINTN	20 THENTY				

(6) The prize symbols and prize symbol captions are as follows:

TICKET	\$1.00	\$2.00	\$5.00	\$10.00	
TICKET	ONE	TWO	FIVE	TEN	
\$20.00	\$25.00	\$50.00	\$100	\$500	\$2,500
THENTY	THY FIVE	FIFTY	ONE HUN	FIVE HUN	THY FIV HUN

(7) The legends are as follows:



(8) Determination of Prizewinners.

(a) A ticket having a number in the "YOUR NUMBERS" play area that matches either number in the "WINNING NUMBERS" play area shall entitle the claimant to the corresponding prize shown for that number.

(b) The prizes are: TICKET, \$1.00, \$2.00, \$5.00, \$10.00, \$20.00, \$25.00, \$50.00, \$100, \$500 and \$2,500. A claimant who is entitled to a prize of a "TICKET" shall be entitled to a prize of a \$1.00 instant ticket, except as follows. A person who submits by mail a BANKROLL lottery ticket which entitles the claimant to a prize of a \$1.00 instant ticket and whose mailing address is outside the state of Florida will receive a check for \$1.00 in lieu of an actual ticket.



(c) A ticket having a "WIN" symbol in the "YOUR NUMBERS" play area shall entitle the claimant to a prize of \$25.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 632 are as follows:

GAME PLAY:	WIN:	ODDS OF	NUMBER OF
TICKET	\$1 TICKET	1 IN:	WINNERS IN
			56 POOLS OF
			180,000 TICKETS
			PER POOL:
\$1	\$1	10.00	1,008,000
\$1 x 2	\$2	30.00	336,000
\$1 x 5	\$5	75.00	134,400
\$5	\$5	150.00	67,200
\$2 x 5	\$10	150.00	67,200
\$10	\$10	150.00	67,200
\$25 (DOLLAR BILL)	\$25	300.00	33,600
\$10 x 5	\$50	3,600.00	2,800
\$50	\$50	3,600.00	2,800
\$20 x 5	\$100	90,000.00	112
\$100	\$100	90,000.00	112
\$100 x 5	\$500	180,000.00	56
\$500	\$500	180,000.00	56
\$2,500	\$2,500	720,000.00	14

(10) The estimated overall odds of winning some prize in Instant Game Number 632 are 1 in 3.70. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

DEPARTMENT OF THE LOTTERY

RULE TITLE: Instant Game Number 631, CROWN JEWELS

RULE NO.: 53ER06-9

SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 631, "CROWN JEWELS," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:


53ER06-9 Instant Game Number 631, CROWN JEWELS.

(1) Name of Game. Instant Game Number 631, "CROWN JEWELS."

(2) Price. CROWN JEWELS lottery tickets sell for \$5.00 per ticket.

(3) CROWN JEWELS lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning CROWN JEWELS lottery ticket, the ticket must meet the applicable requirements of Rule 53ER06-4, F.A.C.

(4) The "YOUR NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5	6
ONE	TWO	THREE	FOUR	FIVE	SIX
7	8	9	10	11	12
SEVEN	EIGHT	NINE	TEN	ELEVN	TWELV
13	14	15	16	17	18
THRTN	FORTN	FIFTN	SIXTN	SVNTN	EGHTN
19	20	21	22	23	24
NINTN	TWENTY	TWYONE	TWYTHO	TWYTHR	TWYFOR
25	26	27	28	29	
TWYFIV	TWYSIX	TWYSVN	TWYEGT	TWYNIN	WIN \$50

(5) The "WINNING NUMBERS" play symbols and play symbol captions are as follows:

1	2	3	4	5	6
ONE	TWO	THREE	FOUR	FIVE	SIX
7	8	9	10	11	12
SEVEN	EIGHT	NINE	TEN	ELEVN	TWELV
13	14	15	16	17	18
THRTN	FORTN	FIFTN	SIXTN	SVNTN	EGHTN
19	20	21	22	23	24
NINTN	TWENTY	TWYONE	TWYTHO	TWYTHR	TWYFOR
25	26	27	28	29	
TWYFIV	TWYSIX	TWYSVN	TWYEGT	TWYNIN	

(6) The prize symbols and prize symbol captions are as follows:

\$1.00	\$2.00	\$4.00	\$5.00	\$10.00
ONE	TWO	FOUR	FIVE	TEN
\$15.00	\$25.00	\$50.00	\$75.00	\$100
FIFTEEN	TWY FIV	FIFTY	SVY FIV	ONE HUN
\$200	\$500	\$1,000	\$10,000	\$100,000
TWO HUN	FIV HUN	ONE THO	TEN THO	ONE HUN THO

(7) The legends are as follows:

WINNING NUMBERS YOUR NUMBERS

(8) Determination of Prizewinners.

(a) A ticket having a number in the "YOUR NUMBERS" play area that matches any number in the "WINNING NUMBERS" play area shall entitle the claimant to the corresponding prize shown for that number.

(b) The prize amounts are: \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$15.00, \$25.00, \$50.00, \$75.00, \$100, \$200, \$500, \$1,000, \$10,000 and \$100,000.



(c) A ticket having a "WIN \$50" symbol in the "YOUR NUMBERS" play area shall entitle the claimant to a prize of \$50.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 631 are as follows:

GAME PLAY:	WIN:	ESTIMATED ODDS OF	NUMBER OF WINNERS IN 120,000 TICKETS 34 POOLS OF PER POOL:
\$1 x 5	\$5	1 IN:	136,000
(\$1 x 3) + \$2	\$5	30.00	136,000
\$1 + (\$2 x 2)	\$5	30.00	136,000
\$5	\$5	30.00	136,000
\$1 x 10	\$10	30.00	136,000
\$2 + (\$4 x 2)	\$10	60.00	68,000
(\$1 x 4) + (\$2 x 3)	\$10	60.00	68,000
\$1 + (\$2 x 2) + \$5	\$10	120.00	34,000
\$10	\$10	120.00	34,000
\$1 x 15	\$15	60.00	68,000
\$15	\$15	60.00	68,000
\$5 x 5	\$25	300.00	13,600
(\$5 x 3) + \$10	\$25	400.00	10,200
\$5 + (\$10 x 2)	\$25	300.00	13,600
(\$2 x 5) + \$5 + \$10	\$25	300.00	13,600
(\$1 x 5) + (\$2 x 10)	\$25	400.00	10,200
\$25	\$25	600.00	6,800
\$50 (TREASURE CHEST)	\$50	100.00	40,800
\$5 x 15	\$75	20,000.00	204
\$5 + (\$10 x 7)	\$75	20,000.00	204
(\$5 x 5) + \$50	\$75	20,000.00	204
(\$10 x 5) + \$25	\$75	20,000.00	204
\$75	\$75	20,000.00	204
\$10 + (\$15 x 6)	\$100	1,200.00	3,400
(\$5 x 10) + (\$10 x 5)	\$100	1,200.00	3,400
\$25 x 4	\$100	1,200.00	3,400
(\$25 x 2) + \$50	\$100	1,200.00	3,400
\$100	\$100	1,200.00	3,400
\$50 x 10	\$500	136,000.00	30
(\$25 x 10) + (\$50 x 5)	\$500	136,000.00	30
\$500	\$500	136,000.00	30
\$100 x 10	\$1,000	272,000.00	15
\$200 x 5	\$1,000	340,000.00	12
(\$50 x 10) + (\$100 x 5)	\$1,000	340,000.00	12
\$500 x 2	\$1,000	340,000.00	12
\$1,000	\$1,000	408,000.00	10
\$1,000 x 10	\$10,000	1,020,000.00	4
(\$500 x 10) + (\$1,000 x 5)	\$10,000	1,360,000.00	3
\$10,000	\$10,000	1,360,000.00	3
\$100,000	\$100,000	2,040,000.00	2

(10) The estimated overall odds of winning some prize in Instant Game Number 631 are 1 in 3.56. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(11) For reorders of Instant Game Number 631, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) By purchasing a CROWN JEWELS lottery ticket the player agrees to comply with and abide by all prize payment rules of the Florida Lottery.

(13) Payment of prizes for CROWN JEWELS lottery tickets shall be made in accordance with rules of the Florida Lottery governing payment of prizes. A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Specific Authority 24.105(9)(a),(b),(c), 24.109(1), 24.115(1) FS. Law Implemented 4.105(9)(a),(b),(c), 24.115(1) FS. History—New 2-3-06.

THIS EMERGENCY RULE TAKES EFFECT IMMEDIATELY UPON BEING FILED WITH THE DEPARTMENT OF STATE.

EFFECTIVE DATE: February 3, 2006

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Pari-Mutuel Wagering

RULE TITLE: Tournaments
 RULE NO.: 61DER06-1 (61D-11.027)

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY, OR WELFARE: There exists an immediate danger to the public health, safety, and welfare due to the conduct of statutorily unauthorized poker tournaments that requires continued repeal of Rule 61D-11.027, Florida Administrative Code. The provisions of Rule 61D-11.027, Florida Administrative Code, that remained following a recent ruling of the First District Court of Appeal were in conflict with the bet and raise limitations found in Section 849.086(8)(b), Florida Statutes. As a result, the remaining rules are misleading in that persons regulated by those rules to believe that “no limit” game play was authorized. The term “no limit” in poker tournaments means there is no limit on the amount that can be wagered. As a result, Emergency Rule 61DER05-1, was enacted and the permanent rule repeal promulgation process was initiated. However, the permanent rule will not be effective by February 7, 2006 due to a pending rule challenge. Therefore, Emergency Rule 61DER05-1, will expire creating an immediate danger to the public health, safety, and welfare.

The existence of Rule 61D-11.027, Florida Administrative Code, which sets forth rules for tournament play, in and of itself suggests that tournaments may be conducted in a manner

different from other authorized games. Further, specific rules such as paragraphs 61D-11.027(1)(c) and (3)(a) and (b), Florida Administrative Code, standing alone would authorize “no limit” play by allowing a participant to bet all of his or her chips after fifteen games or an hour of play and by allowing tournaments to be played with chips or tokens with “no cash value” in clear contravention of Section 849.086(8)(b), Florida Statutes.

Immediate repeal of the Division’s remaining tournament rules is needed due to “Structured/No Limit” poker tournaments (Exhibit 1) that, prior to Emergency Rule 61DER05-1, were being conducted at pari-mutuel facilities in violation of Section 849.086(8)(b), Florida Statutes. Section 849.086(3), Florida Statutes, expressly requires cardrooms to be conducted in strict compliance with the statute. Further, Section 849.086(15)(a)2., Florida Statutes, makes a violation of Section 849.086, Florida Statutes, by a licensee or permitholder a crime. The Department is also currently engaged in at least three legal proceedings relating to the operation of “all-in” poker tournaments (See, Washington County Kennel Club, Inc., Hartman-Tyner, Inc., Southwest Florida Enterprises, Inc., and St. Petersburg Kennel Club, Inc. vs. DBPR, DPMW, DOAH Case No. 06-0164RP; Hartman-Tyner, Inc., St. Petersburg Kennel Club, Inc., West Flagler Associates, Ltd., Southwest Florida Enterprises, Inc., Washington County Kennel Club, Inc., and Daytona Beach Kennel Club, Inc. vs. DBPR, DPMW, DCA Case No. 1D05-5430; and Bayard Raceways, Inc., a Florida Corporation vs. DBPR, DPMW, Case No. 2006-CA-249). As such, uniformity of law is extraordinarily important so as to be able to regulate the industry consistently without confusion. Therefore, the public health, safety, and welfare are clearly impacted by this form of legalized gambling.

The First District Court of Appeal recently affirmed a Final Order of the Division of Administrative Hearings that invalidated paragraphs 61D-11.027(1)(a),(b) and (e), (2)(a) and (b), Florida Administrative Code, which are part of the Division’s tournament rule section. Under the ruling of the Division of Administrative Hearings, tournaments are authorized because Section 849.086(2)(a), Florida Statutes, defines “authorized game” as a “game or series of games of poker.” As a form of poker directly authorized by the statute, tournaments must be played to comply with the wagering limitations found in Section 849.086(8)(b), Florida Statutes, which limits wagers in any game or series of games to a “maximum bet” that “may not exceed two dollars in value,” with no more than “three raises in any round of betting.” While the Division of Administrative Hearings ruled that cardrooms may set their own entry fees for tournaments, allow re-buys in tournaments and hold single table tournaments, any form of tournament poker that allows the value of any single wager to exceed two dollars conflicts with the wagering limitations found in Section 849.086(8)(b), Florida Statutes, which the Final Order found to be a “restrictive form of wagering.”

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES: A rule repealing Rule 61D-11.027, Florida Administrative Code, has been filed but will not be in place by February 7, 2006 due to a challenge filed against the rule. Therefore, this Emergency Rule is necessary to prevent persons regulated by those rules from conducting "no limit" game play.

Legalized gambling, such as cardrooms authorized by Section 849.086, Florida Statutes, is an area of law that Florida courts have routinely held is subject to very strict regulation. See PPI, Inc., 698 So. 2d 306. In fact, the Florida Supreme Court, in Hialeah Race Course, Inc. vs. Gulfstream Park Racing Association, 37 So. 2d 692 (Fla. 1948), stated that, "[a]uthorized gambling is a matter over which the state may exercise greater control and exercise its police power in a more arbitrary manner because of the noxious qualities of the enterprise as distinguished from those enterprises not affected with a public interest and those enterprises over which the exercise of police power is not so essential for the public welfare." This very principle was echoed in Rodriguez vs. Jones, 64 So. 2d 278 (Fla. 1953).

Similarly, in Jordan Chapel Freewill Baptist Church vs. Dade County, 334 So. 2d 661 (Fla. 3d DCA 1976), the Third District Court held that legalized gambling falls into the same category as the regulation of drugs and liquor and, therefore, should be afforded the same strict regulation. In particular, the Third District held that "[g]ambling (or authorized gambling in the case of bingo) is an exceptional situation which has always been closely controlled in Florida for the protection of the public. Rodriguez vs. Jones, 64 So. 2d 278 (Fla. 1953)" Id. at 666.

Given the facts presented, this Emergency Rule is fair under the circumstances. There is an immediate and continuing need to make clear that tournaments must comply with the wagering limits of Section 849.086(8)(b), Florida Statutes. The remaining provisions of Rule 61D-11.027, Florida Administrative Code, are in clear conflict with the rationale contained in the Final Order, and therefore the repeal of those provisions must be continued.

Furthermore, Emergency Rule 61DER05-1, was challenged in Hartman-Tyner, Inc., St. Petersburg Kennel Club, Inc., West Flagler Associates, Ltd., Southwest Florida Enterprises, Inc., Washington County Kennel Club, Inc., and Daytona Beach Kennel Club, Inc. vs. DBPR, DPMW, DCA Case No. 1D05-5430, and an immediate stay of the Emergency Rule was requested. Although the challenge is still pending, the First District Court of Appeal denied the request for an immediate stay.

SUMMARY OF THE RULE: This emergency rule shall supersede the previously promulgated Emergency Rule 61DER05-1. The emergency rule repeals Rule 61D-11.027, Florida Administrative Code, which provides rules for the conduct of poker tournaments.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Joseph M. Helton, Jr., Chief Attorney, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE EMERGENCY RULE IS:

61DER06-1 (61D-11.027) Tournaments.

~~(1) A series of games of poker may include tournament play. Tournaments may only be conducted at licensed pari-mutuel facilities and must comply with the following criteria:~~

~~(a) Cardroom operators must use for tournament play a game authorized for general cardroom play under Rule 61D-11.002, F.A.C. Any authorized game used for tournament play must be listed on the cardroom operator's approved license application, or on any subsequent applications/amendments that may be submitted for approval;~~

~~(b) No less than 9 players must be registered as participants at the start of play;~~

~~(c) Either a minimum of 15 hands per table per tournament, or a minimum of one hour's duration per tournament, must be played. After the minimum requirements have been satisfied, wagering shall conform to the established rules and guidelines of the cardroom operator;~~

~~(d) Tournaments must commence and conclude on the same calendar day; and~~

~~(e) Only one entry per player per tournament.~~

~~(2)(a) The tournament entry fee per participant shall be based upon a maximum of \$2 per bet and three raises per betting round. The entry fee shall not exceed the maximum potential value wagered by a single player in an individual game that is being used for tournament play.~~

~~(b) The cardroom operator is prohibited from allowing a participant to pay any fee to re-enter the same tournament. A participant's elimination from a tournament is final.~~

~~(c) There shall be a designated winner for each individual hand of tournament play. The play of progressive games is prohibited.~~

~~(3) Tournaments shall be played only with tournament chips that are visually distinct from those used in normal cardroom operations, and shall be provided to the participants in exchange for an entry fee.~~

~~(a) All players shall receive an equal number of tournament chips for their entry fee.~~

~~(b) Tournament chips shall have no cash value and shall represent tournament points only.~~

~~(c) Tournament chips shall not be redeemed for cash or for any other thing of value except that the point total represented by the players' accumulations of tournament chips shall be used to determine the tournament winners and/or final place in the tournament.~~

~~(4) Prizes may not exceed the aggregate entry fees paid by the participants.~~

~~(5) No table rake shall be made during tournament play.~~

~~(6) Gross receipts for a tournament shall mean the total amount received by the cardroom operator from all entry fees.~~

~~(7) Cash received for tournament entry fees must be kept separate and apart from all other cash received by the cardroom operator or management company until such time as it is counted. The cardroom operator shall report tournament activity on BPR Form 16-008. This form shall be filed with the division by the fifth day of each calendar month for the preceding calendar month's activity. BPR Form 16-008 is adopted and incorporated by Rule 61D-12.001, F.A.C.~~

~~(8)(a) The cardroom operator shall provide the tournament rules to the division, and shall furnish copies upon request to interested participants.~~

~~(b) The published tournament rules shall include, but are not limited to, information regarding the amount of the prizes using a stated percentage of gross receipts, whether the tournament's duration of play is based upon a fixed number of games or a stated time period, the use of blinds, and the wagering rules as authorized in paragraph (1)(c) above.~~

Specific Authority 550.0251(12), 849.086(4) FS. Law Implemented 849.086 FS. History—New 5-9-04, Repealed 2-7-06.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE ARE SPECIFIED IN THE RULE.
EFFECTIVE DATE: February 7, 2006

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

Section V
Petitions and Dispositions Regarding Rule
Variance or Waiver

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Board of Trustees of the Internal Improvement Trust Fund are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

WATER MANAGEMENT DISTRICTS

The St. Johns River Water Management District hereby gives notice that it received a petition for variance on February 3, 2006 from Lennar Homes, Inc. Pursuant to Section 120.542, Florida Statutes, Lennar Homes, Inc. is seeking a variance from subparagraph 40C-41.063(1)(c)1., F.A.C., and Section 11.1.3 of the Applicant's Handbook: Management and Storage of Surface Waters (February 1, 2005) (A.H.), with respect to Environmental Resource Permit (ERP) Application 4-009-101710-1. The permit applicant is proposing to construct a residential development project, to be known as Chaparral, in Brevard County. Subparagraph 40C-41.063(1)(c)1., F.A.C., and Section 11.1.3., A.H., prohibit the construction, operation, and maintenance of a surface water management system in the Upper St. Johns River Hydrologic Basin that results in an increase in the amount of water being diverted from the Basin to coastal receiving waters. These rules are intended to protect the water resources of the State by limiting discharges of fresh water to estuarine waters and curtailing interbasin diversion. Comments on this petition should be filed with Sandy Bertram, District Clerk, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, within 14 days of publication of this notice. The petition has been assigned F.O.R. Number 2006-20.

For a copy of the petition or additional information, contact Veronika Thiebach, Senior Assistant General Counsel, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177, or telephone (386)329-4488.

AGENCY FOR HEALTH CARE ADMINISTRATION

NOTICE IS HEREBY GIVEN that a Petition for Emergency Variance was received on February 6, 2006 from Cross City Rehabilitation & Health Care Center, 583 N. E. 351 Highway, Cross City, Florida, 32628. This petition involves applicable Rule 59G-6.010, F.A.C., which incorporates by reference the Florida Title XIX Payment Methodology for Nursing Home Services.

Information regarding this petition may be obtained by writing: Jim Guyton, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 21, Tallahassee, FL 32308.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN that on February 3, 2006, the Bureau of Elevator Safety received a Petition for Emergency Variance from Rule 2000.7a, ASME A18.1, 2000 edition, as adopted by Chapter 30, Florida Building Code, limiting travel to 12 feet. The petition was received from Scott C. Maloney of mbi | k2m Architecture, Inc. on behalf of Rum Barrel Restaurant (Petition VW 2006-021).