

found guilty of, or who have pled guilty or nolo contendere to, certain crimes. The policies will address applications for licensure as money services businesses, which include money transmitters, payment instrument sellers, foreign currency exchangers, check cashers, and deferred presentment providers.

SUBJECT AREA TO BE ADDRESSED: Money Services Businesses – Licensure.

SPECIFIC AUTHORITY: 560.105 FS.

LAW IMPLEMENTED: 112.011, 560.114, 560.140, 560.141 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mike Ramsden, Chief, Money Transmitter Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, mike.ramsden@flofr.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

1A-31.020	Inspection by Permitting Agency
1A-31.025	Assignment and Subcontracting
1A-31.030	Project Archaeologist Qualifications
1A-31.035	Project Archaeologist Responsibilities
1A-31.040	Application Procedures
1A-31.045	Criteria for Issuing a Permit
1A-31.050	Permit Issuance
1A-31.055	Notice of Approval or Denial
1A-31.060	Requirements for All Permits
1A-31.065	Additional Requirements for Exploration Permits
1A-31.070	Additional Requirements for Recovery Permits
1A-31.075	Permit Modification
1A-31.080	Permittee Required to Give Notice of Change
1A-31.085	Permit Suspension and Revocation
1A-31.090	Disposition of Archaeological Materials, Title to Archaeological Materials Conveyed

PURPOSE AND EFFECT: The purpose of this rule is to provide guidance and information regarding issuance of permits by the division for exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands. The rule also provides guidelines for transferring objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.

The rule amendment is also in response to suggestions from JAPC.

SUMMARY: This rule is to provide guidance and information regarding issuance of permits by the division for exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands. The rule also provides guidelines for transferring objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.

The rule amendment is also in response to suggestions from JAPC.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: Estimated regulatory costs should not be significantly impacted.

Any person wishing to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided by Section 120.541(1), F.S., must do so in writing within 21 days after publication of this notice to: Dr. Ryan Wheeler, Bureau of Archaeological Research, 500 S. Bronough Street, MS 8B, Tallahassee, FL 32399-0250.”

SPECIFIC AUTHORITY: 267.031(1), (2), 267.115(6) FS.

LAW IMPLEMENTED: 267.031(2), 267.031(5)(i), (k), (o), 267.061(1), 267.115, 267.13 FS.

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

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Historical Resources

RULE NOS.:	RULE TITLES:
1A-31.0012	Purpose
1A-31.0015	Definitions
1A-31.0022	Prior Agreements
1A-31.0027	No Interest Conveyed
1A-31.0032	Notice Address and Form of Communication
1A-31.0035	Form of Consent, Other Laws
1A-31.0042	Exempted Areas and Sites
1A-31.0045	Excluded Areas and Sites
1A-31.0052	Security
1A-31.0055	Exploration Agreements
1A-31.0062	Types of Permit
1A-31.0065	Salvage Agreements
1A-31.0072	Number of Permits Limited to Agency Ability
1A-31.0082	Duration of Permit
1A-31.0092	Permit Area
1A-31.010	Supervision
1A-31.011	Boats to Carry Identification

DATE AND TIME: October 21, 2008, 12:00 Noon

PLACE: Guana Tolomato Matanzas Auditorium, National Estuarine Research Reserve, 505 Guana River Road, Ponte Vedra Beach, FL 32082

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: Charlotte Wheeler, (850)245-6536. 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: Stephen S. Mathues, (850)245-6536

THE FULL TEXT OF THE PROPOSED RULES IS:

PROCEDURES FOR CONDUCTING EXPLORATION AND
RECOVERY SALVAGE OF HISTORIC SHIPWRECK
SITES

1A-31.0012 Purpose.

It is the public policy of the state to preserve and protect archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation, and collection of such materials to qualified persons, businesses, and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology, and anthropology. The purpose of this rule is to provide guidance and information to the public regarding issuance of permits by the division for exploration and salvage of historic shipwreck sites by commercial salvors on state-owned sovereignty submerged lands and for transferring objects recovered by commercial salvors under permit in exchange for recovery services provided to the state.

Specific Authority 267.031(1) FS. Law Implemented 267.031(5)(i), (k), (o), 267.031(2), 267.061(1), 267.115, 267.14 FS. History—New _____.

1A-31.0015 Definitions.

(1) “Applicant” means any corporation, individual, partnership or other legal entity making application to the division for an Exploration Permit or a Recovery Permit person to enter into a contractual agreement with the division to conduct exploration or salvage activities for archaeological materials on state-owned sovereignty submerged lands.

(2) “Application” means a formal written request on the Application for Exploration Permit or the Application for Recovery Permit Historic Shipwreck Exploration or Salvage in Florida Waters and all other documentation required by this chapter to be submitted as part of such application enter into a contract with the division to conduct exploration or salvage activities for archaeological materials on state-owned sovereignty submerged lands.

(3) “Archaeological materials” means artifacts and remains of historic shipwreck sites including but not limited to ships’ structure and rigging, hardware, tools, utensils, cargo, and personal items of crew and passengers, and treasure trove.

(4) “Permittee” ~~“Contractor”~~ means an applicant that has been issued an Exploration Permit or a Recovery Permit in accordance with this chapter any person who enters into an exploration or salvage agreement with the division.

(5) “Division” means the Division of Historical Resources of the Department of State.

(6) “Historic Shipwreck Site” means the remains of a sunken or abandoned ship or other watercraft on or below the seabed including but not limited to ships’ structure and rigging, hardware, tools, utensils, cargo, personal items of crew and passengers, and treasure trove, which is generally at least fifty years old “Exploration agreement” means a contractual agreement between any person and the division that authorizes the conduct of certain exploration activities for archaeological materials on state-owned sovereignty submerged lands, imposes conditions on the conduct of those activities and does not create any interest in real property or in any state-owned sovereignty submerged lands.

(7) “Historical resource” means a building, structure, site, object or collection thereof (a prehistoric or historic district) which is generally at least fifty years old and of historical, architectural, or archaeological value “Person” means any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or governmental entity or officer.

(8) “Exploration Permit” means the form of permission issued in accordance with this chapter to search for historic shipwreck sites on state-owned sovereignty submerged lands “Salvage agreement” means a contractual agreement between any person and the division that authorizes the conduct of certain excavation or removal activities for archaeological materials on state-owned sovereignty submerged lands, imposes conditions on the conduct of these activities and does not create any interest in real property or in any state-owned sovereignty submerged lands.

(9) “Recovery Permit” means the form of permission issued in accordance with this chapter to recover archaeological materials from a historic shipwreck site on state-owned sovereignty submerged lands.

(10) “Project Archaeologist” means the professional underwater archaeologist who meets both the Secretary of Interior’s minimum Standards for Professional Qualifications and the specific standards set forth in Rule 1A-31.030, F.A.C.

(11)(9) “Sovereignty submerged lands” means those lands including but not limited to tidal flats, sand bars, shallow banks, and lands waterward of the ordinary or mean high water

line, under navigable fresh and salt waters to which the State of Florida acquired title on March 3, 1845 by virtue of statehood, and which have not been heretofore conveyed or alienated.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New 4-13-87, Amended _____.

1A-31.0022 Prior Agreements.

Any existing agreements or contracts concerning shipwreck exploration or salvage in effect as of the date of enactment of this rule are unaffected by this rule for their stated term and for as long as they shall be renewed by the division. Once such existing agreements or contracts expire, are not renewed or are terminated, this rule shall apply for any future permits.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.0027 No Interest Conveyed.

A permit issued under this rule conveys no present or future interest, right or ownership in state-owned historic shipwreck sites or archaeological materials, and grants no permission beyond that stated in the permit.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1) FS. History–New _____.

1A-31.0032 Notice Address and Form of Communication.

All communication to the division regarding applications, forms, information, permits and all reports required under the terms of a permit shall be submitted in written form to the division at:

Florida Division of Historical Resources
Bureau of Archaeological Research
1001 de Soto Park Drive
Tallahassee, FL 32301

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1) FS. History–New _____.

1A-31.0035 Form of Consent, Other Laws Agreements for Exploration or Salvage of Archaeological Materials.

(1) The division is authorized to enter into agreements for the exploration or salvage of archaeological materials on state-owned sovereignty submerged lands:

(2) Any person desiring to conduct activities or operations to explore for, excavate or salvage archaeological materials from sovereignty submerged lands may do so only if authorized by the division by an exploration or salvage agreement. Any person desiring to enter into such an agreement shall submit an application to the division before conducting any exploration, excavation or removal activities. This application, which is entitled Application for Historic Shipwreck Exploration or Salvage in Florida Waters (dated 3-86), is incorporated by reference, is available free of charge,

and can be obtained by writing the Division of Historical Resources, R. A. Gray Building, Tallahassee, Florida 32399-0250. The division shall require the applicant to provide additional information to correct any error, omission or incompleteness in the application or that is required by the division to meet its responsibilities under this chapter.

(3) Within 30 days of the receipt of an application, the division shall, in writing, notify the Executive Director of Department of Environmental Protection Natural Resources and the applicant that a form of consent may be required from the Board of Trustees of the Internal Improvement Trust Fund to conduct the exploration or recovery salvage activities. No exploration or recovery salvage activities for archaeological materials may commence until the applicant has received necessary consent from the Board of Trustees of the Internal Improvement Trust Fund and any other permits that may be required by local, state or federal laws.

Specific Authority 267.031(1) FS. Law Implemented 253.77, 267.031(2), 267.031(5)(i), 267.061(1) FS. History–New 4-13-87, Amended _____.

1A-31.0042 Exempted Areas and Sites.

(1) Diving on historic shipwreck sites in Florida waters does not require a permit.

(2) This chapter does not apply to:

(a) Any abandoned shipwreck in or on the public lands of the United States or in or on Indian lands as set forth in the Abandoned Shipwreck Act of 1987, 43 U.S.C. sec. 2105(d), herein incorporated by reference;

(b) Any vessel for which a federal admiralty court has awarded title as against the State of Florida prior to April 28, 1988, the effective date of the Abandoned Shipwreck Act of 1987 (herein incorporated by reference), while such title remains valid; or

(c) Vessels entitled to sovereign immunity under federal law or international law, treaty, or agreement, including without limitation, United States or foreign military vessels as defined in the Sunken Military Craft Act (Public Law Number 108-375, Div. A, Title XIV, Sections 1401-1408, Oct. 28, 2004, 118 Stat. 2094), herein incorporated by reference.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1), 267.11 FS. History–New _____.

1A-31.0045 Excluded Areas and Sites.

(1) The following categories of state-owned sovereignty submerged lands are not eligible for permits under this chapter:

(a) Inland fresh and brackish waters;

(b) Areas of federal jurisdiction including but not limited to areas of the National Park System, National Marine Sanctuaries, National Wildlife Refuges, National Estuarine Research Reserves and US Military Reservations;

(c) Areas of state jurisdiction including but not limited to State Parks, State Aquatic Preserves, Coastal and Aquatic Managed Areas, State Archaeological Landmarks, State Archaeological Landmark Zones, Underwater Archaeological Preserves, Underwater Archaeological Research Reserves; and

(d) Areas of legally defined and authorized local jurisdiction including but not limited to such uses as public recreation, resource conservation and resource management.

(e) Areas of submerged lands conveyed to public or private entities.

(2) The following categories of shipwrecks are not eligible for permits under this chapter:

(a) Vessels that are or have been under the jurisdiction of a federal admiralty court, except where the applicant provides proof that the federal court's jurisdiction and any rights it may have awarded are permanently terminated; and

(b) Historic shipwreck sites that are of historical or archaeological significance that permitted activities would be incompatible with the division's responsibility to administer state-owned and state-controlled historic resources in a spirit of stewardship and trusteeship and to preserve archaeological sites and objects of antiquity for the public benefit.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1), 267.11 FS. History–New _____.

1A-31.0052 Security.

The permittee is responsible for securing the permit area including any historic resources within or recovered from the permit area. When the division determines that state-owned historic resources are at risk, the division may require that the permittee institute specific security measures. The division may assist in securing the permit area and historic resources, to protect the public interest.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1)(b), 267.14 FS. History–New _____.

1A-31.0055 Exploration Agreements.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.13 FS. History–New 4-13-87, Repealed _____.

1A-31.0062 Types of Permit.

(1) The division may issue two types of permits:

(a) An exploration permit allows the permittee to collect remote sensing and visual information on potential historic shipwreck sites without excavation or bottom disturbance. The exploration permit may be modified in a later stage to allow limited disturbance and excavation for purposes of determining the presence or absence and the nature of potential historic shipwreck sites. The number, location, extent and type of such test excavations shall be specified in the permit modification.

(b) A recovery permit may be issued only after the existence and nature of a historic shipwreck site has been documented by exploration permit activities and confirmed by

the division. A recovery permit allows the permittee to conduct more extensive excavations and recover archaeological materials. The number, location, extent and type of such excavation and recovery operations shall be specified in the permit.

(2) The division shall not issue multiple permits for any active permit area or historic shipwreck site that is within an active permit area, including its buffer area.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.061(1) FS. History–New _____.

1A-31.0065 Salvage Agreements.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.13 FS. History–New 4-13-87, Repealed _____.

1A-31.0072 Number of Permits Limited to Agency Ability.

The division shall not issue more permits than it can properly supervise, monitor and administer. The maximum allowable number of concurrent permits shall be determined by the division based on:

(1) Number and types of permits already in effect;

(2) The anticipated termination date of permits already in effect;

(3) The number of applications under review or anticipated to result in permits;

(4) The number of staff assigned to supervise, monitor and administer permits; and

(5) The availability of funds necessary for the division to conduct all office and field activities under this chapter.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.0082 Duration of Permit.

A permit shall have a term of one year.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.0092 Permit Area.

(1) The maximum size of an exploration permit area is one square statute mile.

(2) The maximum size of a recovery permit area is limited to the size required to encompass the archaeological remains from which recovery is permitted.

(3) Permit areas shall be separated by a buffer zone of 500 yards width from:

(a) Other permit areas;

(b) Recognized admiralty arrest areas;

(c) Established navigation channels;

(d) Exempted areas and sites as defined in this chapter; and

(e) Excluded areas and sites as defined in this chapter.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.010 Supervision.

Specific Authority 267.031(1), (2) FS. Law Implemented 263.061(3)(i), (k), 267.031 FS. History–New 5-7-68, Amended 1-1-75, 9-6-78, Formerly 1A-31.10, Amended 4-13-87, Repealed _____.

1A-31.011 Boats to Carry Identification.

(1) In advance of initial exploration or recovery salvage activities or operations, the permittee contractor shall furnish the division with a list of all vessels to be used in the search or recovery salvage operation, including a description and the registration number of each vessel. No vessel shall engage in exploration or recovery salvage operations if it has not been reported to the division.

(2) All vessels used in exploration or recovery salvage activities or operations shall be marked with identifying exploration or recovery salvage agreement numbers supplied by the division in a form visible from air and sea.

(3) Written identification provided the permittee salvor by the division shall be carried at all times by the vessel engaged in the search or recovery salvage operations.

Specific Authority 267.031(1) FS. Law Implemented 267.061(3)(i), (k) FS. History–New 5-7-68, Amended 1-1-75, 9-6-78, Formerly 1A-31.11, Amended 4-13-87, _____.

1A-31.020 Inspection by Permitting Agency.

Prior to or after issuance of any permit, the division may, without notice, inspect the permit area to perform any or all of the following:

- (1) Evaluate statements made in the application;
- (2) Determine the nature of any historical resources present;
- (3) Determine the state of the submerged lands as a baseline for cleanup and restoration;
- (4) Determine whether any areas or sites within the proposed permit area are exempted from permitting;
- (5) Examine all work already done or being done under the terms of the permit;
- (6) Make a determination of compliance with the terms of the permit, this rule, and all other applicable laws and rules;
- (7) Determine the status of historical resources and submerged lands in order to require protection or restoration of such resources.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.025 Assignment and Subcontracting.

No permit may be assigned or transferred. Subcontract agreements are allowed and require the prior written approval of the division. Compliance with all terms and conditions of the permit is the sole responsibility of the permittee whether or not permitted activities are subcontracted.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.030 Project Archaeologist Qualifications.

Any permit issued under this rule shall require the participation of a professional underwater archaeologist who shall serve as the project archaeologist. The project archaeologist must meet, at a minimum, the Secretary of Interior’s Standards for Professional Qualifications, as set forth in Federal Register Vol. 48, No. 190, p. 44739, or subsequent official version, herein incorporated by reference, and the following minimum qualifications of training, knowledge, experience and skills with an emphasis on underwater sites, water-saturated archaeological materials, and preservation methods, as evidenced by the project archaeologist’s resume submitted with the permit application:

(1) At least 24 weeks of supervised underwater archaeological fieldwork and 20 weeks of supervisory underwater archaeological fieldwork;

(2) at least two weeks field experience and training in underwater survey technique and familiarity with the general theory and application of varied remote sensing technology;

(3) Experience or training in the recovery and interpretation of both archaeological and archival data and familiarity with the history and technology of navigation and ship building;

(4) Design and execution of an underwater archaeological study as evidenced by an M.A. thesis or a published report of equivalent scope and quality;

(5) For exploration permits, at least three months of experience in the operation of remote sensing devices in a marine environment for the purpose of discovery and evaluation of archaeological resources supervised by a specialist in the use of such devices;

(6) For exploration permits, at least three months of experience in a supervisory or independent role; and

(7) For recovery permits and exploration permits involving recovery of archaeological materials, at least eight weeks of supervised training in the general theory and application of stabilization and conservation methods as they pertain to waterlogged materials.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), 267.061(1) FS. History–New _____.

1A-31.035 Project Archaeologist Responsibilities.

The project archaeologist shall:

(1) Ensure that professional archaeological standards are maintained throughout the course of the project;

(2) develop a research design and appropriate procedures for its implementation;

(3) Review remote sensing data and provide a written interpretation of the results to the division;

(4) Be present when excavation work is conducted;

(5) Personally visually inspect the excavation;

(6) Personally supervise excavation work and all recoveries in the permit area;

(7) Ensure that adequate records are maintained during all testing, excavation, recovery and laboratory procedures; and

(8) Maintain regular contact with the division, providing electronic, facsimile or paper copy reports of all significant developments, including discoveries of historic shipwreck sites and historical resources.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.040 Application Procedures.

(1) Applications for permits issued under this chapter shall be made on forms prescribed by the division. Application forms may be requested in writing at the division's address in Rule 1A-31.0032, F.A.C. Application for Exploration Permit (Form HR6E9001-08), is herein incorporated by reference. Application for Recovery Permit (Form HR6E9002-08), is herein incorporated by reference.

(2) One copy of the completed application bearing an original signature of the applicant shall be submitted to the division at the address specified in Rule 1A-31.0032, F.A.C.

(3) The permittee may apply for a permit renewal in accordance with procedures in this rule. The application form shall specifically explain any differences from the previous application. Any sections that are unchanged may be answered "No Change."

(4) The division may request additional information or clarification on any application that is submitted. Such request shall be made to the applicant in writing and shall indicate the date by which the information or clarification is needed.

(5) Requests for renewal must be received prior to the termination date of the permit. Requests for renewal will be considered sufficient when all requirements of the permit have been satisfied, any errors or omissions have been corrected, and any additional information requested by the division has been received.

(6) Renewals shall have a term of one year.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.045 Criteria for Issuing a Permit.

The division shall consider the following criteria in its decision to approve or deny a permit application, and may consider other relevant information:

(1) The public policy of the state to preserve and protect archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation, and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology, and anthropology;

(2) Conflicts with other permit areas, exempted areas, exempted sites, excluded areas, excluded sites or navigation channels;

(3) Date of receiving the application in relation to other applications for the same location;

(4) Experience, ability and plans to comply with safety and security requirements as demonstrated in the application;

(5) Experience, ability and plans to restore submerged lands as demonstrated in the application;

(5) Experience, ability and plans to collect and supply data and records as demonstrated in the application;

(7) Ability of the division to supervise and administer the permit in addition to permits already issued;

(8) Results of the inspection of the requested permit area, if any;

(9) Financial ability to complete the permit activities as demonstrated in the application;

(10) Aualifications, experience and ability of the project archaeologist;

(11) Suitability of proposed research design and methodology;

(12) Experience, ability and plans for security, inventory, and curation of archaeological materials and records as demonstrated in the application;

(13) Qualifications, experience and ability of the applicant to complete the proposed activities;

(14) Access to necessary equipment and qualified operators;

(15) Size of permit area;

(16) Compliance with requirements of any previous permits or agreements issued under Chapter 1A-31, F.A.C., from the date of its adoption.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.050 Permit Issuance.

The division shall only issue a permit when:

(1) The applicant has supplied evidence of sufficient financial ability to complete the operation as permitted;

(2) The applicant has demonstrated that project participants including subcontractors possess sufficient qualifications, resources, and abilities to successfully complete the permitted activities;

(3) The applicant has supplied a letter of intent from a professional underwater archaeologist who has agreed to serve as project archaeologist;

(4) The applicant has demonstrated that proposed project activities will utilize professionally accepted techniques for identification, reconnaissance, recovery, recording, conservation, preservation, and analysis of archaeological materials;

(5) The applicant has supplied an adequate plan for the conservation, analysis, and curation of all archaeological materials, records, and other materials resulting from the proposed operation, including facilities if appropriate; and

(6) The division has determined that activities allowed under the permit are not inconsistent with the requirements of this rule.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.055 Notice of Approval or Denial.

(1) The division shall notify the applicant of approval or intended denial of the application at the address provided in the application or as specified in any notice of change, per Rule 1A-31.080, F.A.C. If the application is approved, the division shall furnish a permit document for signature by the applicant certifying agreement with its terms and conditions. The applicant shall return the signed permit to the division for signature by the division's authorized representative. The permit is effective when it is signed by the applicant and the division.

(2) If the division intends to deny the application, the division shall list those criteria from Rule 1A-31.045, F.A.C., on which the intended denial is based and inform the applicant of the options available.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.060 Requirements for All Permits.

Each permit must include:

(1) Name and contact information for division staff administering the permit;

(2) Name and contact information for the permittee or agent;

(3) Name and contact information for the project archaeologist;

(4) Name and contact information for key project personnel;

(5) Registration numbers of all boats participating in the permitted activities;

(6) Duration of the permit;

(7) Boundaries of the area covered by the permit;

(8) Description of the scope of work to be undertaken, which may include archaeological guidelines;

(9) Description of the expected types of activity which must be undertaken by the permittee to restore the submerged lands following completion of the permitted activities;

(10) Minimum standards of diligence, expressed as a schedule of specific work activities and dates by which such activities shall be initiated or completed;

(11) Notice that the permit requires submittal of an annual report meeting the guidelines established in subsection 1A-46.001(3), F.A.C. National Oceanic and Atmospheric Administration 1:80,000 nautical charts should be substituted for U.S. Geological Survey (1:24,000) 7.5 minute series topographic quadrangle maps as required in subsection 1A-46.001(3), F.A.C. as appropriate;

(12) Notice that Daily Field Note and Activity Logs (Form HR6E067, Revised 06/08), herein incorporated by reference, must be completed and submitted monthly.

(13) Notice that no guarantee of being granted a renewal or new permit is stated or implied;

(14) Notice that the permittee must notify the division in writing and immediately of any change affecting the ability or plans to complete permit activities as set forth in the application and the permit, including changes in boats and boat registration numbers used in the permitted activities;

(15) Notice that the use of clamshell dredges, cutterhead dredges, explosives and suction dredges greater than 6 inches in diameter is prohibited; and

(16) Notice that the use of propwash deflectors is prohibited unless specifically authorized in the permit.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.065 Additional Requirements for Exploration Permits.

(1) No excavation or displacement of archaeological materials shall be conducted unless approved in writing by the division in the form of an amendment to the Exploration Permit. No archaeological materials shall be recovered unless approved in writing by the division in the form of an amendment to the Exploration Permit. All archaeological materials recovered under an Exploration Permit shall remain state property.

(2) With a minimum of disturbance to the permit area the permittee shall:

(a) Conduct remote sensing of the entire permit area;

(b) Identify the source of any anomalies;

(c) Delineate the extent of historic shipwreck sites; and

(d) Evaluate the potential characteristics and significance of any historic shipwreck site in consultation with the division.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.070 Additional Requirements for Recovery Permits.

A research design and description of proposed excavation activities prepared by the applicant's project archaeologist, and approved by the division, shall be included in the recovery

permit. The division shall require the permittee to secure the use of a conservation and curation facility, as well as relevant conservation expertise, to be approved by the division, if the permittee is responsible for conserving archaeological materials under the terms of the permit. The permittee is solely responsible for transporting, storing, insuring, and conserving all archaeological materials recovered under the permit and for the costs associated with these activities. The division may assist in these activities.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i),(k),(o), 267.061(1) FS. History–New _____.

1A-31.075 Permit Modification.

Permit modifications may be requested in writing by the permittee. The division will respond in writing to requests for modification within 30 days.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2) FS. History–New _____.

1A-31.080 Permittee Required to Give Notice of Change.

The permittee shall notify the division in writing, in such form and detail as required by the division, of changes or proposed changes in financial support, contact information, key personnel or equipment from that noted in the permit application. If the division determines that changes or proposed changes decrease materially the permittee’s ability to carry out and complete the project in accordance with the permit, the division may require a permit modification or may suspend or revoke the permit.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.085 Permit Suspension and Revocation.

(1) The division may suspend operations under a permit at any time for reasons, including but not limited to:

- (a) Violation of the law or of this chapter;
- (b) Violation of terms or conditions of the permit;
- (c) Obtaining the permit by misrepresentation or failure to disclose all relevant facts;

(d) Making false statements in an application, report or other document submitted to the division under this chapter;

(e) Failure to meet minimum standards of diligence as specified in the permit; or

(f) Activity that jeopardizes archaeological materials.

(2) If the division intends to revoke the permit, then the permit shall remain suspended until the matter is resolved. The division may revoke a permit for any or all of the following:

(a) Making false statements in an application, report or other document submitted to the division under this rule;

(b) Failure to meet minimum standards of diligence as specified in the permit;

(c) Violation of any of the terms or conditions of the permit;

(d) Violation of this chapter or any other applicable law or regulation;

(e) Obtaining the permit by misrepresentation or failure to disclose all relevant facts;

(f) Issuance based upon incorrect information, mistaken belief, or clerical error, or any other just cause as provided by this chapter.

(3) Suspension or revocation of a permit does not relieve the permittee of any obligations concerning restoration of submerged lands, protecting exposed archaeological remains or providing reports and information to the division.

(4) The division shall serve written notice of intent to revoke a permit, specifying the criteria from rule 1A-31.045 on which the intended revocation is based and inform the applicant of the available options.

Specific Authority 267.031(1) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

1A-31.090 Disposition of Archaeological Materials, Title to Archaeological Materials Conveyed.

The division may transfer archaeological materials to which it holds title to the permittee in consideration of recovery services provided to the state under the terms of a recovery permit. Provisions for transfer of archaeological materials will be specified in each recovery permit.

Specific Authority 267.031(1), 267.115(6) FS. Law Implemented 267.031(2), 267.031(5)(i), (k), (o), 267.061(1) FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Ryan Wheeler

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Kurt S. Browning

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 6, 2008

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Food Safety

RULE NOS.:
5K-1.003

RULE TITLES:
Application for Inspection, Fees, Rejection of Application, Updates, Renewal, Official Numbers and Withdrawal of Inspection
Schedule of Operations, Water Supply for Cleaning, Application of Pesticides, Vehicles Transporting

5K-1.0051

- 5K-1.019 Animal Products, Permission for Release of Stop-Sale Product, and Retention Tags
- 5K-1.020 United States Federal Regulations for Mandatory Meat Inspection and Mandatory Poultry Product Inspection, U.S.D.A. Directives, and Parts XI and XII of the State Performance Plan Adopted
- 5K-1.021 Approved Methods of Humane Slaughter
- 5K-1.021 Inspection of Nontraditional Livestock – Requirements, Scheduling, Inspection Marks, Fees

PURPOSE AND EFFECT: The purpose of this Notice of Proposed Rule is to repeal a set of obsolete rules that are based on statutory language repealed by the Florida Legislature in 2000. The Florida Department of Agriculture and Consumer Services previously had statutory authority for the regulation and inspection of operations engaged in the slaughter of animals or the preparation of animal products for human consumption. Chapter 585, Part III, Animal and Animal Product Inspection and Labeling (ss. 585.70 – 585.96) was repealed during the 2000 Legislative Session (Chapter 2000-308, Section 38, L.O.F.). Those duties and the impacted firms were administratively transferred back to the U. S. Department of Agriculture (USDA). The remaining rules have not been used by this agency since that time and to repeal such will have no impact on the Department or its regulated entities.

SUMMARY: This rule amendment addresses the repeal of obsolete rules relative to the regulation of animal slaughter operations and meat processing plants. This program is no longer a function performed by the Department.

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.

SPECIFIC AUTHORITY: 585.002(4), 585.715(2), 585.93, 828.25(1) FS.

LAW IMPLEMENTED: 570.07(2), 585.71, 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.89, 585.90, 585.93, 585.902, 585.903, 585.904, 585.905, 585.91, 828.22, 828.24 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: October 17, 2008, 11:00 a.m. – 12:00 Noon

PLACE: Eyster Auditorium, The Conner Building, 3125 Conner Boulevard, 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 48 hours before the workshop/meeting by contacting: Lee M. Cornman, Assistant Director, Division of Food Safety, 3125 Conner Boulevard, Mail Stop C-18, Tallahassee, FL 32399-1650; telephone: (850)488-0295. 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: Lee M. Cornman, Assistant Director, Division of Food Safety, 3125 Conner Boulevard, Mail Stop C-18, Tallahassee, FL 32399-1650; Telephone: (850)488-0295

THE FULL TEXT OF THE PROPOSED RULES IS:

5K-1.003 Application for Inspection, Fees, Rejection of Application, Updates, Renewal, Official Numbers and Withdrawal of Inspection.

Specific Authority 585.002(4), 585.715(2) FS. Law Implemented 585.74(1), (2), (4), (5), (7), 585.72(2), 585.75(2), 585.79, 585.84, 585.91(1), (2), (4), (6), (7) FS. History–New 6-29-62, Formerly 5C-1.03, Amended 1-5-94, Formerly 5C-1.003, Amended 7-5-95, 1-17-96, Repealed.

5K-1.0051 Schedule of Operations, Water Supply for Cleaning, Application of Pesticides, Vehicles Transporting Animal Products, Permission for Release of Stop-Sale Product, and Retention Tags.

Specific Authority 585.002(4), 585.715(2) FS. Law Implemented 585.71, 585.74(2), 585.78, 585.80(3), 585.90, 585.83, 585.91 FS. History–New 1-5-94, Formerly 5C-1.0051, Amended 7-5-95, 1-17-96, Repealed.

5K-1.019 United States Federal Regulations for Mandatory Meat Inspection and Mandatory Poultry Product Inspection, U.S.D.A. Directives, and Parts XI and XII of the State Performance Plan Adopted.

Specific Authority 585.002(4), 585.715(2) FS. Law Implemented 570.07(2), 585.72, 585.73, 585.74, 585.75, 585.76, 585.77, 585.78, 585.79, 585.80, 585.81, 585.82, 585.83, 585.84, 585.85, 585.86, 585.87, 585.89, 585.90, 585.902, 585.903, 585.904, 585.905, 585.91, 585.93 FS. History–New 3-20-71, Formerly 5C-1.19, Amended 1-5-94, Formerly 5C-1.019, Amended 10-30-95, 1-17-96, 9-3-96, 4-10-97, Repealed.

5K-1.020 Approved Methods of Humane Slaughter.

Specific Authority 828.25(1) FS. Law Implemented 828.22, 828.24 FS. History–New 7-5-95, Repealed.

5K-1.021 Inspection of Nontraditional Livestock – Requirements, Scheduling, Inspection Marks, Fees.

Specific Authority 585.002(4), 585.715(2), 585.93 FS. Law Implemented 585.93 FS. History–New 1-17-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dr. Marion Aller, Director, Division of Food Safety, Department of Agriculture and Consumer Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles H. Bronson, Commissioner, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 9, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 25, 2008, Vol. 34/30

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.”

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-4.001
 RULE TITLE: Application

PURPOSE AND EFFECT: To update the Florida Prepaid College Plan and Florida College Investment Plan New Account Application Form and the Florida Prepaid College Plan Master Covenant.

SUMMARY: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application Form and the updated form for the Florida Prepaid College Plan Master Covenant.

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.

SPECIFIC AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.98 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:

DATE AND TIME: October 19, 2008, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-4.001 Application.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB ~~2008-10~~ ~~2007-10~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1). The Florida Prepaid College Plan ~~Program~~ Master Covenant, Form No. FPCB ~~2008-02~~ ~~2007-02~~, is hereby incorporated by reference and may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.98 FS. History–New 3-29-89, Amended 2-6-90, 3-19-92, Formerly 4G-4.001, Amended 12-5-93, 5-31-95, 6-20-96, 10-20-96, 12-16-97, 2-18-99, 6-6-99, 2-8-00, 5-21-00, 1-3-01, 10-9-01, 11-27-02, 10-1-03, 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, 12-17-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2008

STATE BOARD OF ADMINISTRATION

Florida Prepaid Postsecondary Education Expense Board

RULE NO.: 19B-16.002
 RULE TITLE: Application for Participation in the Program

PURPOSE AND EFFECT: To update the Florida College Investment Plan application for participation.

SUMMARY: This rule is amended to reflect the updated form for the Florida Prepaid College Plan and Florida College Investment Plan New Account Application

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.

SPECIFIC AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.981 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:

DATE AND TIME: October 19, 2008, 2:00 p.m.
 PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.002 Application for Participation in the Program.

(1) No change.

(2) The Florida Prepaid College Plan and Florida College Investment Plan New Account Application, Form No. FPCB 2008-10 ~~2007-10~~, is hereby incorporated by reference. The form may be obtained from the Board by calling (800)552-GRAD (4723) (prompt 1).

(3) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981 FS. History—New 11-27-02, Amended 1-29-04, 12-28-04, 6-2-05, 12-20-05, 1-1-07, 11-27-07, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2008

PUBLIC SERVICE COMMISSION

RULE NOS.:	RULE TITLES:
25-4.003	Definitions
25-4.006	Issuance of Certificate in the Event of Failure to Furnish Adequate Service
25-4.007	Reference to Commission
25-4.017	Uniform System of Accounts for Rate-of-Return Regulated Local Exchange Companies
25-4.0174	Depreciation Accounts for Rate-of-Return Regulated Local Exchange Companies
25-4.0175	Depreciation for Rate-of-Return Regulated Local Exchange Companies
25-4.0178	Retirement Units for Rate-of-Return Regulated Local Exchange Companies
25-4.021	System Maps and Records

25-4.024	Held Applications for Service
25-4.039	Traffic
25-4.040	Telephone Directories; Directory Assistance
25-4.077	Metering and Recording Equipment
25-4.079	Hearing/Speech Impaired Persons
25-4.116	Telephone Number Assignment Procedure
25-4.215	Limited Scope Proceedings

PURPOSE AND EFFECT: The purposes of the rule amendments are to delete any provisions that are obsolete; to clarify when the rule applies only to rate-of-return regulated local exchange telecommunication companies; to eliminate redundant rules. Docket No. 080159-TP.

SUMMARY: In Rule 25-4.003, F.A.C., on Definitions, language is added to the rule to define “price regulated local exchange telecommunications company” and “rate of return regulated local exchange telecommunications company.” This is intended to reflect the statute and clarify which rules only apply to rate-of-return regulated companies; Rule 25-4.017, F.A.C., on Uniform System of Accounts – the title of the rule should be amended to refer to "Uniform Systems of Accounts for Rate-of-Return Regulated Local Exchange Companies"; Rule 25-4.0174, F.A.C., Uniform System and Classification of Accounts – the title of the rule is amended to refer to “Depreciation Accounts for Rate-of-Return Regulated Local Exchange Companies”; Rule 25-4.0175, F.A.C., Depreciation – the title of the rule is amended to refer to “Depreciation for Rate-of-Return Regulated Local Exchange Companies”; Rule 25-4.0178, F.A.C., Retirement Units – the title of the rule is amended to refer to “Retirement Units for Rate-of-Return Regulated Local Exchange Companies”; Rule 25-4.215, F.A.C., Limited Scope Proceedings – language is added to the rule to clarify that it only applies to rate-of-return regulated companies; Rule 25-4.040, F.A.C., Telephone Directories; Directory Assistance is revised. Dates are removed that are no longer relevant. Also, obsolete provisions relating to 911 service are removed. A sentence is added allowing companies to identify customer payment locations by listing a website and toll-free number; Rule 25-4.079, F.A.C., Hearing/Speech Impaired Persons is revised to reflect the current practice of the Florida Telecommunications Relay, Inc., providing equipment for hearing/speech impaired persons; Rule 25-4.006, F.A.C., Issuance of Certificate in the Event of Failure to Furnish Adequate Service is deleted because it is obsolete; Rule 25-4.007, F.A.C., Reference to Commission is deleted because a declaratory statement already fulfills this purpose of applying for Commission interpretation; Rule 25-4.021, F.A.C., System Maps and Records is repealed because another rule requires similar information; Rule 25-4.024, F.A.C., Held Applications for Service is repealed because another rule requires similar information; Rule 25-4.039, F.A.C., Traffic, is repealed. It is redundant of Section 364.24, Florida Statutes; Rule 25-4.077, F.A.C., Metering and Recording Equipment, is repealed

because it is outdated and refers to mechanical and electronic equipment which is not used by the companies; Rule 25-4.116, F.A.C., Telephone Number Assignment Procedure is repealed because it adds little to the requirements of the North American Numbering Plan Administrator. None of the rule amendments or repeals are intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments, or the type of data that must be collected and analyzed for purposes of the SEEM plan.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed amendments allow for a simpler approach to identifying rate-of-return LECs. They eliminate ambiguous language. There is no negative impact or direct benefit to the Commission. The costs of the rule amendments are likely negligible. However, they should make it simpler for companies to identify which rules apply. The rule amendments will likely have no impact on ratepayers. There will likely be no impact on small businesses, small cities, or small counties. However, the elimination of ambiguous language will likely lower the transaction cost to provide telecommunications. The proposed repeal of several rules will likely have no impact on ratepayers; no negative impacts on small businesses, small cities or small counties. The proposed repeals may have a positive impact on telecommunications companies by lowering the transactional cost.

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.

SPECIFIC AUTHORITY: 350.127(2), 364.17 FS.

LAW IMPLEMENTED: 350.115, 364.01, 364.02, 364.025, 364.0251, 364.03, 364.04, 364.051, 364.14, 364.16, 364.163, 364.17, 364.183, 364.20, 364.28, 364.335, 364.385, 365.171, 395.1027 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 Miller, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082

THE FULL TEXT OF THE PROPOSED RULES IS:

25-4.003 Definitions.

For the purpose of Chapter 25-4, F.A.C., the definitions of the following terms apply:

(1) through (43) No change.

(44) “ Price regulated local exchange telecommunications company.” Any local exchange telecommunications company certificated by the Commission prior to July 1, 1995 that has elected to become subject to price regulation pursuant to Section 364.051, F.S.

(45)(44) No change.

(46) “Rate-of-return regulated local exchange telecommunications company.” Any local exchange telecommunications company certificated by the Commission prior to July 1, 1995 that has not elected to become subject to price regulation pursuant to Section 364.051, F.S.

(45) through (58) renumbered (47) through (60) No change.

Specific Authority 350.127(2) FS. Law Implemented 364.01, 364.02, 364.32, 364.335, 364.337, 364.3375, 364.3376, 364.602, 364.603, 364.604 FS. History–Revised 12-1-68, Amended 3-31-76, Formerly 25-4.03, Amended 2-23-87, 3-4-92, 12-21-93, 3-10-96, 12-28-98, 7-5-00, 4-3-05, Repromulgated 5-8-05, Amended.

25-4.006 Issuance of Certificate in the Event of Failure to Furnish Adequate Service.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.025, 364.335 FS. History–Revised 12-1-68, Formerly 25-4.06, Repealed.

25-4.007 Reference to Commission.

Specific Authority 364.20 FS. Law Implemented 364.28 FS. History–New 12-1-68, Formerly 25-4.07, Repealed.

25-4.017 Uniform System of Accounts for Rate-of-Return Regulated Local Exchange Companies.

(1) through (4) No change.

Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–Revised 12-1-68, Amended 3-31-76, 8-21-79, 1-2-80, 12-13-82, 12-13-83, 9-30-85, Formerly 25-4.17, Amended 11-30-86, 4-25-88, 2-10-92, 8-11-92, 3-10-96, 9-15-03.

25-4.0174 ~~Uniform System and Classification of Accounts – Depreciation~~ Accounts for Rate-of-Return Regulated Local Exchange Companies.

(1) through (6) No change.

Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–New 4-25-88, Amended 9-11-96.

25-4.0175 Depreciation for Rate-of-Return Regulated Local Exchange Companies.

(1) through (16) No change.

Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.03 FS. History–New 9-8-81, Amended 4-28-83, 1-6-85, Formerly 25-4.175, Amended 4-27-88, 12-12-91, 9-11-96.

25-4.0178 Retirement Units for Rate-of-Return Regulated Local Exchange Companies.

(1) through (7) No change.

Specific Authority 350.127(2) FS. Law Implemented 350.115, 364.17 FS. History–New 4-25-88.

25-4.021 System Maps and Records.

Specific Authority 350.127(2), 364.17 FS. Law Implemented 364.17, 364.183 FS. History–Revised 12-1-68, Formerly 25-4.21, Repealed.

25-4.024 Held Applications for Service.

Specific Authority 350.127(2), 364.17 FS. Law Implemented 364.025, 364.163, 364.17 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.24, 3-10-96, Repealed.

25-4.039 Traffic.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03 FS. History—Revised 12-1-68, Amended 3-31-76, Formerly 25-4.39, Amended 3-10-96, Repealed.

25-4.040 Telephone Directories; Directory Assistance.

(1) No change.

(2) Each subscriber served by a directory shall be furnished one copy of that directory for each access line. Subject to availability, additional directories shall be provided by the local exchange telecommunications company, which may charge a reasonable fee therefor. ~~Within 30 days after the effective date of this rule~~ Each exchange company shall file with the Commission a tariff setting forth the fee, if any, and the conditions under which it will apply. Copies of each directory shall be furnished to the Bureau of Service Quality. When expanded calling scopes are involved, as with Extended Area Service, each subscriber shall be provided with directory listings for all published telephone numbers within the local service area.

(3)(a) No change.

(b) ~~Beginning with directories issued on or after January 1, 1995,~~ the following information shall be listed on the inside of the front cover of the directory:

1. ~~“911” instructions for exchanges with “911” service. Such “911” instructions shall be at the top of the inside front cover and shall be outlined in order to be separate from other information on the inside front cover. “911” shall be the only listed emergency number; all other numbers on the inside front cover shall be listed as “nonemergency” or “other important numbers.”~~

~~2. For exchanges where “911” emergency service is not provided, emergency calling instructions and numbers including those of the police, sheriff, fire departments and ambulance services used by local government in case of emergency. Such emergency calling instructions shall be listed at the top of the inside front cover and shall be outlined and separate from other information. All other numbers on the inside front cover shall be listed as “nonemergency” or “other important numbers.”~~

~~2.3-~~ The information required by Section 395.1027, F.S.

(c) through (4)d. No change.

(e) Identification of customer payment locations and an explanation of discontinuance of service procedures for local service. Identification of customer payment locations may be accomplished by listing a website and toll-free number.

(f) through (9) No change.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.02(2), 364.025, 364.0251, 364.03, 364.385, 365.171, 395.1027 FS. History— New 12-1-68, Amended 3-31-76, 1-4-78, 12-10-84, Formerly 25-4.40, Amended 11-28-89, 3-31-91, 2-11-92, 12-16-94, _____.

25-4.077 Metering and Recording Equipment.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03, 364.051, 364.19, FS. History—New 12-1-68, Amended 3-31-76, Formerly 25-4.77, Amended 6-24-90, 3-10-96, Repealed.

25-4.079 Hearing/Speech Impaired Persons.

(1) through (4) No change.

(5) Each LEC shall inform persons inquiring about specialized customer premises equipment for hearing/speech impaired persons of Florida Telecommunications Relay, Inc., which provides such equipment at no cost, pursuant to tariff, provide specialized customer premises equipment (CPE), for lease or sale, to hearing/speech impaired persons. This specialized CPE shall be priced to cover fully allocated costs without inclusion of a rate of return on investment component. Each LEC shall provide at least one type of each of the following categories of specialized CPE:

- (a) Audible ring signalers;
- (b) Visual ring signalers;
- (c) TDDs;
- (d) Volume control handsets.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.02, 364.025, 364.03, 364.04 FS. History—New 4-5-88, Amended 6-3-90, 5-8-05, _____.

25-4.116 Telephone Number Assignment Procedure.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.14, 364.16 FS. History—New 2-9-87, Repealed.

25-4.215 Limited Scope Proceedings.

A rate-of-return regulated small local exchange company may seek to change its existing overall rate relationships without affecting its total revenues by filing a petition for a limited scope proceeding pursuant to Sections 364.05 and 364.058, F.S., and submitting Schedule E-2 (the priceout schedule) in Form PSC/ECR 20-T (3/96), entitled “Minimum Filing Requirements,” which is incorporated herein by reference in Rule 25-4.141, F.A.C., and may be obtained from the Commission’s Division of Economic Regulation. The required MFR Schedule E-2 must show that the revenues generated under the proposed rate relationships shall not exceed the revenues generated under the small local exchange company’s existing rate relationships, based on data for units and revenues for the last full calendar year available.

Specific Authority 350.127(2) FS. Law Implemented 364.05, 364.052, 364.058 FS. History—New 3-10-96, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Incumbent local exchange companies. Also, Dale Mailhot, Division of Regulatory Compliance
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 4, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2008, Vol. 34, No. 17

PUBLIC SERVICE COMMISSION

RULE NO.: 25-14.001
 RULE TITLE: In General
 PURPOSE AND EFFECT: The purpose of the rule amendment is to clarify that Chapter 14 does not apply to Competitive Local Exchange Companies or Price Regulated Local Exchange Companies. Docket No. 080159-TP
 SUMMARY: The revision would clarify that Chapter 14 does not apply to certain telecommunications companies. The rule amendment is not intended to impact in any way wholesale service or the SEEM (Self-Effectuating Enforcement Mechanism) plan, the SEEM metrics or payments or the type of data that must be collected and analyzed for purposes of the SEEM plan.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: There is no regulatory cost from this rule revision.

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.

SPECIFIC AUTHORITY: 350.127(2), 366.05(1), 367.121 FS.
 LAW IMPLEMENTED: 364.03, 364.05, 364.337, 366.04, 366.041, 366.05, 367.121 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: Cindy Miller, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6082

THE FULL TEXT OF THE PROPOSED RULE IS:

25-14.001 In General.

The Commission is responsible for the setting of reasonable rates and charges of numerous utility companies. In determining reasonable charges to be paid by the customers of these companies, the Commission promulgates policy determinations affecting all companies subject to its jurisdiction. This chapter has been established to identify policy determinations affecting the rates, charges and tariffs of

all companies subject to our rate-setting jurisdiction. ~~Except as provided by Parts X through XIV, Chapter 25-24, F.A.C., the provisions of this chapter shall not apply to Interexchange Companies, Pay Telephone Service Companies, Shared Tenant Service Companies, Operator Service Provider Companies, or Alternative Access Vendor Service Providers, Competitive Local Exchange Companies or Price Regulated Local Exchange Companies.~~

Specific Authority 350.127(2), 366.05(1), 367.121 FS. Law Implemented 364.03, 364.05, 364.337, 366.04, 366.041, 366.05, 367.121 FS. History—New 7-25-73, Formerly 25-14.01, Amended 2-23-87, 1-8-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dale Mailhot
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 4, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 25, 2008, Vol. 34, No. 17

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Water and Wastewater Treatment Plant Operators

RULE NOS.:	RULE TITLES:
61E12-41.002	Definitions
61E12-41.003	Qualifications for Operator Certification
61E12-41.004	Applications for Certification from Persons with Actual Experience
61E12-41.005	Examinations; Forms for Certification
61E12-41.006	Operator Certification
61E12-41.007	Renewal of Operator Certificates
61E12-41.009	Denial of Application or Renewal of Certificates; Notice of Denial or Renewal
61E12-41.010	Duties of Operators
61E12-41.011	Fees
61E12-41.013	Grounds for Disciplinary Proceedings
61E12-41.014	Citations
61E12-41.016	Suspension and Revocation of Operator Certificates
61E12-41.017	Disciplinary Guidelines; Aggravating and Mitigating Circumstances
61E12-41.018	Actual Experience for Operator Certification

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment will be to repeal rules the Department no longer has authority to enforce.

SUMMARY: Repeal outdated rules governing water and wastewater treatment plant operators.

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.

SPECIFIC AUTHORITY: 455.213, 468.545 FS.

LAW IMPLEMENTED: 455.217, 468.542, .543, .545, .547, .548, .549, .550, .552 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: Patricia Nelson, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)488-0062

THE FULL TEXT OF THE PROPOSED RULES IS:

61E12-41.002 Definitions.

Specific Authority 455.213, 468.545 FS. Law Implemented 120.52(9), 468.542, 468.545, 468.548 FS., Section 4, Chapter 92-75, Laws of Florida. History–New 11-2-93, Amended 7-5-94, 7-12-95, Repealed.

61E12-41.003 Qualifications for Operator Certification.

Specific Authority 468.545, 468.548 FS. Law Implemented 468.543, 468.548 FS., Section 4, Chapter 92-75, Laws of Florida. History–New 11-2-93, Amended 7-5-94, 7-15-96, Repealed.

61E12-41.004 Applications for Certification from Persons with Actual Experience.

Specific Authority 468.545 FS. Law Implemented 468.545, 468.548 FS., Section 4, Chapter 92-75, Laws of Florida. History–New 11-2-93, Amended 7-5-94, Repealed.

61E12-41.005 Examinations; Forms for Certification.

Specific Authority 468.545 FS. Law Implemented 455.217(2), 468.545, 468.547, 468.548 FS. History–New 11-2-93, Amended 5-29-96, Repealed.

61E12-41.006 Operator Certification.

Specific Authority 468.545 FS. Law Implemented 468.545, 468.548 FS., Section 4, Chapter 92-75, Laws of Florida. History–New 11-2-93, Repealed.

61E12-41.007 Renewal of Operator Certificates.

Specific Authority 468.545, 468.549 FS. Law Implemented 468.545, 468.547, 468.549 FS. History–New 11-2-93, Amended 7-15-96, Repealed.

61E12-41.009 Denial of Application or Renewal of Certificates; Notice of Denial or Renewal.

Specific Authority 468.545, 468.548, 468.549 FS. Law Implemented 455.227, 468.545, 468.548, 468.549, 468.550, 468.552 FS. History–New 11-2-93, Repealed.

61E12-41.010 Duties of Operators.

Specific Authority 468.545, 468.552 FS. Law Implemented 468.541, 468.543, 468.545, 468.552 FS., Section 4, Chapter 92-75, Laws of Florida. History–New 11-2-93, Repealed.

61E12-41.011 Fees.

Specific Authority 468.545, 468.547 FS. Law Implemented 119.07(1)(a), (b), 455.203(5), 455.217(2), 455.219(6), 455.225(4), 468.547, 468.548, 468.549, 468.550, 468.552 FS. History–New 11-2-93, Amended 7-5-94, 7-12-95, 7-15-96, Repealed.

61E12-41.013 Grounds for Disciplinary Proceedings.

Specific Authority 455.224, 468.552 FS. Law Implemented 455.227, 468.541, 468.543, 468.545, 468.551 FS. History–New 11-2-93, Amended 7-5-94, Repealed.

61E12-41.014 Citations.

Specific Authority 455.224, 455.225, 468.541, 468.543 FS. Law Implemented 455.224 FS. History–New 11-2-93, Repealed.

61E12-41.016 Suspension and Revocation of Operator Certificates.

Specific Authority 468.552 FS. Law Implemented 468.541, 468.551, 468.552 FS. History–New 11-2-93, Repealed.

61E12-41.017 Disciplinary Guidelines; Aggravating and Mitigating Circumstances.

Specific Authority 468.545 FS. Law Implemented 468.551, 468.552 FS. History–New 11-2-93, Repealed.

61E12-41.018 Actual Experience for Operator Certification.

Specific Authority 468.545, 468.548 FS. Law Implemented 468.548 FS. History–New 11-2-93, Amended 7-15-96, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Patricia Nelson, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399, (850)488-0062

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Charles W. Drago, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 3, 2008

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 HEALTH

Board of Dentistry

RULE NO.: 64B5-2.0151
 RULE TITLE: Review Procedures, Standards and Methodology for Certification of Foreign Education Institutions

PURPOSE AND EFFECT: The Board proposes to promulgate and adopt rule language to specify the review procedures and methodology for certification of foreign dental education programs.

SUMMARY: The promulgation and adoption of the new rule will specify the review procedures and methodology for certification of foreign dental education programs.

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.

SPECIFIC AUTHORITY: 466.004, 466.008 FS.

LAW IMPLEMENTED: 466.004, 466.008 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.0151 Review Procedures, Standards and Methodology for Certification of Foreign Education Institutions.

(1) Purpose. The purpose of this rule is to provide the review procedures, standards and methodology to be applied by the Florida Department of Health in surveying and evaluating a foreign dental school which has applied to the Department for certification pursuant to Section 466.008, Florida Statutes.

(2) A foreign dental school which seeks certification pursuant to Section 466.008, Florida Statutes, shall submit the following to the Department:

- (a) A completed application form;
- (b) A registration fee as prescribed by the Department;
- (c) A survey fee as prescribed by the Department;

(d) A completed data base questionnaire. A current catalog and student and faculty handbook should be submitted with the completed data base questionnaire;

(e) A Preliminary Accreditation Consultation Visit (PACV) site visit report prepared by the Commission on Dental Accreditation (CODA); and

(f) A CODA accreditation site visit report.

(3) After items (2)(a) through (f) are provided to the Department, the application form, data base questionnaire, CODA's PACV site visit report and CODA accreditation site visit report will be presented to a Technical Advisory Committee appointed by the Department in accordance with Section 466.008(3), Florida Statutes. The committee will review the applicant school's submissions and issue a report to the Department based on an evaluation of the following:

- (a) Institutional effectiveness/outcomes assessment.
- (b) Curriculum content and scope.
- (c) Faculty and staff qualifications and numbers.
- (d) Type and adequacy of facilities.
- (e) Student attendance.
- (f) Patient care services and policies.
- (g) Student polices and services.
- (h) Research for both faculty and staff.
- (i) Quality assurance.
- (j) Comprehensive patient care.
- (k) Relationship of the school to the university and government; and

(l) Standards of care.

(4) Upon receipt of the report by the Technical Advisory Committee, the Department will notify the applicant school of its intent to grant or deny either provisional or full certification. Certification must be denied if deficiencies found are of such magnitude as to prevent the students in the school from receiving an educational base suitable for the practice of dentistry.

(5) Any school granted either provisional or full certification shall submit to the Department evidence of continued compliance annually. Any material change in the elements listed in (3)(a) through (l) above shall be reported to the Department in writing within fifteen (15) days of the change.

Specific Authority 466.004, 466.008 FS. Law Implemented 466.004, 466.008 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Dentistry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 19, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 8, 2008

DEPARTMENT OF HEALTH

Board of Physical Therapy Practice

RULE NO.: 64B17-7.002
 RULE TITLE: Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment for clarification of citation requirements.

SUMMARY: Citation requirements will be clarified.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, Board of Physical Therapy Practice, at the address listed below.

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.

SPECIFIC AUTHORITY: 456.077, 486.025 FS.

LAW IMPLEMENTED: 456.077 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: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B17-7.002 Citations.

(1) through (2) No change.

(3) The Board designates the following as citation violations:

(a) Advertising for discounted services (Section 456.062, F.S.) – A fine of \$250.

(b) Failure to turn over patient records (Section 456.057, F.S.) – A fine of \$100.

(c) Obtaining a license by issuing a bad check (Section 456.072(1)(h), F.S.) – A fine of \$100.

(d) Failure to report in writing to the Board after criminal conviction of licensee (Section 456.072(1)(w), F.S.) – A fine of \$250.

(e) Failure of the licensee to satisfy continuing education requirements established by the Board (Rule 64B17-9.001, F.A.C.):

1. Fines:

~~a.1.~~ Failure to complete less than 9 hours, a fine of \$300.

~~b.2.~~ Failure to complete between 9 and 16 hours, a fine of \$600.

~~c.3.~~ Failure to complete between 17 and 24 hours, a fine of \$1,000.

2. Licensee must provide proof of completion of the deficient hours within 90 days of the date the citation was filed.

(f) Failure to notify the Board office in writing of a change of address (Rule 64B17-6.004, F.A.C.) – A fine of \$250.

(g) Failure to comply with a continuing education audit request (Section 486.109(4) and 486.125(1)(k), F.S.) – A fine of \$250, and licensee must provide proof of compliance with continuing education requirements within 30 days of the date the citation was filed.

(h) Failure to pay required fees and/or fines in a timely manner (Rule 64B17-7.0025, F.A.C.) – A fine of \$150.

(4) through (5) No change.

Specific Authority 456.077, 486.025 FS. Law Implemented 456.077 FS. History–New 1-19-92, Formerly 21MM-7.003, Amended 10-28-93, Formerly 61F11-7.003, 59Y-7.003, Amended 1-6-99, 1-6-02, 4-18-04, 7-13-05, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Physical Therapy Practice

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Physical Therapy Practice

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 4, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

FINANCIAL SERVICES COMMISSION

OIR – Insurance Regulation

RULE NOS.:	RULE TITLES:
69O-204.010	Purpose and Scope
69O-204.020	Definitions
69O-204.030	Forms Incorporated By Reference
69O-204.040	Prohibited Practices and Conflicts of Interest
69O-204.050	Anti-Fraud

PURPOSE AND EFFECT: Pursuant to the Viatical Settlement Act, Part X of Chapter 626, F.S., the Office regulates viatical settlement providers, companies that purchase life insurance policies from the owners (the viators). The policies are purchased at a discount off the face value for the purposes of investment. The viatical settlement providers in turn sell the viaticated policies to institutional investors. When the insured dies the investors receive the full face amount, less costs, thereby recouping their initial purchase price, plus interest.

SUMMARY: Section 626.9925, F.S., gives the Financial Service Commission the authority to adopt rules to administer the Viatical Settlement Act.

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.

SPECIFIC AUTHORITY: 624.308(1), 626.9925 FS.

LAW IMPLEMENTED: 624.307(1), 626.9911, 626.9912, 626.9913, 626.9914, 626.9916, 626.9928 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: October 29, 2008, 1:30 p.m.

PLACE: 116 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: Bernie Stoffel, Office of Insurance Regulation, E-mail bernie.stoffel@flor.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: Bernie Stoffel, Office of Insurance Regulation, E-mail bernie.stoffel@flor.com

THE FULL TEXT OF THE PROPOSED RULES IS:

VIATICAL SETTLEMENT PROVIDERS

69O-204.010 Purpose and Scope.

The purpose of this Rule Chapter is to implement the provisions of Chapter 626, Part X, Florida Statutes.

Specific Authority 626.9925 FS. Law Implemented 626.991 FS. History–New _____.

69O-204.020 Definitions.

In addition to the definitions in Section 626.9911, Florida Statutes, the following definitions apply to this regulation:

(1) “Control” or “effective control” as used in the Viatical Settlement Act and this rule chapter means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person.

(2) “Secondary market” means the assignment, transfer, sale, devise, or bequest of the death benefit or ownership of all or a portion of a viaticated life insurance policy or viaticated certificate of insurance.

Specific Authority 626.9925 FS. Law Implemented 626.9911(2), 626.9912(4), 626.9913(2), 626.9922(2), 626.9924, 626.9913(2) FS. History–New _____.

69O-204.030 Forms Incorporated By Reference.

(1) The following forms are incorporated by reference to implement the provisions of Chapter 626, Part X, Florida Statutes.

(a) Form OIR-A3-1288, Viatical Settlement Provider Annual Report (REV 3/08).

(b) Form OIR-C1-1294, Notice of Intent to Use a Related Provider Trust (REV 10/05).

(2) All of the above referenced forms are available from the Office’s website, <http://www.flor.com>, by clicking on “search” and entering the form number.

(3) All applications, annual report filings, forms submitted by licensees for approval and associated documentation shall be submitted electronically to <http://iportal.fldfs.com>.

Specific Authority 626.9925 FS. Law Implemented 626.9912(2), 626.9912(3), 626.9913(2), 626.9921(3), 626.9921(4), 626.9928 FS. History–New _____.

69O-204.040 Prohibited Practices and Conflicts of Interest.

With respect to any viatical settlement contract or insurance policy, no viatical settlement provider knowingly may enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider, financing entity or related provider trust that is involved in such viatical settlement contract.

Specific Authority 626.9925 FS. Law Implemented 626.9911(9), 626.9916(1), 626.9916(5) FS. History–New _____.

69O-204.050 Anti-Fraud.

Every licensed viatical settlement provider shall establish and maintain in accordance with the provisions of Section 626.9922, F.S.:

(1) Documentation of compliance with its anti-fraud plan and procedures filed in accordance with Section 626.99278, F.S.

(2) All documentation pertaining to resolved and unresolved material inconsistencies between medical records and insurance applications.

(3) Documentation pertaining to the mandatory reporting of possible fraudulent acts and prohibited practices set forth in Section 626.99275, F.S., to the Division of Insurance Fraud of the department.

Specific Authority 626.9925 FS. Law Implemented 626.99278, 626.9922, 626.99275 FS. History–New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bernie Stoffel, Specialty Product Administration, Bernie.stoffel@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Jovita Ashton, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 14, 2007

FINANCIAL SERVICES COMMISSION

Finance

RULE NOS.:	RULE TITLES:
69V-40.002	Adoption of Forms
69V-40.031	Application Procedure for Mortgage Broker License
69V-40.051	Application Procedure for Mortgage Brokerage Business License
69V-40.100	Application Procedure for Transfer in Ownership or Control of Saving Clause Mortgage Lender
69V-40.200	Application Procedure for Mortgage Lender License
69V-40.220	Application Procedure for Correspondent Mortgage Lender License

PURPOSE AND EFFECT: The rules are being amended to increase fingerprint processing fees from \$42.25 to \$43.25. The current fee of \$42.25 represents \$23 charged by the Florida Department of Law Enforcement for a state criminal history check and \$19.25 charged by the U.S. Department of Justice for a national criminal history check. During the 2008 regular session, the Florida Legislature passed Senate Bill 1792. This bill was signed into law (Chapter 2008-112, Laws of Florida) by Governor Crist on June 10, 2008. Effective July 1, 2008, the Florida Department of Law Enforcement will be increasing its fingerprint processing fee to \$24 as required by Section 1 of Chapter 2008-112, Laws of Florida, which amends Section 943.053(3)(b), Florida Statutes. Also during the regular 2008 legislative session, the Florida Legislature passed House Bill 5049, which amended Section 494.0033, F.S., to reduce the mortgage broker license application fee from \$200 to \$195. This bill was signed into law (Chapter 2008-135, Laws of Florida) by Governor Crist. Form OFR-494-03, Application for Licensure as a Mortgage Broker, which is incorporated by reference in Rule 69V-40.002, F.A.C., is amended to reflect the reduction in the license application fee.

SUMMARY: Increases fingerprint processing fees for persons subject to Chapter 494, F.S., relating to Mortgage Brokering and Mortgage Lending. Reduces the mortgage broker license application fee.

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.

SPECIFIC AUTHORITY: 215.405, 494.0011(2), 494.0031(2), 494.0061(3), 494.0062, 494.0065(3) FS.

LAW IMPLEMENTED: 120.60, 494.001(30), 494.0025, 494.0031, 494.0033, 494.0035, 494.004(6), 494.0041, 494.0042, 494.0061, 494.0062, 494.0065, 494.0067, 943.053 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: Greg Oaks, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, greg.oaks@flofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-40.002 Adoption of Forms.

(1) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rules 69V-40.001-.290, Florida Administrative Code:

(a) Application for Mortgage Brokerage Business and Lender License, Form OFR-494-01, effective ~~March 23, 2008~~;

(b) No change.

(c) Application for Licensure as a Mortgage Broker, Form OFR-494-03, effective ~~March 23, 2008~~;

(d) through (m) No change.

(2) No change.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 494.0025, 494.0033, 494.0041, 494.0042, 943.053 FS. History—New 3-23-08, Amended.

69V-40.031 Application Procedure for Mortgage Broker License.

(1) Each person desiring to obtain licensure as a mortgage broker shall apply to the Office of Financial Regulation by submitting the following:

(a) through (c) No change.

(d) A nonrefundable fingerprint card processing fee of ~~\$43.25~~ \$42.25;

(e) through (f) No change.

(2) through (9) No change.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033, 943.053 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, 12-11-03, Formerly 3D-40.031, Amended 5-24-05, 3-23-08, _____.

69V-40.051 Application Procedure for Mortgage Brokerage Business License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a mortgage brokerage business, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, to the Office of Financial Regulation along with a ~~\$43.25~~ ~~\$42.25~~ nonrefundable processing fee.

(a) If any ultimate equitable owner of 10% or greater interest, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, director, control person, member, partner, joint venturer, of the applicant holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

(b) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25% or more of the ownership interest or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0031(2) FS. Law Implemented 494.0031, 494.0035, 494.004(6), 943.053 FS. History—New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-11-03, Formerly 3D-40.051, Amended 3-23-08,_____.

69V-40.100 Application Procedure for Transfer in Ownership or Control of Saving Clause Mortgage Lender.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, director, control person, member, partner, or joint venturer of an entity applying for licensure as a mortgage lender licensed pursuant to the savings clause, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, to the Office of Financial Regulation along with a ~~\$43.25~~ ~~\$42.25~~ nonrefundable processing fee.

(a) If the individual owner, director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, principal representative, control person, member, partner, or joint venturer holds an active mortgage broker's license with the Office of Financial Regulation, he or she is exempt from the provisions of subsection (2).

(b) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (7) No change.

Specific Authority 215.405, 494.0011(2), 494.0065(3) FS. Law Implemented 120.60, 494.001(30), 494.0061(1), (3), (8), 494.0065, 494.0067(3), (4), 943.053 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.100, Amended 3-23-08,_____.

69V-40.200 Application Procedure for Mortgage Lender License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, to the Office of Financial Regulation along with a ~~\$43.25~~ ~~\$42.25~~ nonrefundable processing fee.

(a) If any ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, or director of the applicant holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

(b) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0061(3) FS. Law Implemented 494.0061, 494.0067(4), 943.053 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.200, Amended 3-23-08,_____.

69V-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) No change.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a correspondent mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, to the Office of Financial Regulation along with a ~~\$43.25~~ ~~\$42.25~~ nonrefundable processing fee.

(a) If the individual principal representative, owner, director, or chief executive officer holds an active mortgage broker’s license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

(b) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) through (8) No change.

Specific Authority 215.405, 494.0011(2), 494.0062(3), (8), (11), (13) FS. Law Implemented 494.0062, 494.0067(4), 943.053 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.220, Amended 3-23-08,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Oaks, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, greg.oaks@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2008, September 5, 2008

FINANCIAL SERVICES COMMISSION

Finance

RULE NOS.:
69V-40.0311

RULE TITLES:
Effect of Law Enforcement Records on Applications for Mortgage Broker Licensure

69V-40.0511

Effect of Law Enforcement Records on Applications for Mortgage Brokerage Business Licensure

69V-40.201

Effect of Law Enforcement Records on Applications for Mortgage Lender and Correspondent Lender Licensure

PURPOSE AND EFFECT: The rules set forth the policies of the Office of Financial Regulation with respect to processing license applications for persons who have been found guilty of, or who have pled guilty or nolo contendere to, certain crimes. The policies address applications for licensure as mortgage brokers, mortgage lenders, correspondent lenders, and mortgage brokerage businesses.

The rules provide that a person who has been found guilty of, or who has pled guilty or nolo contendere to, a felony involving fraud, dishonesty, breach of trust or money laundering is not eligible for licensure as a mortgage broker. These crimes are classified as Class “A” crimes under the rules. A person who has been found guilty of, or who has pled guilty or nolo contendere to, certain other felonies constituting moral turpitude, including but not limited to specified serious violent crimes (e.g. murder, rape, armed robbery, etc.) is not eligible for licensure as a mortgage broker until 15 years have passed. These crimes are classified as Class “B” crimes. A person who has been found guilty of, or who has pled guilty or nolo contendere to, a felony constituting an act of moral turpitude that is not addressed under Class “A” or “B” crimes is not eligible for licensure as mortgage broker until seven years have elapsed. These crimes are classified as Class “C” crimes. A person who has been found guilty of, or who has pled guilty or nolo contendere to, a misdemeanor involving fraud, dishonest dealing or moral turpitude, is not eligible for licensure as a mortgage broker until five years have elapsed. These crimes are classified as Class “D” crimes.

For applicants applying for licensure as a mortgage lender, correspondent lender, or mortgage brokerage business, the applicant is not eligible for licensure until 15 years have elapsed, if a “relevant person” of the applicant has been found guilty of, or has pled guilty or nolo contendere to, a felony involving fraud, dishonesty, breach of trust or money laundering or certain other specified crimes constituting moral turpitude (e.g. murder, rape, armed robbery, etc.) These crimes are classified as Class “A” crimes under the rules. For applicants seeking licensure as a mortgage lender, correspondent lender, or mortgage brokerage business, the applicant is not eligible for licensure until seven years have elapsed, if a “relevant person” of the applicant has been found guilty of, or has pled guilty or nolo contendere to, any felony constituting moral turpitude that is not addressed under Class A crimes. These crimes are classified as Class “B” crimes. For “relevant persons” of the applicant who have been found guilty of, or who have pled guilty or nolo contendere to, a misdemeanor involving fraud, dishonest dealing or moral turpitude, the applicant is not eligible for licensure as a

mortgage broker business, correspondent lender or mortgage lender until five years have elapsed. These crimes are classified as Class "C" crimes.

"Relevant persons" include each officer, director, control person, member, partner, or joint venturer of a mortgage brokerage business license applicant or of a mortgage lender of correspondent lender license applicant. The term also includes each ultimate equitable owner with a 10-percent or greater interest in the license applicant.

The rules provide for factors that may lengthen or shorten the time periods discussed above for applicants for licensure as a mortgage broker, mortgage brokerage business, mortgage lender or correspondent mortgage lender.

SUMMARY: The rules set forth the policies of the Office of Financial Regulation with respect to processing license applications for persons who have been found guilty of, or who have pled guilty or nolo contendere to, certain crimes. The policies address applications for licensure as mortgage brokers, mortgage lenders, correspondent lenders, and mortgage brokerage businesses.

The rules provide that a person who has been found guilty of, or who has pled guilty or nolo contendere to, a felony involving fraud, dishonesty, breach of trust or money laundering is not eligible for licensure as a mortgage broker. These crimes are classified as Class "A" crimes under the rules. A person who has been found guilty of, or who has pled guilty or nolo contendere to, certain other felonies constituting moral turpitude, including but not limited to specified serious violent crimes (e.g. murder, rape, armed robbery, etc.) is not eligible for licensure as a mortgage broker until 15 years have passed. These crimes are classified as Class "B" crimes. A person who has been found guilty of, or who has pled guilty or nolo contendere to, a felony constituting an act of moral turpitude that is not addressed under Class "A" or "B" crimes is not eligible for licensure as mortgage broker until seven years have elapsed. These crimes are classified as Class "C" crimes. A person who has been found guilty of, or who has pled guilty or nolo contendere to, a misdemeanor involving fraud, dishonest dealing or moral turpitude, is not eligible for licensure as a mortgage broker until five years have elapsed. These crimes are classified as Class "D" crimes.

For applicants applying for licensure as a mortgage lender, correspondent lender, or mortgage brokerage business, the applicant is not eligible for licensure until 15 years have elapsed, if a "relevant person" of the applicant has been found guilty of, or has pled guilty or nolo contendere to, a felony involving fraud, dishonesty, breach of trust or money laundering or certain other specified crimes constituting moral turpitude (e.g. murder, rape, armed robbery, etc.) These crimes are classified as Class "A" crimes under the rules. For applicants seeking licensure as a mortgage lender, correspondent lender, or mortgage brokerage business, the applicant is not eligible for licensure until seven years have elapsed, if a "relevant person" of the applicant has been found

guilty of, or has pled guilty or nolo contendere to, any felony constituting moral turpitude that is not addressed under Class A crimes. These crimes are classified as Class "B" crimes. For "relevant persons" of the applicant who have been found guilty of, or who have pled guilty or nolo contendere to, a misdemeanor involving fraud, dishonest dealing or moral turpitude, the applicant is not eligible for licensure as a mortgage broker business, correspondent lender or mortgage lender until five years have elapsed. These crimes are classified as Class "C" crimes.

"Relevant persons" include each officer, director, control person, member, partner, or joint venturer of a mortgage brokerage business license applicant or of a mortgage lender of correspondent lender license applicant. The term also includes each ultimate equitable owner with a 10-percent or greater interest in the license applicant.

The rules provide for factors that may lengthen or shorten the time periods discussed above for applicants for licensure as a mortgage broker, mortgage brokerage business, mortgage lender or correspondent mortgage lender.

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.

SPECIFIC AUTHORITY: 494.0011 FS.

LAW IMPLEMENTED: 112.011, 494.0031, 494.0033, 494.0041, 494.0061, 494.0062, 494.0072 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: Terry Straub, Director, Division of Finance, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, terry.straub@fiofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-40.0311 Effect of Law Enforcement Records on Applications for Mortgage Broker Licensure.

(1) General Procedure Regarding Law Enforcement Records. At the time of submitting a mortgage broker application, an applicant for a mortgage broker license shall disclose on the application form any pending criminal charges and all criminal matters in which the applicant has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of any crime. In addition, the applicant shall supply the Office with required documentation, as specified in this rule, relating to: 1) all criminal matters in which the applicant has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless

of whether adjudication was withheld, of a class “A”, “B”, “C”, or “D” crime as described in this rule, 2) any pending criminal charges relating to a class “A”, “B”, “C”, or “D” crime as described in this rule, or 3) shall supply evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a certified or sworn written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable.

(2) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The omission of any part of a law enforcement record required to be disclosed pursuant to subsection (1) is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 494.0041(2)(c), Florida Statutes.

(b) Notwithstanding paragraph (a), the Office shall not deny an application for failure to provide documentation listed in subsection (1) when the crime is not a class “A”, “B”, “C” or “D” crime and the applicant has disclosed the crime on the application form.

(c) If the Office discovers the applicant’s failure to disclose after a license has been granted, the Office will suspend or revoke each license currently held by the applicant as follows:

1. Suspension 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and licensing rules applicable to the application at the time the Office issued the license, and the documentation in the applicant's file at the time the Office issued the license.

2. Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and licensing rules applicable to the application at the time the Office issued the license.

(3) Classification of Crimes.

(a) The Office makes a general classification of crimes into four classes: A, B, C, and D as listed in subsections (15), (16), (17), and (18) of this rule.

(b) These classifications reflect the Office’s evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) For purposes of this rule, “trigger date” means the date on which an applicant was found guilty, or pled guilty, or pled nolo contendere to a crime.

(e) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(4) Effect on Licensure of Commitment of Single Crime. The Office finds it necessary to implement the following standards for applicants whose law enforcement record includes a single crime, subject to the mitigating factors set forth in this rule before licensure. All periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant is not eligible for licensure.

(b) Class B Crime. The applicant will not be granted a license until 15 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted licensure until 7 years have passed since the trigger date.

(d) Class D Crime. The applicant will not be granted licensure until 5 years have passed since the trigger date.

(5) Applicants With Multiple Crimes.

(a) The Office construes Section 494.0041, Florida Statutes, to require that an applicant whose law enforcement record includes multiple crimes wait longer than those whose law enforcement record includes only a single crime before becoming eligible for licensure in order to assure that such applicant’s greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before licensure can safely be granted. Accordingly, where the applicant has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(c) Classification as “Single Crime” versus “Multiple Crimes.” For purposes of this rule, two (2) or more offenses are considered a single crime if they are triable in the same court and are based on the same act or transaction or on two (2) or more connected acts or transactions.

(6) Mitigating Factors.

(a) The disqualifying period for a crime or crimes shall be shortened upon proof of one or more of the following factors. Where more than one factor is present the applicant is entitled to add together all the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the applicant would pose no significant threat to public welfare if licensed as a mortgage broker.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year will be deducted if the applicant was under age 21 when the crime was committed and there is only one crime in the applicant's law enforcement record.

4. One year is deducted if the applicant furnishes proof that the applicant was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the applicant believes should decrease the disqualifying period before licensure is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the licensure decision.

(b) In no event shall the aggregate mitigation result in less than a seven (7) year disqualifying period where the underlying crime committed was a felony.

(c) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(7) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of plea, i.e., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results wherein the applicant was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) The Office finds that subjective factors involving state of mind have no mitigating weight.

(8) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of licensure as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny licensure, unless a Florida court specifically stays the Office's adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of license.

(9) Pre-Trial Intervention. The Office considers participation in a pre-trial intervention program to be a pending criminal enforcement action and will not grant licensure to any person who at time of application is participating in a pre-trial intervention program. The Office finds it necessary to the public welfare to wait until the pre-trial intervention is successfully completed before licensure may be considered.

(10) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally an applicant will have a matter sealed or expunged after submitting his or her application. In such situations the Office policy is as follows:

1. If the applicant properly revealed the matter on the application, and thereafter has the record sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the applicant did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a

material misrepresentation or material misstatement, and the application shall be denied pursuant to Section 494.0041(2)(c), Florida Statutes.

(11) Effect of Restoration of Civil Rights.

(a) An applicant must disclose crimes even where civil rights have been restored.

(b) If a person's civil rights have been restored, the crimes will be evaluated in the application process consistent with Section 112.011 and Chapter 494, Florida Statutes, and the rules promulgated thereunder.

(c) The burden is upon the applicant to prove the restoration of their civil rights.

(12) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

6. Nolle prosequere; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(13) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, Florida Statutes, while the applicant is imprisoned, under arrest, or serving a sentence for any crime. Further, the Office shall not license any applicant who has been released from imprisonment until the later of the period otherwise set out in these rules or five (5) years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least five (5) years on good behavior, before licensure can be granted without undue risk to the public welfare.

(b) Community Supervision. The Office shall not grant licensure to any person who at the time of application or at any time during the pendency of the application is serving term on community supervision for any felony crime, or any misdemeanor crime involving fraud, dishonest dealing, or moral turpitude. The Office shall not substantively consider an application until the applicant has successfully completed his or her probationary term.

(14) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give a licensee a right to licensure after any set period of time. Regardless of the expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to licensure remains on the applicant.

(15) Class "A" Crimes include all felonies involving an act of fraud, dishonesty, or a breach of trust, or money laundering, and the Office finds that such crimes constitute crimes of moral turpitude. The Office finds the following list of crimes are Class "A" crimes. This list is representative only and shall not be construed to constitute a complete or exclusive list all crimes that are Class "A" crimes. No inference should be drawn from the absence of any crime from this list.

(a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

(m) Any type of forgery or uttering a forged instrument.

(n) Misuse of public office.

(o) Racketeering.

(p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.

(q) Treason against the United States, or a state, district, or territory thereof.

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

(u) Impersonating or attempting to impersonate a law enforcement officer.

(v) Money laundering.

(16) Class "B" Crimes include the following list of felonies, or similar felonies, and the Office finds that such crimes constitute crimes of moral turpitude.

(a) Murder in all degrees.

(b) Arson.

(c) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(d) Aggravated Assault (e.g., as with a deadly weapon).

(e) Aggravated Battery (e.g., as with a deadly weapon).

(f) Rape.

(g) Sexually molesting any minor.

(h) Sexual battery.

(i) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(j) Kidnapping.

(17) Class "C" Crimes include all felonies that involve any other act of moral turpitude and are not Class "A" or Class "B" crimes.

(18) Class "D" Crimes include any misdemeanor that involves fraud, dishonest dealing or any other act of moral turpitude.

(19) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Specific Authority 494.0011 FS. Law Implemented 112.011, 494.0033, 494.0041 FS. History—New _____.

69V-40.0511 Effect of Law Enforcement Records on Applications for Mortgage Brokerage Business Licensure.

(1) General Procedure Regarding Law Enforcement Records. For purposes of this rule each officer, director, control person, member, partner, or joint venturer of a Mortgage Brokerage Business License applicant, and each ultimate equitable owner with a 10-percent or greater interest in the applicant shall be referred to collectively as "relevant persons." If the applicant is a natural person, he or she is a relevant person under this rule. At the time of submitting a Mortgage Brokerage Business Application, the applicant shall disclose on the application form any pending criminal charges and all criminal matters in which a relevant person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of any crime. In addition, the applicant shall supply the Office with required documentation for each relevant person, as specified in this rule, relating to: 1) all criminal matters in which the relevant person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of a class "A", "B", or "C" crime as described in this rule, 2) any pending criminal charges for a relevant person relating to a class "A", "B", or "C" crime as described in this

rule, or 3) shall supply evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a certified or sworn written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable.

(2) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The omission of any part of a law enforcement record required to be disclosed pursuant to subsection (2) herein is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 494.0041(2)(c), Florida Statutes.

(b) Notwithstanding paragraph (a), the Office shall not deny an application for failure to provide documentation listed in subsection (1) when the crime is not a class "A", "B", or "C" crime and the applicant has disclosed the crime on the application form.

(c) If the Office discovers the applicant's failure to disclose after a license has been granted, the Office will suspend or revoke each license currently held by the applicant as follows:

1. Suspension 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and licensing rules applicable to the application at the time the Office issued the license, and the documentation in the applicant's file at the time the Office issued the license.

2. Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and licensing rules applicable to the application at the time the Office issued the license.

(3) Classification of Crimes.

(a) The Office makes a general classification of crimes into three classes: A, B and C, as listed in subsections (15), (16) and (17) of this rule.

(b) These classifications reflect the Office's evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) For purposes of this rule, "trigger date" means the date on which an applicant was found guilty, or pled guilty, or pled nolo contendere to a crime.

(e) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(4) Effect on Licensure of Commitment of Single Crime. The Office finds it necessary to implement the following standards for applicants with relevant persons whose law enforcement record includes a single crime, subject to the mitigating factors set forth in this rule before licensure. All disqualifying periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant will not be granted a license until 15 years have passed since the trigger date.

(b) Class B Crime. The applicant will not be granted a license until 7 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted licensure until 5 years have passed since the trigger date.

(5) Relevant Persons With Multiple Crimes.

(a) The Office construes Section 494.0041, Florida Statutes, to require that an applicant with relevant persons whose law enforcement record includes multiple Class B or Class C crimes, or any combination thereof, wait longer than those whose law enforcement record includes only a single crime before becoming eligible for licensure in order to assure that such relevant person's greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before licensure can safely be granted. Accordingly, where the relevant person has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(c) Classification as "Single Crime" versus "Multiple Crimes." For purposes of this rule, two (2) or more offenses are considered a single crime if they are triable in the same court and are based on the same act or transaction or on two (2) or more connected acts or transactions.

(6) Mitigating Factors.

(a) The disqualifying period based on a crime pursuant to this rule shall be shortened upon proof of one or more of the following factors. Where more than one factor is present the applicant is entitled to add together all the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the applicant would pose no significant threat to public welfare if licensed as a mortgage broker.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year will be deducted if the applicant was under age 21 when the crime was committed and there is only one crime in the applicant's law enforcement record.

4. One year is deducted if the applicant furnishes proof that the applicant was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the applicant believes should decrease the disqualifying period before licensure is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the licensure decision.

(b) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(7) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of pleas, i.e., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or

their results in which the applicant was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) The Office finds that subjective factors involving state of mind have no mitigating weight.

(8) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of licensure as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny licensure, unless a Florida court specifically stays the Office's adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of license.

(9) Pre-Trial Intervention. The Office considers participation in a pre-trial intervention program to be a pending criminal enforcement action and will not grant licensure to any applicant with a relevant person who at time of application is participating in a pre-trial intervention program. The Office finds it necessary to the public welfare to wait until the pre-trial intervention is successfully completed before licensure may be considered.

(10) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding for a relevant person, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally a relevant person will have a matter sealed or expunged after the applicant submits an application, but before a licensing decision is made by the Office. In such situations the Office policy is as follows:

1. If the applicant's relevant person properly revealed the matter on the application, and thereafter has the record sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the applicant's relevant person did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Section 494.0041(2)(c), Florida Statutes.

(11) Effect of Restoration of Civil Rights.

(a) An applicant's relevant person must disclose crimes even where civil rights have been restored.

(b) If a relevant person's civil rights have been restored, the crimes will be evaluated in the application process consistent with Section 112.011 and Chapter 494, Florida Statutes, and the rules promulgated thereunder.

(c) The burden is upon the applicant to prove the restoration of their civil rights.

(12) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.6. Nolle prosequi; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(13) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, Florida Statutes, while any relevant person of the applicant is imprisoned or serving a sentence for any crime. Further, the Office shall not license any applicant with a relevant person who has been released from imprisonment until the later of the period otherwise set out in these rules or 5 years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least 5 years on good behavior, before licensure can be granted without undue risk to the public welfare.

(b) Community Supervision. The Office shall not grant licensure to any person who at the time of application or at any time during the pendency of the application is serving term on community supervision for any felony crime, or any misdemeanor crime involving fraud, dishonest dealing, or moral turpitude. The Office shall not substantively consider an application until the applicant has successfully completed his or her probationary term.

(14) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give a applicant a right to licensure after any set period of time. Regardless of the

expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to licensure remains on the applicant.

(15) Class "A" Crimes include the following felonies which involve fraud, dishonest dealing, or moral turpitude. This list is representative only and shall not be construed to constitute a complete or exclusive list all of crimes that are Class "A" crimes. Crimes similar to the crimes on this list may also be considered Class "A" crimes, and no inference should be drawn from the absence of any crime from this list.

(a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

(m) Any type of forgery or uttering a forged instrument.

(n) Misuse of public office.

(o) Racketeering.

(p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.

(q) Treason against the United States, or a state, district, or territory thereof.

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

(u) Impersonating or attempting to impersonate a law enforcement officer.

(v) Money laundering.

(w) Murder in all degrees.

(x) Arson.

(y) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(z) Aggravated Assault (e.g., as with a deadly weapon).

(aa) Aggravated Battery (e.g., as with a deadly weapon).

(bb) Rape.

(cc) Sexually molesting any minor.

(dd) Sexual battery.

(ee) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(ff) Kidnapping.

(16) Class "B" Crimes include all felonies that involve any other act of moral turpitude and are not Class "A" crimes.

(17) Class "C" Crimes include any misdemeanor that involves fraud, dishonest dealing or any other act of moral turpitude.

(18) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Specific Authority 494.0011 FS. Law Implemented 112.011, 494.0031, 494.0041 FS. History—New _____.

69V-40.201 Effect of Law Enforcement Records on Applications for Mortgage Lender and Correspondent Lender Licensure.

(1) General Procedure Regarding Law Enforcement Records. For purposes of this rule each designated principal representative and each officer, director, control person, member, partner, or joint venturer of a Mortgage Lender or Correspondent Lender License applicant, and each ultimate equitable owner with a 10-percent or greater interest in the applicant shall be referred to collectively as "relevant persons." At the time of submitting a Mortgage Lender or Correspondent Lender Application, the applicant shall disclose on the application form any pending criminal charges and all criminal matters in which a relevant person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of any crime. In addition, the applicant shall supply the Office with required documentation for each relevant person, as specified in this rule, relating to: 1) all criminal matters in which the relevant person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of a class "A", "B", or "C" crime as described in this rule, 2) any pending criminal charges for a relevant person relating to a class "A", "B", or "C" crime as described in this rule, or 3) shall supply evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a certified or sworn written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise

stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable.

(2) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The omission of any part of a law enforcement record required to be disclosed pursuant to subsection (1) is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 494.0072(2)(c), Florida Statutes.

(b) Notwithstanding paragraph (a), the Office shall not deny an application for failure to provide documentation listed in subsection (1) when the crime is not a class "A", "B", or "C" crime and the applicant has disclosed the crime on the application form.

(c) If the Office discovers the applicant's failure to disclose after a license has been granted, the Office will suspend or revoke each license currently held by the applicant as follows:

1. Suspension 12 months if, had the license application been accurate, the application would have been granted, based on the statutes and licensing rules applicable to the application at the time the Office issued the license, and the documentation in the applicant's file at the time the Office issued the license.

2. Revocation if, had the license application been accurate, the application would have been denied, based on the statutes and licensing rules applicable to the application at the time the Office issued the license.

(3) Classification of Crimes.

(a) The Office makes a general classification of crimes into three classes: A, B and C, as listed in subsections (15), (16) and (17) of this rule.

(b) These classifications reflect the Office's evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) For purposes of this rule, "trigger date" means the date on which an applicant was found guilty, or pled guilty, or pled nolo contendere to a crime.

(e) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(4) Effect on Licensure of Commitment of Single Crime. The Office finds it necessary to implement the following standards for applicants with relevant persons whose law enforcement record includes a single crime, subject to the mitigating factors set forth elsewhere in this rule before licensure. All disqualifying periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant will not be granted a license until 15 years have passed since the trigger date.

(b) Class B Crime. The applicant will not be granted a license until 7 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted licensure until 5 years have passed since the trigger date.

(5) Relevant Persons With Multiple Crimes.

(a) The Office construes Section 494.0072, Florida Statutes, to require that an applicant with relevant persons whose law enforcement record includes multiple Class B or Class C crimes, or any combination thereof, wait longer than those whose law enforcement record includes only a single crime before becoming eligible for licensure in order to assure that such relevant person's greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before licensure can safely be granted. Accordingly, where the relevant person has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(c) Classification as "Single Crime" versus "Multiple Crimes." For purposes of this rule, two (2) or more offenses are considered a single crime if they are triable in the same court and are based on the same act or transaction or on two (2) or more connected acts or transactions.

(6) Mitigating Factors for Class "C" Crimes.

(a) The disqualifying period for a Class "C" crime shall be shortened upon proof of one or more of the following factors. Where more than one factor is present the applicant is entitled to add together all the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the applicant would pose no significant threat to public welfare if licensed as a mortgage broker.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year will be deducted if the applicant was under age 21 when the crime was committed and there is only one crime in the applicant's law enforcement record.

4. One year is deducted if the applicant furnishes proof that the applicant was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the applicant believes should decrease the disqualifying period before licensure is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the licensure decision.

(b) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(7) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of pleas, i.e., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results in which the applicant was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) The Office finds that subjective factors involving state of mind have no mitigating weight.

(8) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of licensure as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny licensure, unless a Florida court specifically stays the Office's adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of license.

(9) Pre-Trial Intervention. The Office considers participation in a pre-trial intervention program to be a pending criminal enforcement action and will not grant licensure to any applicant with a relevant person who at time of application is participating in a pre-trial intervention program. The Office finds it necessary to the public welfare to wait until the pre-trial intervention is successfully completed before licensure may be considered.

(10) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding for a relevant person, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally a relevant person will have a matter sealed or expunged after the applicant submits an application, but before a licensing decision is made by the Office. In such situations the Office policy is as follows:

1. If the applicant's relevant person properly revealed the matter on the application, and thereafter has the record sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the applicant's relevant person did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Section 494.0072(2)(c), Florida Statutes.

(11) Effect of Restoration of Civil Rights.

(a) An applicant's relevant person must disclose crimes even where civil rights have been restored.

(b) If a relevant person's civil rights have been restored, the crimes will be evaluated in the application process consistent with Section 112.011 and Chapter 494, Florida Statutes, and the rules promulgated thereunder.

(c) The burden is upon the applicant to prove the restoration of their civil rights.

(12) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

6. Nolle prosequi; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(13) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, Florida Statutes, while any relevant person of the applicant is imprisoned or serving a sentence for any crime. Further, the Office shall not license any applicant with a relevant person who has been released from imprisonment until the later of the period otherwise set out in these rules or 5 years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least 5 years on good behavior, before licensure can be granted without undue risk to the public welfare.

(b) Community Supervision. The Office shall not grant licensure to any person who at the time of application or at any time during the pendency of the application is serving term on community supervision for any felony crime, or any misdemeanor crime involving fraud, dishonest dealing, or moral turpitude. The Office shall not substantively consider an application until the applicant has successfully completed his or her probationary term.

(14) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give a applicant a right to licensure after any set period of time. Regardless of the expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to licensure remains on the applicant.

(15) Class "A" Crimes include the following felonies which involve fraud, dishonest dealing, or moral turpitude. This list is representative only and shall not be construed to constitute a complete or exclusive list all of crimes that are

Class "A" crimes. Crimes similar to the crimes on this list may also be considered Class "A" crimes, and no inference should be drawn from the absence of any crime from this list.

(b) Perjury. (a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

(m) Any type of forgery or uttering a forged instrument.

(n) Misuse of public office.

(o) Racketeering.

(p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.

(q) Treason against the United States, or a state, district, or territory thereof.

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

(u) Impersonating or attempting to impersonate a law enforcement officer.

(v) Money laundering.

(w) Murder in all degrees.

(x) Arson.

(y) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(z) Aggravated Assault (e.g., as with a deadly weapon).

(aa) Aggravated Battery (e.g., as with a deadly weapon).

(bb) Rape.

(cc) Sexually molesting any minor.

(dd) Sexual battery.

(ee) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(ff) Kidnapping.

(16) Class "B" Crimes include all felonies that involve any other act of moral turpitude and are not Class "A" crimes.

(17) Class "C" Crimes include any misdemeanor that involves fraud, dishonest dealing or any other act of moral turpitude.

(18) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States.

Specific Authority 494.0011 FS. Law Implemented 112.011, 494.0061, 494.0062, 494.0072 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Terry Straub, Director of Division of Finance
NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2008

FINANCIAL SERVICES COMMISSION

Finance

RULE NOS.:	RULE TITLES:
69V-560.101	Scope
69V-560.1012	Adoption of Forms
69V-560.1013	Electronic Filing of Forms and Fees
69V-560.102	Application or Appointment Procedures and Requirements
69V-560.103	Definitions
69V-560.104	Application Fees
69V-560.105	Regulatory Standards for Evaluating Applications
69V-560.107	Registration of Locations and Appointment of Authorized Vendors
69V-560.108	Declaration of Intent to Engage in Deferred Presentment Transactions
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69V-560.504	Reimbursement Rates for Examinations Conducted by the Office
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Quarterly Reports
Annual Filing of Financial Audit Reports by Part II Licensees
Currency Transaction Report Filings
Suspicious Activity Report Filings
Report of International Transportation of Currency or Monetary Instruments
General
Payment Instrument Sellers
Money Transmitters
Records to be Maintained by Check Cashers
Foreign Currency Exchangers
Records to be Maintained by Authorized Vendors
Records to be Maintained by Deferred Presentment Providers
Verification Fee
Minimum Disclosure
Payment Method
Gross Income Test
Scope
Definitions
Deferred Presentment Transactions
Transaction Agreement Disclosures and Requirements
Transaction Fees
Consumer Credit Counseling Services
Database Access
Database Transaction Requirements
Database Availability
Database Transaction Fees
Database Dispute Resolution for Customers
Database Confidentiality
Termination of Deferred Presentment Activity; Database Maintenance

PURPOSE AND EFFECT: During the regular 2008 legislative session, the Florida Legislature passed Senate Bill 2158, relating to money services businesses. The bill was signed into law on June 17, 2008, and will take effect on January 1, 2009. This law makes significant changes to Chapter 560, Florida Statutes. The new law imposes additional regulatory requirements on money services businesses including money transmitters, payment instrument sellers, foreign currency exchangers, check cashers, and deferred presentment providers. The proposed rules reflect and implement the statutory changes.

SUMMARY: The proposed rules impose additional recordkeeping requirements on money services businesses; require compliance with federal anti-money laundering regulations; require compliance with the protection of personal

information provisions of the Gramm-Leach-Bliley Act; revise bonding requirements for money transmitters and payment instrument sellers; prescribe procedures for collecting the cost of state or third party conducted examinations from licensees; prescribe reimbursement rates for examinations conducted by third parties and state examiners; reflect statutory changes to license fees, renewal fees, and other fees required to be submitted to the Office pursuant to Chapter 560, Florida Statutes; require electronic submission of fees and state forms to the Office; require money services businesses to file currency transaction reports, suspicious activity reports and reports of international transportation of currency or monetary instrument with FinCEN; and revise licensing 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.

SPECIFIC AUTHORITY: 215.405, 560.105, 560.1091, 560.1092, 560.110, 560.1141, 560.118, 560.123, 560.126, 560.128, 560.141, 560.142, 560.2085, 560.209, 560.210, 560.211, 560.213, 560.309, 560.310, 560.403, 560.404 FS.

LAW IMPLEMENTED: 215.405, 560.103, 560.105, 560.109, 560.1091, 560.1092, 560.110, 560.111, 560.114, 560.1141, 560.118, 560.123, 560.1235, 560.126, 560.127, 560.128, 560.129, 560.140, 560.141, 560.142, 560.204, 560.205, 560.208, 560.2085, 560.209, 560.210, 560.211, 560.213, 560.303, 560.304, 560.309, 560.310, 560.402, 560.403, 560.404, 943.053 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: Mike Ramsden, Chief, Money Transmitter Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, mike.ramsden@flofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-560.101 Scope.

~~These rules contain the specific procedures and policies for filing and evaluating applications to become registered as a payment instrument seller, funds transmitter, check casher, deferred presentment provider, or foreign currency exchanger. This chapter shall govern in any case where there is a conflict or inconsistency with other rules of the Financial Services Commission or Office of Financial Regulation.~~

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.204, 560.303(1), 560.403 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.101, Repealed 1-1-09.

69V-560.1012 Adoption of Forms.

(1) The following forms are incorporated by reference and readopted by this rule for the purposes of Rules 69V-560.101-.912, F.A.C.:

(a) Application for Licensure as a Money Services Business, Form OFR-560-01, effective 01-01-2009.

(b) Location Notification Form, Form OFR-560-02, effective 01-01-2009.

(c) Declaration of Intent to Engage in Deferred Presentment Transactions, Form OFR-560-03, effective 01-01-2009.

(d) Money Services Business Quarterly Report Form, Form OFR-560-04, effective 01-01-2009.

(e) Pledge Agreement, Form OFR-560-05, effective 01-01-2009.

(f) Money Services Business Surety Bond Form, Form OFR-560-06, effective 01-01-2009.

(g) Security Device Calculation Form, Form OFR-560-07, effective 01-01-2009.

(h) Florida Fingerprint Card (FL922720Z), effective 01-01-2009.

(i) Currency Transaction Report, FinCEN Form 104, effective 01-01-2009.

(j) Suspicious Activity Report by Money Services Business, FinCEN Form 109, effective 01-01-2009.

(k) Report of International Transportation of Currency or Monetary Instruments, FinCEN Form 105, effective 01-01-2009.

(2) All forms adopted by this rule are available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.118, 560.141, 560.2085, 560.209, 560.403 FS. Law Implemented 560.118, 560.140, 560.141, 560.205, 560.2085, 560.209, 560.403, 943.053 FS. History—New 1-1-09.

69V-560.1013 Electronic Filing of Forms and Fees.

(1) For purposes of this rule, "REAL System" means the Office of Financial Regulation's Regulatory Enforcement and Licensing System, which is accessible through the Office's website at www.flofr.com.

(2) All forms adopted under paragraphs 69V-560.1012 (1)(a) through (1)(g), F.A.C., must be filed electronically with the Office through the REAL system.

(3) All fees required to be filed with the Office under Chapter 69V-560, F.A.C., must be paid electronically through the REAL System.

(4) Any person may petition for a waiver of the requirement of electronic filing of any form or fee under Chapter 69V-560, F.A.C., by filing a petition under Rule 28-106.301, F.A.C. The petition must demonstrate a

technological or financial hardship that entitles the person to file the form or fees in a paper format. The Office will provide any person granted a waiver under this subsection a hardcopy version of the applicable form.

Effective Date: 1/1/2009

Specific Authority 560.105 FS. Law Implemented 560.105 FS. History--New 1-1-09.

69V-560.102 Application or Appointment Forms, Procedures and Requirements.

(1) Applications for money service business licenses must be made in accordance with the provisions of Sections 560.140, 560.141, and 560.143, F.S. Further, application for a money services business license involving payment instrument sales or money transmission must also comply with Section 560.205, F.S. The application form for applying hereunder is Application for Licensure as a Money Services Business, OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C.

~~(1) Forms. All forms referenced in this rule are available on the Office of Financial Regulation's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. All applications must be in the format required by the Office of Financial Regulation.~~

~~(2) Applications in the format required by the Office of Financial Regulation, accompanied by the prescribed fee for the requested registration, shall be filed with the Office of Financial Regulation at the address in subsection (1) above. No application will be deemed filed or received unless accompanied by the proper filing fee.~~

~~(3)(a) All applicants for registration must file a completed application Form OFR-560-01, Application to Register as a Money Transmitter, effective 7/15/07, which is hereby incorporated by reference.~~

~~(b) All applicants for registration who propose to engage in deferred presentment transactions as defined in Section 560.402, F.S., shall file a completed Form OFR-560-03, Declaration of Intent to Engage in Deferred Presentment Transactions, effective 7/15/07, which is hereby incorporated by reference, together with the required nonrefundable fee for deferred presentment providers. Applicants must be registered pursuant to Part II or Part III of Chapter 560, F.S., in order to engage in deferred presentment transactions.~~

~~(c) All applicants for registration shall submit a completed Form OFR-560-02, Location Notification Form, effective 7/15/07, which is hereby incorporated by reference, for each proposed "location" as defined in Rule 69V-560.103, F.A.C., not including the applicant's primary business location, together with the required nonrefundable fee.~~

~~(d) All applicants for registration as a payment instrument seller or funds transmitter shall file audited financial statements prepared in accordance with generally accepted~~

~~accounting principles that are dated within 90 days prior to the date the application is received by the Office of Financial Regulation, and if available, audited financial statements for the immediately preceding 2-year period. In cases where the applicant is a wholly owned subsidiary of another corporation, the parent's consolidated audited financial statements may be submitted to satisfy this requirement. If the date of the application is more than 90 days after the applicant's fiscal year-end audited financial statements, the applicant shall file unaudited financial statements reviewed by an independent certified public accountant dated within 90 days of the date of the application, together with the audited financial statements for the most recent fiscal year. If the applicant has been in business less than 12 months, and has not prepared an audited financial statement, the applicant may file unaudited financial statements reviewed by an independent certified public accountant.~~

~~(b) An existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, controlling shareholder, and responsible person shall review and attest to the accuracy of the forms submitted on his or her behalf.(4)(a) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, and all controlling shareholders shall complete the Biographical Summary in Form OFR-560-01, which is incorporated by reference in subsection (3). If any of the foregoing individuals are non-U.S. Citizens, Addendum (1) to the Biographical Summary shall also be completed and filed.~~

~~(5) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, and all controlling shareholders, unless exempt under Section 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL922720Z), effective 7/15/07, which is hereby incorporated by reference, accompanied by a nonrefundable \$42.25 processing fee. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.~~

~~(6) Confidential Information. All information contained in applications filed with the Office of Financial Regulation shall be open for public inspection, with the exception of information specifically made confidential by statute.~~

~~(2)(7) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to provide all information respond within forty-five (45) days from the date of the request will result in the Office denying the application, shall be grounds for the Office of Financial Regulation to deny the application for failure to complete the application and the application may be denied pursuant to Section 120.60(1), F.S.~~

~~(8) Refunds. If the application is withdrawn or denied, all fees are nonrefundable.~~

~~(3)(9) Withdrawal of Application. An application may be withdrawn if the applicant submits a written request for same that is approved by the Office of Financial Regulation before the application is approved or denied.~~

~~(4)(10)(a) Amendments to Pending Applications. Amendment of Application. If the information contained in any application form for licensure a registration as a money services business money transmitter, or in any amendment thereto, becomes inaccurate for any reason, the applicant registrant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C. subsection (3).~~

~~(b) Provided the Office of Financial Regulation has not already docketed a Notice of Intent to Deny the Application, an applicant may amend the application after receiving written permission from the Office of Financial Regulation following the Office of Financial Regulation's review of and determination that the applicant's written request to amend:~~

- ~~1. Promotes the safe and sound conduct of the applicant;~~
- ~~2. Maintains public confidence in the applicant and the money transmitter industry;~~
- ~~3. Protects the interests of the public in the money transmitter system;~~
- ~~4. Deters the use of the applicant and the money transmitter system as a vehicle for money laundering; and~~
- ~~5. May not be denied pursuant to paragraph (c), if the request to amend makes a material change to the application.~~

~~(c) A request to amend which makes a material change to the application or to the Office of Financial Regulation's evaluation of the application is a violation of subsection (7) and the Office of Financial Regulation shall deny the application in accordance with Section 560.114(1)(a), F.S., unless the applicant has made a good faith effort to comply with the statutory requirements of Chapter 560, F.S., and the rules of this chapter. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior~~

written permission from the Office. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will be deemed by the Office to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

- ~~(a)1. Changes in net worth;~~
- ~~(b)2. The substitution or addition of a director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, responsible person, or controlling shareholder;~~
- ~~3. Change in registration;~~
- ~~4. Any change requiring additional information or documentation than that which is or will be furnished by the applicant in the request to amend; and~~
- ~~(c)5. Any change relating to the bond or collateral security item;~~
- ~~(d) A change to a response to the disclosure questions listed in section 6 on Form OFR-560-01; and~~
- ~~(e) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-560-01.~~

~~(d) When the Office of Financial Regulation grants a request to amend which makes a material change to the application, the amended application shall be treated as a new application with respect to the applicable rules of this chapter, except that no additional filing fee shall be required, unless the material change upgrades the filing from a Part III applicant to a Part II applicant or there is a change in the applicant or the applicant's corporate structure.~~

Effective Date: 1/1/2009

Specific Authority 215.405, 560.105, 560.118, 560.209, 560.403
~~560.105, 560.118(2), 560.205(1), (2), 560.209(2)(a), 560.403(1) FS.~~
 Law Implemented ~~215.405, 560.102, 560.118, 560.140, 560.141,~~
~~560.143, 560.1235, 560.129, 560.204, 560.205, 560.209, 560.303,~~
~~560.303(1), 560.305, 560.306, 560.307, 560.403 FS.~~ History—New
 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.102,
 Amended 7-15-07, 6-17-08, 1-1-09.

69V-560.103 Definitions.

For the purposes of this chapter, the following definitions shall apply:

- ~~(1) "Agent" means an authorized vendor, as that term is defined in Section 560.103(2), F.S.~~
- ~~(2) "Applicant," with respect to the initial application for registration, means the corporation, partnership, association, individual, trust, or other group however organized, on behalf of which the application is being filed. For purposes of renewal, the "Applicant" is the registrant authorized by the Office of Financial Regulation to operate pursuant to Chapter 560, F.S.~~

(3) "Audited Financial Statements" shall be defined as those financial statements prepared by an independent certified public accountant, and shall include at least the following information:

(a) Date of report, manual signature, city and state where issued, and identification with detailed enumeration the financial statements and schedules covered by the report;

(b) Representations as to whether the audit was made in accordance with generally accepted auditing standards and designation of any auditing procedures deemed necessary by the accountant under the circumstances of the particular case which may have been omitted, and the reason for their omission; nothing in this rule however shall be construed to imply authority for the omission of any procedure which independent accountants would ordinarily employ in the course of an audit for the purpose of expressing the opinions required under this rule;

(c) Statements of the opinion of the accountant in respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected therein, and as to the consistency of the application of the accounting principles and practices reflected therein, and as to the consistency of the application of the accounting principles, or as to any changes in such principles which would have a material effect on the financial statements;

(d) Any matters to which the accountant takes exception shall be clearly identified, the exception thereto specifically and clearly stated, and, to the extent practicable, the effect of each such exception on the related financial statements given.

(4) "Controlling shareholder" means any individual who exercises control as defined by Section 560.127, F.S.

(5) "Correspondent" means the individual designated by the existing or proposed Board of Directors, or other authorized party, to act on its behalf in all matters required to process the application.

(1)(6) "Financial Statements" shall be defined as those reports, schedules and statements, prepared in accordance with United States Generally Accepted Accounting Principles, which contain at least the following information:

(a) Statement of Financial Condition (Balance Sheet);

(b) Statement of Income;

(c) Statement of Cash Flows; and

(d) Statement of Changes in Stockholders' Equity.

(2) "FinCEN" means the Financial Crimes Enforcement Network of the United States Treasury Department.

(3) "Holiday" means such days as are designated by Section 110.117, F.S.

(4) "Quarter" and "quarterly" mean March 31, June 30, September 30, and December 31 of each calendar year.

(7) "Individual" means a natural person.

(8) "Location" means a branch of the registrant or an authorized vendor where business activity regulated by Chapter 560, F.S., occurs.

(9) "Money transmitter" means any person located in or doing business in this state that acts as or performs the activities of a payment instrument seller, foreign currency exchanger, check casher, funds transmitter, or deferred presentment provider.

(10) "Person" means any individual, corporation, partnership, association, trust, or other group, however organized.

(11) "Publicly Traded" means that the stock is currently traded on a national securities exchange registered with the U.S. Securities and Exchange Commission or traded on an exchange in a country other than the United States regulated by a regulator with equivalent authority and power as the U.S. Securities and Exchange Commission and the disclosure and reporting requirements of such regulator are substantially similar to those of the U.S. Securities and Exchange Commission.

(12) "Registrant" means a person registered by the Office of Financial Regulation pursuant to Part II or Part III of the Money Transmitters' Code.

(13) "Responsible person" means any individual who has principal active management authority over the business as defined by Section 560.103(18), F.S.

(14) "Unaudited Financial Statements" shall be defined as those financial statements prepared in accordance with United States Generally Accepted Accounting Principles and reviewed by a Certified Public Accountant, but not accompanied by the statements and representations as set forth in paragraphs (3)(b), (c), and (d) of this rule.

(15) "Holiday" means such days as are designated by Section 110.117, F.S.

(16) "Gross Income" means Gross Revenue (Sales) Cost of Goods Sold.

Effective Date: 1/1/2009

Specific Authority 560.105 560.105(2) FS. Law Implemented 560.103, 560.118, 560.140, 560.141, 560.205 560.118(2), 560.205(3), (4), 560.208 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.103, Amended 9-14-04, 7-15-07, 1-1-09.

69V-560.104 Application Fees.

(1) An initial application for registration as a funds transmitter or payment instrument seller shall be accompanied by a nonrefundable application fee of \$500.00.

(2) An initial application for registration as a check casher or foreign currency exchanger shall be accompanied by a nonrefundable application fee of \$250.00.

(3) Each initial application shall also be accompanied by a \$50.00 nonrefundable fee for each proposed location or authorized vendor, excluding applicant's primary business location, from which the applicant proposes to conduct business.

~~(4) Each initial application shall include a \$1,000.00 nonrefundable "Declaration of Intent to Engage in Deferred Presentment Transactions" fee from any applicant who is proposing to engage in the business of a deferred presentment provider.~~

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.205(2), 560.306, 560.307, 560.403 FS. History--New 9-24-97, Amended 11-4-01, Formerly 3C-560.104, Amended 7-15-07, Repealed 1-1-09.

69V-560.105 Regulatory Standards for Evaluating Applications.

~~(1) When an application to register as a money transmitter is filed with the Office of Financial Regulation, it is the applicant's responsibility to prove that the statutory criteria warranting the grant of registration are met. The Office of Financial Regulation shall conduct an investigation pursuant to Section 560.205, 560.206, or 560.306, F.S., as applicable. The Office of Financial Regulation shall deny applications in accordance with Section 560.114, F.S.~~

~~(2) The Office of Financial Regulation shall conduct background investigations on the responsible person who will be in charge of all the applicant's business activities in this state and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, member, partner, joint venturer, and all controlling shareholders to determine whether the qualifications and requirements for registration have been met.~~

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.109, 560.114, 560.205, 560.206, 560.306 FS. History--New 9-24-97, Amended 11-4-01, Formerly 3C-560.105, Amended 7-15-07, Repealed 1-1-09.

69V-560.107 Registration of Locations and Appointment of Authorized Vendors.

(1) Every licensee registrant that commences operations at locations other than the main office or through authorized vendors in this state shall:

(a) File a completed Form OFR-560-02 (Location Notification Form) for each location, which must be received by the Office of Financial Regulation within sixty (60) calendar days from the date that a location opens or an authorized vendor commences operations on behalf of the licensee registrant;

(b) Submit the non-refundable branch office or appointment fee as prescribed in Section 560.143, F.S. Submit the required \$50 fee for each location.

(2) Every licensee registrant shall be responsible for filing a completed Form OFR-560-02 within sixty (60) calendar days from the date that a location closes or authorized vendor either ceases operation or has its authority to act on the licensee registrant's behalf terminated by such licensee registrant.

For purposes of this section the sixty (60) day period referenced in subsections (1) and (2) above is solely for the filing of the required form and payment of the required nonrefundable fee. A licensee registrant must file Form OFR-560-02 and pay the required fee for all locations of the licensee registrant and authorized vendors that commence operations on behalf of the licensee registrant. If the licensee registrant for any reason closes a location or terminates the relationship with such authorized vendor within the first sixty (60) days, it will not relieve the licensee registrant of the obligation to comply with the provisions of this subsection. Form OFR-560-02 is incorporated by reference in Rule 69V-560.1012, F.A.C. subsection 69V-560.102(3), F.A.C.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.141, 560.2085 560.105(3), 560.208(3) FS. Law Implemented 560.205, 560.141, 560.208, 560.2085, 560.307 FS. History--New 11-4-01, Formerly 3C-560.107, Amended 7-15-07, 1-1-09.

69V-560.108 Declaration of Intent to Engage in Deferred Presentment Transactions.

(1) A person who seeks to act as a deferred presentment provider as defined in Section 560.402, F.S., shall:

(a) Be licensed registered pursuant to Part II or Part III of Chapter 560, F.S., and must at all times thereafter remain licensed registered pursuant to Part II or Part III; and

(b) Submit a completed Form OFR-560-03 (Declaration of Intent to Engage in Deferred Presentment Transactions) together with the required nonrefundable fee for deferred presentment providers.

(2) A licensee registrant may not convey authority to an authorized vendor to engage in deferred presentment transactions on behalf of the licensee registrant.

~~(3) A registrant shall terminate authority to engage in deferred presentment transactions by submitting Form OFR-560-03 (Declaration of Intent to Engage in Deferred Presentment Transactions) within 30 days of the registrant ceasing deferred presentment transactions.~~

~~(3)(4) Form OFR-560-03 (Declaration of Intent to Engage in Deferred Presentment Transactions) is incorporated by reference in Rule 69V-560.1012, F.A.C. subsection 69V-560.102(3), F.A.C.~~

Effective Date: 1/1/2009

Specific Authority 560.105, 560.126, 560.105(3), 560.403, 560.404 FS. Law Implemented 560.403, 560.404 FS. History--New 11-4-01, Formerly 3C-560.108, Amended 7-15-07, 1-1-09.

69V-560.201 Requirements.

(1) Where a person or group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a money services business licensee money transmitter registrant, such person or group shall file with the Office no later than thirty (30) days

prior to the date of such acquisition, a new application pursuant to Rule 69V-560.102, F.A.C., together with all required exhibits and fees. Additionally, the applicant shall file with the Office at the time the new application is filed, a notice of termination of licensee registration of the acquired entity on Form OFR-560-01, effective upon disposition of the new application by the Office. Form OFR-560-01 is incorporated by reference in Rule 69V-560.1012, F.A.C. subsection 69V-560.102(3), F.A.C.

(2) A licensee registrant required to file a new application as a result of an acquisition of a controlling interest pursuant to Section 560.126(2), F.S., must also file new location forms (Form OFR-560-02) and applicable fees up to a maximum of \$20,000 for all existing locations on file with the Office office at the time of filing the new application in subsection (1) and a Declaration of Intent to Engage in Deferred Presentment Transactions (Form OFR-560-03) and applicable fee if currently engaged in deferred presentment transactions ~~Deferred Presentment Transactions~~. Forms OFR-560-02 and OFR-560-03 are incorporated by reference in Rule 69V-560.1012, F.A.C. subsection 69V-560.102(3), F.A.C.

(3) The Office office shall waive the requirement for a licensee registrant to file a new application pursuant to Section 560.126(2), F.S.:

(a) When a person or group of persons proposing to purchase or acquire a controlling interest in a licensee registrant has previously complied with the applicable provisions of Sections 560.140 and 560.141, F.S. ~~filed the information required in Sections 560.205 and 560.306, F.S., concerning with a money services business money transmitter~~ currently licensed registered with the Office office, provided that such person is currently affiliated with the money services business money transmitter; or

(b) When the acquirer is currently licensed registered with the Office office as a money services business money transmitter.

Effective Date: 1/1/2009

Specific Authority 215.405, 560.105, 560.126 560.105(3), 560.123(2) FS. Law Implemented 215.405, 560.126, 560.127, 560.143, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307 FS. History—New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.201, Amended 7-15-07, 1-1-09.

69V-560.302 Renewal Fees, Deadlines, and Requirements.

(1) Chapter 560 licenses must be renewed in accordance with the provisions of Section 560.142, F.S.

(2) If any date established in accordance with Section 560.142, F.S., falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the required renewal fees and any applicable late fees must be received by the Office by the close of business on the next business day.

~~(a) Payment Instrument Seller or a Funds Transmitter (Part II registrant): Registrations issued to Part II registrants shall remain effective through April 30 of the second year following the date of issuance of the registration, not to exceed 24 months, unless during such period the registration is surrendered, suspended, or revoked.~~

~~(b) A renewal of a funds transmitter or payment instrument seller registration (Part II registrant) shall include a nonrefundable renewal fee of \$1,000.00, plus \$50.00 for each location being renewed, including branch offices and authorized vendors, operating within this state, or a total 2 year nonrefundable renewal fee of \$20,000.00 to renew all such locations operating within this state. The \$50.00 location renewal fee shall not apply to the registrant's primary business address.~~

~~(c) All renewal fees for Part II licensee registrants must be received by the office on or before the expiration date of April 30. If the renewal fees are received within 60 calendar days after the expiration date of an existing license registration, the renewal fees must be accompanied by a nonrefundable late fee of \$500.00. If the registrant has not filed the requisite renewal fees and late fees within 60 calendar days after the expiration date of an existing registration, the registration shall expire and a new application must be filed pursuant to Section 560.205, F.S.~~

~~(2)(a) Check Cashier or Foreign Currency Exchanger (Part III registrant): Licenses Registrations issued to Part III licensee registrants shall remain in effect through the remainder of the second calendar year (December 31) following the date the registration was issued. Thereafter, renewals are issued for a 24-month period from December 31 of the year the registration or renewal expires, unless during such period the registration is surrendered, suspended, or revoked.~~

~~(b) A renewal of a check cashier or foreign currency exchanger registration (Part III registrant) shall include a nonrefundable renewal fee of \$500.00, plus \$50.00 for each location being renewed, including branch offices and authorized vendors, operating within this state, or a total 2 year nonrefundable renewal fee of \$20,000.00 to renew all such locations operating within this state. The \$50.00 location renewal fee shall not apply to the registrant's primary business address.~~

~~(c) All renewal fees for Part III licensee registrants must be received by the office on or before the expiration date of December 31 of that year. If the renewal fees are received within 60 calendar days after the expiration date of an existing registration, the renewal fees must be accompanied by a nonrefundable late fee of \$250.00. If the registrant has not filed the requisite renewal fees and late fees within 60 calendar days after the expiration date of an existing registration, the registration shall expire and a new application must be filed pursuant to Section 560.307, F.S.~~

~~(3)(a) Deferred Presentment Providers (Part IV): The "Declaration of Intent to Engage in Deferred Presentment Transactions" shall expire concurrently with the registrant's Part II or Part III registration. A registrant who intends to continue to engage in deferred presentment transactions must concurrently renew their registration pursuant to Part II or Part III in order to remain qualified to act as a deferred presentment provider. A declaration of intent nonrefundable renewal fee of \$1,000 must be received by the Office on or before the expiration date of the registrant's Part II or Part III registration.~~

~~(b) If the declaration of intent renewal fee is received within 60 calendar days after the expiration of the registrant's Part II or Part III registration, the declaration of intent renewal fee must be accompanied by a nonrefundable late fee of \$500.00 in order for the declaration of intent to be reinstated. If the registrant has not filed the requisite declaration of intent renewal fee and late fee within 60 calendar days after the expiration date of the registrant's Part II or Part III registration, the declaration of intent shall expire and a new declaration must be filed pursuant to Section 560.403, F.S.~~

~~(4) If any date in this rule falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the required renewal fees and any applicable late fees must be received by the Office of Financial Regulation by the close of business on the next business day.~~

~~Effective Date: 1/1/2009~~

~~Specific Authority 560.105 560.105(3) FS. Law Implemented 560.142, 560.206, 560.207, 560.308, 560.403 FS. History--New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.302, Amended 7-15-07, 1-1-09.~~

~~69V-560.401 Scope.~~

~~These rules contain the requirements concerning a registrant's, or a proposed registrant's, corporate surety and net worth. Only Part II Registrants (payment instrument sellers or funds transmitters) are required to post a bond or collateral deposit and to maintain a minimum net worth.~~

~~Effective Date: 1/1/2009~~

~~Specific Authority 560.105(3) FS. Law Implemented 560.209 FS. History--New 9-24-97, Formerly 3C-560.401, Repealed 1-1-09.~~

~~69V-560.402 Bond.~~

~~(1) No registration shall be issued until an acceptable corporate surety bond, collateral deposit or combination thereof has been deposited with the Office of Financial Regulation and/or insured financial institution as specified in Section 560.209, F.S.~~

~~(2) The corporate surety bond must be issued by a bonding company or insurance company authorized to do business in this state. The originally executed Form OFR 560-06, Money Transmitter Surety Bond Form, effective 7/15/07, which is~~

hereby incorporated by reference, shall be maintained on file with the Office at all times. The bond form must be executed by the bonding company and the applicant.

~~(3) All items pledged in lieu of a corporate surety bond must be held or deposited at a federally insured financial institution as defined by Section 655.005(1)(h), F.S. The originally executed Form OFR 560-05, Pledge Agreement, effective 7/15/07, which is hereby incorporated by reference, shall be maintained on file with the Office at all times. The Pledge Agreement must be executed by the federally insured financial institution and the applicant.~~

~~(4)(a) Items eligible to be pledged to the Office of Financial Regulation in lieu of a corporate surety bond are limited to those items specified in Section 560.209(3)(a), F.S., and letters of credit issued by financial institutions with deposit insurance from the Federal Deposit Insurance Corporation.~~

~~(b) For purposes of Section 560.209(3), F.S., the term "interest-bearing stock" means preferred stock.~~

~~(5)(a) The amount of the surety bond, collateral deposit, or combination thereof shall under no circumstances be for an amount less than \$50,000. The amount of the surety bond or collateral deposit shall not exceed \$250,000 except as provided in paragraph (b). The amount of the surety bond shall be calculated based upon 2% of the applicant's projected total U.S. dollar volume of transactions for the first year of operation in accordance with the table below. Thereafter a registrant shall calculate annually the required amount of their surety bond based upon 2% of the registrant's total U.S. dollar volume of transactions for the preceding 12 month period in accordance with the table below.~~

~~7~~

2% of U.S. dollar volume	Required amount of security device
\$0—\$50,000	\$50,000
\$50,001—\$100,000	\$100,000
\$100,001—\$150,000	\$150,000
\$150,001—\$200,000	\$200,000
\$200,001—\$499,999	\$250,000

~~(b) In accordance with paragraph 560.209(2)(a), F.S., the amount of the surety bond, collateral deposit, or combination thereof shall be \$500,000 under the following extraordinary circumstances. For the purposes of this rule, "extraordinary circumstances" means:~~

~~1. If the registrant's total U.S. dollar volume of transactions for the preceding 12 month period exceeds \$25,000,000; or,~~

~~2. If the total number of active locations/vendors as determined in paragraph (6)(b) of this rule is greater than 250.~~

(6)(a) For purposes of compliance with the provisions of this rule, a registrant shall calculate the amount of their surety bond, collateral deposit, or combination thereof in accordance with subsection (5) of this rule each December 31st for the preceding 12 months.

(b) For purposes of compliance with subparagraph (5)(b)2. of this rule the number of active locations/vendors shall be the number of branches in operation and the number of vendors currently under contract with the registrant on December 31st.

(1)(7) After completing one full year of licensure registration, each licensee registrant shall annually file on Form OFR-560-07, Security Device Calculation Form, which is incorporated by reference in Rule 69V-560.1012, F.A.C., with the Office by revised 7/15/07, which is hereby incorporated by reference and available on the Office website at www.flofr.com and by mail at the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376, the required information regarding the licensee's registrant's amount of surety bond, collateral deposit, or combination thereof as prescribed in subsection (5) of this rule not later than January 31st of each calendar year for the preceding calendar year. If based on the licensee's registrant's calculation, the amount of the device must be increased, the licensee registrant shall provide to the Office an additional surety bond, surety rider for an existing bond, collateral deposit pledge agreement or combination thereof reflecting the amount required no later than sixty (60) days following the deadline to file Form OFR-560-07, Security Device Calculation Form.

(8) The bond, collateral deposit or combination thereof shall remain in place for 5 years after the registrant ceases operations in this state. The security shall be reduced or eliminated prior to that time upon written approval, if the Office of Financial Regulation determines that the registrant's outstanding payment instruments or funds transmitted in this state have been paid or reduced and that such lesser amount adequately protects the interests of the public.

(9) A registrant must at all times have and maintain the bond, collateral deposit or combination thereof in the amount prescribed by the Office of Financial Regulation. If the Office of Financial Regulation at any time reasonably determines that the bond or elements of the collateral deposit are insecure, deficient in amount, or exhausted in whole or in part, the Office of Financial Regulation shall, by written order, require the filing of a new or supplemental bond or the deposit of new or additional collateral deposit items.

(10) All forms incorporated by reference in this rule are available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Effective Date: 1/1/2009

Specific Authority ~~560.105, 560.209~~ ~~560.105(3), 560.209(2)(a)~~ FS. Law Implemented ~~560.207, 560.209~~ FS. History-New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.402, Amended 7-15-07, 1-1-09.

69V-560.403 Net Worth.

Any person engaging in a licensed registered activity under Part II of Chapter 560, F.S. shall meet the net worth stated in Section 560.209(1), F.S. Upon the Office's of Financial Regulation's request, a person must fully support, through items including, but not limited to, appraisals, receipts, titles, or bank account statements, the value or ownership they have assigned to an asset(s).

Effective Date: 1/1/2009

Specific Authority ~~560.105~~ ~~560.105(3)~~ FS. Law Implemented 560.209(1) FS. History-New 9-24-97, Formerly 3C-560.403, Amended 1-1-09.

69V-560.501 Scope.

The Office of Financial Regulation shall conduct regular periodic examinations of a money transmitter or authorized vendor with at least 15 days prior notice. Whenever the Office of Financial Regulation has reason to believe that a money transmitter or authorized vendor is engaging in an unsafe or unsound practice or has violated or is violating any provision of the Money Transmitter Code, the Office of Financial Regulation shall conduct an examination without providing advance notice if the Office of Financial Regulation determines that an examination is necessary to determine the condition of the money transmitter or to determine the degree of noncompliance.

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.118 FS. History-New 9-24-97, Formerly 3C-560.501, Repealed 1-1-09.

69V-560.504 Reimbursement Rates for Examinations Conducted by the Office.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by Office examiners under Sections 560.1091 and 560.1092, F.S.

(2) Fees for examiner time shall be calculated based on the direct compensation of the examiner conducting the examination. Rates will be assessed by examiner classification and shall be charged at the following rates:

- (a) Financial Examiner/Analyst I \$28 per hour.
- (b) Financial Examiner Analyst II \$30 per hour.
- (c) Financial Specialist \$34 per hour.
- (d) Financial Control Analyst \$35 per hour.
- (e) Financial Examiner Analyst Supervisor \$37 per hour.
- (f) Area Financial Manager and above \$42 per hour.

(3) Examiner per diem and other travel expense shall be charged in accordance with Section 112.061, F.S.

(4) Fees for administrative support staff providing clerical or research work in connection with the examination will be calculated at the rate of \$12.00 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days from the date of the invoice to remit payment for invoiced expenses to the Office.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History–New 1-1-09.

69V-560.505 Reimbursement Rates for Examinations Conducted by a Third Party.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by third party contractors under Sections 560.1091 and 560.1092, F.S. Rates will be the direct charges billed to the Office by the third party contractor. Such rates will be established by contract with the Office.

(2) The Office shall select third party contractors from the list of persons or firms who are qualified by the Department of Management Services to render "Financial and Performance Audit Services" under State of Florida Contract #973-001-06-1, which is hereby incorporated by reference.

(3) Licensees will be charged for the third party contractor's actual and reasonable per diem and other travel costs. Per diem and other travel costs shall not, without prior written approval of the Office, exceed:

(a) Fifty-eight and one-half cents per mile.

(b) Maximum per diem rates for domestic travel approved by the United States General Services Administration for Florida for Fiscal Year 2009, which may be found at www.gsa.gov/perdiem and are hereby incorporated by reference.

(4) Licensees will also be billed for administrative support and research directly related to the examination. Such work will be performed by administrative support staff of the Office and shall be charged at rate of \$12 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days after the date of the invoice to remit payment for invoiced expenses to the Office.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History–New 1-1-09.

69V-560.601 Definitions.

As used in this section, the following definitions shall apply:

(1) "Quarter" and "quarterly" mean March 31, June 30, September 30, and December 31 of each calendar year.

(2) "Forty-five (45) days after the conclusion of each quarter" means the end of business on the forty-fifth day after the last calendar day of each calendar quarter.

(3) "Holiday" means such days as are designated by Section 110.117, F.S.

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.118(2) FS. History–New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.601, Repealed 1-1-09.

69V-560.602 Quarterly Reports.

Every ~~money services business~~ ~~money transmitter~~ ~~licensed registered~~ pursuant to ~~Chapter 560, F.S., the Code~~ shall submit a quarterly report to the Office of Financial Regulation by filing a completed Form OFR-560-04, Money Services Business Transmitter Quarterly Report Form, effective 7/15/07, which is hereby incorporated by reference in Rule 69V-560.1012, F.A.C. and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. A completed quarterly report form shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a Saturday, Sunday or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period set forth in this rule defined in subsection (1).

Effective Date: 1/1/2009

Specific Authority 560.105, 560.118 ~~560.105(3), 560.118(2)(b)~~ FS. Law Implemented 560.118(2) FS. History–New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.602, Amended 7-15-07, 1-1-09.

69V-560.606 Annual Filing of Financial Audit Reports Statements by Part II Licensees Registrants.

(1)(a) Each ~~licensed registered funds~~ ~~money transmitter~~ and payment instrument seller shall annually submit audited financial audit reports statements to the Office of Financial Regulation in accordance with Section 560.209(2), F.S., for the licensee's ~~registrant's~~ most recent fiscal year.

(b) ~~Each registered payment instrument seller shall annually submit audited financial statements to the Office of Financial Regulation for the registrant's most recent fiscal year unless it is exempt pursuant to Section 560.118(2)(a), F.S. Any registrant claiming such exemption shall submit such claim in writing on Form OFR 560-08, Money Transmitter Audited Financial Statement Exemption Claim Form, effective 7/15/07, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail at the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. The claim shall be executed by the registrant or an officer of the registrant under penalty of perjury. The exemption shall be valid for the current fiscal year only, and must be resubmitted each year by the registrant.~~

(c) ~~Any payment instrument seller exempted from the requirement to submit audited financial statements shall file unaudited financial statements reviewed by a certified public accountant.~~

(2) Annual financial audit reports statements must be received by the Office of ~~Financial Regulation~~ within one hundred twenty (120) ~~ninety (90)~~ days after of the licensee's registrant's fiscal year end.

(3) ~~The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due.~~ A report is "past due" if it is received by the Office of ~~Financial Regulation~~ one or more days beyond the period defined in subsection (2).

(4) For purposes of adding new locations or authorized vendors, a Part II licensee registrant may rely upon its annual financial audit reports statements that were received by the Office of ~~Financial Regulation~~ in a timely manner as required in subsections (1) and (2) of this rule. The Office of ~~Financial Regulation~~ reserves the right to require additional documentation up to and including the submission of interim financial statements to substantiate the licensee's net worth.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.118, 560.205 560.105(3), 560.118(2)(a), 560.205(3)(f), (4)(d) FS. Law Implemented 560.118, 560.118(2); 560.205, 560.208 FS. History-New 11-4-01, Formerly 3C-560.606, Amended 7-15-07, 1-1-09.

69V-560.608 Currency Transaction Report Filings.

Currency Transaction Reports, required by Section 560.123, F.S., must be filed with FinCEN using FinCen Form 104, which is incorporated by reference in Rule 69V-560.1012, F.A.C. Reports filed in this manner shall be deemed to have also been filed with the Office.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.123 FS. Law Implemented 560.123, 560.1235 FS. History-New 1-1-09.

69V-560.609 Suspicious Activity Report Filings.

Pursuant to Sections 560.1235 and 560.309(5), F.S., payment instrument sellers, foreign currency exchangers, check cashers, and money transmitters shall file Suspicious Activity Reports with FinCen on FinCEN Form 109 Suspicious Activity Report by Money Services Business, which is incorporated by reference in Rule 69V-560.1012, F.A.C. Reports filed with FinCEN shall be deemed to have also been filed with the Office.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.309 FS. Law Implemented 560.1235, 560.309 FS. History-New 1-1-09.

69V-560.610 Report of International Transportation of Currency or Monetary Instruments.

Pursuant to Section 560.1235, F.S., all money services businesses shall file with FinCEN using a Report of International Transportation of Currency or Monetary Instruments, electronically or in paper form, on FinCEN Form

105, which is incorporated by reference in Rule 69V-560.1012, F.A.C., not later than 15 calendars days from the date of the transaction.

Effective Date: 1/1/2009

Specific Authority 560.105 FS. Law Implemented 560.1235 FS. History-New 1-1-09.

69V-560.701 General.

~~Each money transmitter shall maintain records required in Sections 560.211(1) and 560.310(1), F.S., and Rules 69V-560.702-.705, F.A.C., for at least 3 years, unless a longer period of time is required by federal or state law or regulations. Any readily accessible and retrievable form is acceptable, in lieu of maintaining original documents.~~

Effective Date: 1/1/2009

Specific Authority 560.105(3) FS. Law Implemented 560.211, 560.310 FS. History-New 9-24-97, Formerly 3C-560.701, Repealed 1-1-09.

69V-560.702 Payment Instrument Sellers.

(1) A payment instrument seller shall maintain records of the following information, which must be obtained for each issuance or sale of a payment instrument, regardless of the amount:

(a)(1) The date of purchase;

(b)(2) The serial number(s) or confirmation number of the payment instrument(s) purchased; and

(c)(3) The amount in dollars of each of the instruments purchased, and

(4) A general ledger containing all assets, liabilities, capital, income, and expense accounts. The general ledger shall be updated at least monthly.

(2) For all transactions that exceed \$3,000, the payment instrument seller shall also obtain and record the information required by 31 C.F.R. 103.29(a)(2), as it existed on September 4, 2008. For purposes of this section multiple payment instruments purchased in one or more transactions on a single day shall be aggregated.

(3) Every payment instrument seller shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.

(4) Every payment instrument seller shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. The policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:

(a) Chapter 560, F.S.

(b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.

(c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, as these regulations existed on September 4, 2008.

(d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).

(e) Sections 817.568 and 817.5681, F.S. regarding fraudulent use of personal information and breaches of information security.

(5) Every payment instrument seller shall maintain individual files for each authorized vendor that document the establishment and termination of these relationships. The file shall include, but not be limited to:

(a) Written contract between the payment instrument seller and authorized vendor Section 560.2085, F.S.:

(b) Subpoenas, warrants, and other requests from regulatory, law enforcement, or prosecutorial agencies;

(c) Records related to training as required by 31 C.F.R. Section 103.125, as it existed on September 4, 2008; and

(d) Suspicious Activity Reports filed by or on the authorized vendor and such records as are necessary to document the basis for the filing of such report.

(6) Records of all payment instrument sales shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

(7) All federal laws and regulations referenced in this rule are hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.2085 560.105(3) FS. Law Implemented 560.1235, 560.2085, 560.211 FS. History—New 9-24-97, Formerly 3C-560.702, Amended 1-1-09.

69V-560.703 Money Transmitters Funds Transmitters.

(1) A ~~money funds~~ transmitter shall maintain records of the following information ~~for all inbound and outbound transmissions~~, which must be obtained for each ~~money funds~~ transmission, regardless of the amount:

(a)(1) The name and address of the ~~sender customer~~;

(b)(2) A numbered receipt ~~or confirmation number~~ for each transaction;

(c)(3) The address of the ~~location or foreign affiliate office~~ where the transaction was conducted;

(d)(4) The name and address of the beneficiary or recipient;

(e)(5) Any instructions or messages relating to the transmission; ~~and~~

(f)(6) The method of payment (e.g., currency, check, credit card, etc.);

(g) Transaction date;

(h) Time of the transaction;

(i) Transaction amount in U.S. Dollars;

(j) Fees charged;

(j) Authorized vendor name; and

(k) Authorized vendor/foreign affiliate code/identifier as assigned by the licensee.

(2) For all transactions that exceed \$3,000, the money transmitter shall, in addition to the items in subsection (1), obtain and record:

(a) Social security number, passport number, or alien registration of the sender;

(b) Name and account number of recipient's financial institution, if applicable; and

For purposes of this subsection multiple payment instruments purchased in one or more transactions on a single day shall be aggregated.

(c) Sender's photo identification number, type, and state/country of issuance.

(3) Every money transmitter shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.

(4) Every money transmitter shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. These policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:

(a) Chapter 560, F.S.

(b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.

(c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, as these regulations existed on September 4, 2008.

(d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).

(e) Sections 817.568 and 817.5681, F.S. regarding fraudulent use of personal information and breaches of information security.

(5) Every money transmitter shall maintain individual files for each authorized vendor/foreign affiliate that document the establishment and termination of these relationships. The file shall include, but not be limited to:

(a) Written contract between the money transmitter and authorized vendor Section 560.2085, F.S.:

(b) Subpoenas, warrants, and other requests from regulatory, law enforcement, and prosecutorial agencies;

(c) Records related to training as required by 31 C.F.R s. 103.125, as it existed on September 4, 2008; and

(d) Suspicious Activity Reports filed by or on the Authorized Vendo/Foreign Affiliate and such records as are necessary to document the basis for the filing of such report.

(6) Records of all money transmissions shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

Effective Date: 1/1/2009

Specific Authority ~~560.105~~ ~~560.105(3)~~ FS. Law Implemented 560.211 FS. History—New 9-24-97, Formerly 3C-560.703, Amended 1-1-09.

69V-560.704 Records to be Maintained by Check Cashers.

(1) For purposes of this rule the term:

(a) “Corporate payment instrument”, as referenced in Section 560.310(1), F.S., means a payment instrument on which the payee named on the face of the payment instrument is not a natural person.

(b) “Conductor” means a natural person who presents a payment instrument to a check casher for the purpose of receiving currency.

(c) “Customer file” in regard to a “corporate payment instrument” means the corporate entity shown as payee. In regard to “third-party payment instruments”, the term “customer file” means the individual negotiating the payment instrument.

(d) “Dormant customer” shall include any customer who has not transacted business with the licensee within the past 180 days.

(e) “Third-party payment instrument”, as referenced in Section 560.310(1), F.S., means a payment instrument being negotiated by a party other than the payee named on the face of the payment instrument.

(2)(1) Every check casher shall maintain legible records of all payment instruments cashed. The records shall include the following information with respect to each payment instrument accepted by the registrant:

(a) ~~The name of the maker; A copy of all payment instruments accepted and endorsed by the licensee to include the face and reverse (front and back) of the payment instrument. Copies shall be made after each payment instrument has been endorsed with the legal name of the licensee. Endorsements on all payment instruments accepted by the check casher shall be made at the time of acceptance.~~

(b) ~~The address of the maker;~~

(c) ~~The date appearing on the payment instrument;~~

(d) ~~The amount of the payment instrument;~~

(e) ~~The check number of the payment instrument accepted;~~

(b)(f) ~~The fee charged to cash the payment instrument;~~

(c)(g) ~~The verification fee, if any, imposed on the customer; and~~

(h) ~~A line item description of the steps taken to verify the customer’s identity.~~

(3)(2) ~~The following additional information shall be maintained:~~

(a) ~~Records relating to all returned payment instruments that shall include, if known, the following:~~

1. ~~A copy, face and reverse (front and back), of all returned payment instruments; The date the payment instrument was returned to the registrant;~~

2. ~~The name and address of the maker;~~

3. ~~The check number of the payment instrument accepted;~~

4. ~~The amount of the returned payment instrument;~~

2.5. ~~The date of deposit by the licensee registrant;~~

3. ~~The date the payment instrument was returned to the licensee;~~

4.6. ~~The NSF fees Documentation of all fees and charges, if any, imposed on, and paid by the customer in the collection of the returned item; and~~

5.7. ~~The date on which collection is made from the customer or charged-off by the licensee registrant; and~~

8. ~~A brief description of the method by which collection was ultimately achieved.~~

(b) ~~A daily summary of the business activities including the following documents:~~

1. ~~Bank deposit receipts;~~

2. ~~Copies of checks or withdrawal receipts evidencing withdrawal of funds from accounts maintained by the licensee registrant; and~~

3. ~~A daily cash reconciliation summarizing each day’s activities and reconciling cash on hand at the close of business. The daily cash reconciliation shall be sufficiently detailed to provide an audit trail of each day’s business activity. Where the licensee provides multiple business services through the same legal entity the daily cash reconciliation shall be maintained in such manner as to separate business activities such as check cashing.~~

(c) ~~Bank statements of the licensee registrant received and maintained no less often than monthly for all accounts from which the licensee registrant operates.~~

(d) ~~A copy of the customer’s written authorization to electronically debit the customer’s account if the registrant intends to make use of such practice.~~

(e) ~~A copy of all payment instruments accepted by the registrant. The copy of the customer’s payment instrument shall suffice as compliance with the requirements of paragraphs (1)(a) through (e) and subparagraphs (2)(a)1. through 4. of this rule. The registrant may include the reasonable cost of such photocopy as part of the verification fee allowed pursuant to Rule 69V-560.801, F.A.C., if such fee is charged to that customer.~~

(f) A photocopy of the customer's verifiable means of identification, and any other documentation the money transmitter collects from the customer in order to verify the customer's identity. The registrant shall only be required to make photocopies where a verification fee has been imposed.

(4) In addition to the records required in subsections (1) and (2), for payment instruments exceeding \$1,000.00, the check casher shall:

(a) Affix an original thumbprint of the conductor to the original of each payment instrument accepted which is taken at the time of acceptance;

(b) Secure and maintain a copy of the original payment instrument, including the thumbprint of the conductor;

(c) Secure and maintain a legible copy of the personal identification, as defined by Section 560.310(1)(b)1., F.S., presented by conductor at the time of acceptance;

(d) Create and maintain a customer file for each entity listed as the payee on corporate payment instruments and third party payment instruments accepted by the licensee. Each customer file must include, at a minimum, the following information:

1. Documentation from the Secretary of State verifying registration as a corporation or fictitious entity showing the listed officers and FEID registration number. If a sole proprietor uses a fictitious name or is a natural person, then the customer file shall include the social security number of the business owner and documentation of the fictitious name filing with the Secretary of State.

2. Articles of Incorporation or other such documentation which establishes a legal entity in whatever form authorized by law. For purposes of this rule a sole proprietor operating under a fictitious name registered with the Secretary of State shall not have to present such documentation.

3. Documentation of the occupational license from the county where the entity is located.

4. A copy of the search results screen page from Compliance Proof of Coverage Query Page webpage from the Florida Department of Financial Services – Division of Workers' Compensation website (http://www.fldfs.com/WCAPP/Compliance_POC/wPages/query.asp).

5. Documentation of individuals authorized to negotiate payment instruments on the corporation or fictitious entity's behalf including corporate resolutions or powers of attorney. Payment instruments for insurance claims where there are multiple payees shall be exempt from this provision provided that the maker of the check is an insurance company and the licensee has obtained and retained documentation as to the identity of the natural person listed as a payee on such payment instrument.

(e) Review and update all active customer files at least annually. The required review and update shall be attested to by the compliance officer or their designee, and such documentation shall be maintained within each customer's file.

For purposes of this rule it shall not be necessary to update dormant customer files. Should a customer previously identified as being dormant, resume transacting business with the licensee, the customer file information shall be updated before accepting any payment instrument.

(5)(a) In addition to the records required in subsections (1) and (2) for payment instruments \$1,000.00 or more, the check casher shall create and maintain an electronic log of payment instruments accepted which includes, at a minimum, the following information:

1. Transaction date;

2. Payor name;

3. Payee name;

4. Conductor name, if other than the payee;

5. Amount of payment instrument;

6. Amount of currency provided;

7. Type of payment instrument;

a. Personal check;

b. Payroll check;

c. Government check;

d. Corporate check;

e. Third party check; or

f. Other payment instrument;

8. Fee charged for the cashing of the payment instrument;

9. Branch/Location where instrument was accepted;

10. Identification type presented by conductor; and

11. Identification number presented by conductor.

(b) Electronic logs shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

Effective Date: 1/1/2009

Specific Authority ~~560.105~~ ~~560.105(3)~~ FS. Law Implemented 560.310 FS. History–New 9-24-97, Amended 11-4-01, Formerly 3C-560.704, Amended 1-1-09.

69V-560.705 Foreign Currency Exchangers.

(1) A foreign currency exchanger shall maintain receipts for each transaction, regardless of the amount. The receipts must include the date of the transaction, the amount and type of currency received and given in exchange.

(2) In addition to the above records, foreign currency exchangers must maintain records of the amount of each bank deposit, including currency deposited.

(3) A foreign currency exchanger shall maintain all monthly financial institution bank statements.

(4) A foreign currency exchanger shall maintain all records of purchases and sales of foreign currencies from financial institutions including dates, amounts, and rates of exchange.

Effective Date: 1/1/2009

Specific Authority 560.105 ~~560.105(3)~~ FS. Law Implemented 560.310 FS. History–New 9-24-97, Formerly 3C-560.705, Amended 1-1-09.

69V-560.706 Records to be Maintained by Authorized Vendors.

(1) Every authorized vendor of a money transmitter or payment instrument seller shall maintain at the location registered with the Office of ~~Financial Regulation~~ all records required by Sections 560.211(1) ~~and 560.310(1)~~, F.S., and Rules 69V-560.702 through 69V-560.703~~5~~, F.A.C., for at least 3 years, unless a longer period of time is required by federal or state law or regulations. Any readily accessible and retrievable form is acceptable, in lieu of maintaining original documents.

(2) Every authorized vendor of a money transmitter or payment instrument seller shall maintain at all times a copy of the written agreement between the money transmitter or payment instrument seller and the authorized vendor. It will only be necessary for the agreement to be maintained at the authorized vendor's primary business address. Such agreements shall be made available to Office of ~~Financial Regulation~~ personnel upon request.

Effective Date: 1/1/2009

Specific Authority 560.105 ~~560.105(3)~~ FS. Law Implemented 560.205, 560.211, ~~560.307~~, 560.310 FS. History–New 11-4-01, Formerly 3C-560.706, Amended 1-1-09.

69V-560.707 Records to be Maintained by Deferred Presentment Providers.

(1) Every deferred presentment provider shall maintain the following records at a location in this state which has been designated to the Office of ~~Financial Regulation~~:

(a) through (d) No change.

(e) A daily summary of the business activities including the following documents:

1. Bank deposit receipts and supporting records detailing the bank deposit;

2. Copies of checks and withdrawal receipts evidencing withdrawal of funds from accounts maintained by the provider; and

3. A daily cash reconciliation ~~reconciliation~~ summarizing each day's activities and reconciling cash on hand at the close of business.

(f) through (k) No change.

(2) No change.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404, 560.407 FS. History–New 12-17-01, Formerly 3C-560.707, Amended 9-14-04, 1-1-09.

69V-560.801 Verification Fee.

(1) In addition to the fees established in Section 560.309(8) ~~560.309(4)~~, F.S., a check casher or deferred presentment provider may collect the direct costs associated with verifying a payment instrument holder's identity, residence, employment, credit history, account status, or other necessary information, including the verification of a drawer's status on the Office of ~~Financial Regulation~~'s administered database for deferred presentment transactions prior to cashing the payment instrument or accepting a personal check in connection with a deferred presentment transaction. Such verification fee shall be collected only when verification is conducted and shall not exceed \$5.00 per transaction. For example, a check casher shall not charge a drawer more than one (1) verification fee per diem, regardless of whether the check casher is cashing or has cashed more than one (1) of the drawer's payment instruments that day.

(2) For purposes of Section 560.309(8), F.S. and this rule, the "direct costs of verification" shall mean those costs that are allocated by the provider to a particular function or are readily ascertainable based upon standard commercial practices and include internal staff and infrastructure costs incurred by the provider in performing the verification function and payments to third party vendors who provide verification related services. It is the responsibility of the registrant to document that verification fees are based upon the actual costs associated with such verification.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.309, ~~560.309(4)~~, 560.404(6) FS. History–New 9-24-97, Amended 12-17-01, Formerly 3C-560.801, Amended 1-1-09.

69V-560.802 Minimum Disclosure.

(1) through (2) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented ~~560.302(1)~~, 560.309 FS. History–New 9-24-97, Amended 12-30-98, 12-17-01, Formerly 3C-560.802.

69V-560.804 Payment Method.

(1) Payment shall be made immediately in currency for every payment instrument received by a person engaging in the activities of a check casher.

~~(2) For purposes of this chapter, "currency" shall have the meaning defined in Section 560.103(6), F.S.~~

~~(2)(3)~~ Each deferred presentment provider shall immediately provide the drawer with currency for the full amount of his or her personal check to be held by the provider, less only the fees authorized by Section 560.404, F.S. Only deferred presentment providers that are Part II licensees registrants may provide a payment instrument, including an Automated Clearing House credit, in lieu of currency; ~~however, such a provider shall not require a drawer to accept a payment instrument in lieu of currency.~~

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.302(1), 560.309, 560.404 FS. History—New 9-24-97, Amended 12-17-01, Formerly 3C-560.804, Amended 1-1-09.

69V-560.805 Gross Income Test.

For purposes of determining whether a person is engaged in the business of check cashing for which registration is required the following formula will be applied:

Compensation for Check Cashing/Foreign Currency Exchange

Gross Income + Compensation for Check
Cashing/Foreign Currency Exchange

“Gross Income” means Gross Revenue (Sales) – Cost of Goods Sold.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(2)~~ FS. Law Implemented 560.304(2) FS. History—New 9-14-04, Amended 1-1-09.

69V-560.901 Scope.

This section contains the specific requirements for deferred presentment providers with respect to the procedures employed to accomplish a deferred presentment transaction.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History—New 12-17-01, Formerly 3C-560.901.

69V-560.902 Definitions.

(1) The term “provider” means a deferred presentment provider as defined by Section 560.402(5), F.S.

(2) The term “close of business” means the time of day that a provider closes its office to the public for that calendar day or 7:00 p.m. at the election of the licensee.

(3) The term “database” means the Office of ~~Financial Regulation~~ administered transactional database authorized by Section 560.404(23), F.S.

(4) The term “database vendor” means the vendor, which contracted with the Office of ~~Financial Regulation~~ for the purpose of developing and administering the daily operations of the database.

(5) The term “registered” means that a deferred presentment provider has provided to the database the information required to identify a valid deferred presentment transaction.

(6) The term “recorded” means that the database has assigned a transaction authorization number to a registered transaction, logged it as an open transaction, and communicated the transaction authorization number to the deferred presentment provider.

(7) The term “consumer credit counseling” means a confidential comprehensive personal money management review, including budget counseling resulting in a written assessment of the client’s financial situation by the consumer credit counselor which includes a suggested client action plan

based upon a range of options chosen according to the best interests of the client. The suggested client action plan may include: the client handling their financial concerns on their own; enrollment in a debt repayment plan managed by the credit counseling agency; and/or information about bankruptcy other than legal advice.

(8) The term “notice” means written communication to the last address provided to the Office of ~~Financial Regulation~~ by regular mail, electronic mail, or facsimile; provided that notice to the Office of ~~Financial Regulation~~ must be to the DPP Database Contract Manager, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375, or by electronic mail to electronic_licensing@fldfs.com or dbf.state.fl.us, or by facsimile to DPP Database Contract Manager, Office of Financial Regulation, (850)410-9279.

(9) The term “open transaction” or “open” means a transaction which has been registered and recorded but not terminated or pending.

(10) The term “pending transaction” or “pending” means an open transaction that is in the process of clearing the banking system, in the 60-day grace period pursuant to Section 560.404(22)(a), F.S., or returned to the provider pursuant to Section 560.406, F.S.

(11) The term “closed transaction” or “close” means a transaction terminated as provided in subsection 560.903(1), F.S.

(12) The term “immediately” means prior to the customer exiting the location in all circumstances except for depositing of checks, processing of ACH items for collection, or grace period related updates. In such instance, the term shall mean not later than 11:59 p.m. on the date that the event creating the need for the database update occurs.

(13) The term “check” includes but is not limited to any authorization to transfer or withdraw funds from an account signed by the drawer, including any authorization by a drawer to execute an Automated Clearing House debit transaction.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.402, 560.404 FS. History—New 12-17-01, Amended 4-17-02, Formerly 3C-560.902, Amended 9-14-04, 1-1-09.

69V-560.903 Deferred Presentment Transactions.

(1) No change.

(2)(a) The drawer shall provide evidence to the provider that his or her check that was the basis of a previous deferred presentment transaction has cleared the drawer’s account at least 24 hours prior to entering into a new deferred presentment transaction (except that the provider may obtain such evidence as provided in subparagraph 4. below). Evidence of a check having cleared the drawer’s account may include, but shall not be limited to:

1. A copy of the drawer’s bank statement showing the check has cleared;
2. The canceled check or a copy of the canceled check;

3. A copy of any other record provided by the drawer's financial institution or electronic network to which that financial institution subscribes such as an ATM inquiry that shows the check to have cleared; or

4. A verbal representation, documented in writing by the provider, from the drawer's financial institution to the provider that the drawer's check has cleared, if the drawer's financial institution will provide such representation.

(b) and (c) No change.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History--New 4-17-02, Formerly 3C-560.903, Amended 9-14-04, 1-1-09.

69V-560.904 Transaction Agreement Disclosures and Requirements.

(1)(a) Each deferred presentment transaction agreement must contain the following:

1. The drawer's identification information including name, address, social security or alien registration number, and if provided, the drawer's driver's license number;

2. The name or trade name, registration number, address, and telephone number of the deferred presentment provider and the name and title of the person who signs the agreement on behalf of the deferred presentment provider;

3. The date the deferred presentment transaction was executed;

4. The face amount of the drawer's personal check;

5. The length of the deferment period (in days);

6. The last day of the deferment period;

7. The time of day on the last day of the deferment period for the drawer to either redeem his or her check or request the grace period. Such time shall be the close of business for that calendar day;

8. The address and toll-free telephone number of the ~~Office of Financial Regulation~~;

9. A clear description of the drawer's payment obligations under the deferred presentment transaction;

10. The disclosure notice required by Section 560.404(20), F.S.;

11. The transaction number assigned by the ~~Office of Financial Regulation's~~ database. This provision shall become effective on March 1, 2002;

12. The amount of currency or the amount of any payment instrument provided to the drawer;

13. A listing of all fees charged to the drawer categorized by fee type (i.e., 10% transaction fee and verification fee);

14. The disclosures required by Section 560.404(13), F.S.;

15. The drawer's written signature and date of execution which shall be done in the presence of the provider or an authorized employee of the provider;

16. The provider or its authorized employee's written signature and date of execution;

17. The check number of the drawer's check; and

18. The drawer's date of birth.

(b) If the deferred presentment provider (Part II ~~licensees registrants~~ only) intends to provide the drawer with a payment instrument in lieu of currency, the agreement shall also contain the drawer's acknowledgment that he or she has consented to accept the provider's payment instrument in lieu of currency. Such acknowledgment shall clearly state that it is the drawer's choice to obtain such payment instrument, and that the provider may not require a drawer to accept a payment instrument in lieu of currency. For purposes of this section, the drawer may accept disbursement of the proceeds via ACH credit to the drawer's account. This acknowledgment shall be separately initialed by the drawer;

(c) No change.

(2) No change.

(3)(a) Upon being given notice by a drawer in person that he or she will not be able to cover the check or pay the full amount owed to the of provider in accordance with the agreement, every provider shall verbally advise the drawer of the availability of the grace period. A provider shall provide the drawer with the written notice required by Section 560.404(22)(b)3., F.S. Such notice shall be executed and dated by both the drawer and an authorized employee of the registrant.

(b) The provider shall attach a free copy of the Office's ~~of Financial Regulation's~~ list of approved consumer credit counseling agencies including the toll-free telephone number of the ~~Office of Financial Regulation~~.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History--New 12-17-01, Formerly 3C-560.904, Amended 9-14-04, 1-1-09.

69V-560.905 Transaction Fees.

(1) The transaction fee for a deferred presentment transaction shall be limited to ten percent (10%) of the amount of currency or payment instrument provided to the drawer. A deferred presentment provider may also charge a verification fee in accordance with Rule 69V-560.801, F.A.C. An example of the computation of the maximum fees allowed by the code in a transaction where the drawer is seeking an advance of \$500 would be as follows:

(a) \$500 advanced to the drawer;

(b) A \$50 fee (\$500 X 10%); and

(c) Up to \$5 for the direct costs associated with verification of the drawer's identity and/or employment. In this example, the provider would provide currency or a payment instrument (Part II ~~licensees registrants~~) in the amount of \$500 to the drawer, and the drawer would provide a personal check in the amount of between \$550-\$555 depending upon the exact

amount of the direct costs of verification, if any, assessed by the provider with respect to this drawer. Unless a drawer has met the requirements for an automatic grace period, the drawer would be required to either redeem his or her personal check in cash (face amount of the check) or the provider would on the due date or a reasonable time thereafter present such personal check to the financial institution for payment.

(2) through (4) No change.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 12-17-01, Formerly 3C-560.905, Amended 1-1-09.

69V-560.906 Consumer Credit Counseling Services.

(1) The Office of ~~Financial Regulation~~ shall publish a list of consumer credit counseling agencies by October 1st of each calendar year via the Office's ~~of Financial Regulation's~~ website (www.flofr.com). The Office of ~~Financial Regulation~~ will accept requests from consumer credit counseling agencies to be included on the list on an ongoing basis and may periodically republish the list at its discretion. If the Office of ~~Financial Regulation~~ makes a decision to publish the list more often, a notice of such change will be posted on the Office's ~~of Financial Regulation's~~ website. The provider will then be responsible for making and distributing such additional copies of the list to all branch locations engaging in deferred presentment transactions.

(2) Every deferred presentment provider shall maintain a copy of the Office's ~~of Financial Regulation's~~ list of approved consumer credit counseling agencies and shall provide a copy of the list, free of charge, to any drawer who requests the grace period in accordance with the provisions of Section 560.404(22), F.S.

(3) through (8) No change.

Effective Date: 1/1/2009

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 2-20-02, Formerly 3C-560.906, Amended 7-15-07, 1-1-09.

69V-560.907 Database Access.

(1) through (7) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.908, Amended 9-14-04.

69V-560.908 Database Transaction Requirements.

(1) Each deferred presentment transaction shall be registered with the database and receive a transaction authorization number evidencing the transaction as being recorded in the database prior to a provider giving currency or a payment instrument (Part II ~~licensees registrants~~ only) to the drawer except as set forth in Rule 69V-560.909, F.A.C. The purpose of this database is to:

(a) through (c) No change.

(2) through (7) No change.

Effective Date: 1/1/2009

Specific Authority 560.105(2), 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.908, Amended 9-14-04, 1-1-09.

69V-560.909 Database Availability.

(1) through (3) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.909.

69V-560.910 Database Transaction Fees.

(1) through (2) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.910.

69V-560.911 Database Dispute Resolution for Customers.

(1) through (4) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.911.

69V-560.912 Database Confidentiality.

(1) through (3) No change.

Specific Authority 560.105, ~~560.105(3)~~, 560.404(23) FS. Law Implemented 560.404 FS. History–New 4-17-02, Formerly 3C-560.912.

69V-560.913 Termination of Deferred Presentment Activity; Database Maintenance.

(1) Within 15 days after ceasing operations or no longer holding a license under part II or part III of Chapter 560, F.S., a deferred presentment provider must provide notification to the Office of such action. The notice must be in writing, signed by the deferred presentment provider, and include the following:

(a) The date the deferred presentment provider ceased deferred presentment activity;

(b) A listing of all open and pending transactions; and

(c) The contact name, address, and e-mail address of the deferred presentment provider for contact, if necessary.

(2) For purposes of this section, the term "ceasing operations" shall mean that the provider has closed its offices to the public or has removed public access to its website, if such access is the sole means of communication with its customers. This provision shall not apply if a provider has given its customers a reasonable alternative for communications and payments.

Effective Date: 1/1/2009

Specific Authority 560.105, 560.404(23) FS. Law Implemented 560.404 FS. History–New 1-1-09.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Mike Ramsden, Chief, Money Transmitter Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805, mike.ramsden@flofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 27, 2008

FINANCIAL SERVICES COMMISSION

Finance

RULE NO.: 69V-560.102
 RULE TITLE: Application Forms, Procedures and Requirements

PURPOSE AND EFFECT: The rule is being amended to increase fingerprint processing fees from \$42.25 to \$43.25. The current fee of \$42.25 represents \$23 charged by the Florida Department of Law Enforcement for a state criminal history check and \$19.25 charged by the U.S. Department of Justice for a national criminal history check. During the 2008 regular session, the Florida Legislature passed Senate Bill 1792. This bill was signed into law (Chapter 2008-112, Laws of Florida) by Governor Crist on June 10, 2008. Effective July 1, 2008, the Florida Department of Law Enforcement will be increasing its fingerprint processing fee to \$24 as required by Section 1 of Chapter 2008-112, Laws of Florida, which amends Section 943.053(3)(b), Florida Statutes.

SUMMARY: Increases fingerprint processing fees for persons subject to Chapter 560, F.S., relating to money services businesses.

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.

SPECIFIC AUTHORITY: 215.405, 560.105, 560.118(2), 560.205(1), (2), 560.209(2)(a), 560.403(1) FS.

LAW IMPLEMENTED: 215.405, 560.102, 560.118, 560.129, 560.204, 560.205, 560.209, 560.303(1), 560.305, 560.306, 560.307, 560.403, 943.053 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: Greg Oaks, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-560.102 Application Forms, Procedures and Requirements.

(1) through (2) No change.

(3)(a) All applicants for registration must file a completed application Form OFR-560-01, Application to Register as a Money Transmitter, effective 7/15/07, which is hereby incorporated by reference.

(a) through (c) No change.

(4) No change.

(5) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, and all controlling shareholders, unless exempt under Section 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL922720Z), effective 7/15/07, which is hereby incorporated by reference, accompanied by a nonrefundable ~~\$42.25~~ \$43.25 processing fee. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(6) through (10) No change.

Specific Authority 215.405, 560.105, 560.118(2), 560.205(1), (2), 560.209(2)(a), 560.403(1) FS. Law Implemented 215.405, 560.102, 560.118, 560.129, 560.204, 560.205, 560.209, 560.303(1), 560.305, 560.306, 560.307, 560.403, 943.053 FS. History—New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.102, Amended 7-15-07, 6-17-08, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Greg Oaks, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2008

FINANCIAL SERVICES COMMISSION

Securities

RULE NOS.: 69W-600.002
 RULE TITLES: Application for Registration as Associated Person

69W-600.006 Associated Persons' Fingerprints

PURPOSE AND EFFECT: The rules are being amended to increase fingerprint processing fees from \$42.25 to \$43.25. The current fee of \$42.25 represents \$23 charged by the

Florida Department of Law Enforcement for a state criminal history check and \$19.25 charged by the U.S. Department of Justice for a national criminal history check. During the 2008 regular session, the Florida Legislature passed Senate Bill 1792. This bill was signed into law (Chapter 2008-112, Laws of Florida) by Governor Crist on June 10, 2008. Effective July 1, 2008, the Florida Department of Law Enforcement will be increasing its fingerprint processing fee to \$24 as required by Section 1 of Chapter 2008-112, Laws of Florida, which amends Section 943.053(3)(b), Florida Statutes.

SUMMARY: Increases fingerprint processing fees for persons subject to Chapter 517, F.S., relating to securities regulation.

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.

SPECIFIC AUTHORITY: 215.405, 517.03(1), 517.12(6) FS.

LAW IMPLEMENTED: 517.12(6), (7), (10); 517.1205, 943.053 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, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

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, 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. 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 member 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. through 4. No change.

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~~ ~~\$42.25~~ processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(c) No change.

(2) No change.

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,_____.

69W-600.006 Associated Persons' Fingerprints.

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~~ ~~\$42.25~~ processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C. The fingerprint card requirement is waived for those associated persons requesting registration 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 processed for such persons pursuant to the provisions of SEC rule 17f-2 (17 C.F.R. 240.17f-2 2006), which is hereby incorporated by reference, by said person's current employer.

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,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 3, 2008

FINANCIAL SERVICES COMMISSION

Securities

RULE NOS.:	RULE TITLES:
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-600.0133	Use of Senior-Specific Certifications and Professional Designations by Associated Persons and Investment Advisers

PURPOSE AND EFFECT: The use of a designation or a certification by associated persons or investment advisers confers an impression with senior citizens or retirees that the associated person or investment adviser has special qualifications or specialized education in particular areas of finance, financial planning, estate planning, or investing. The requirements to obtain designations and certifications vary greatly, as can the processes for monitoring compliance with a code of conduct or ethics, if any, adopted by the organization which awards the designation or certification. Investors often have insufficient information about the designation or certification when trying to determine which designation or certification represents meaningful educational achievement by the salesperson, or which designation or certification merely represents a marketing tool. This problem has been particularly pronounced in the area of so-called “senior designations.” Certain segments of the financial services industry have aggressively used designations and certifications that incorrectly imply expertise in the financial needs of seniors. Such aggressive use often results in unsuitable investments being sold to unsuspecting seniors by apparent “experts” who are little more than salespersons with little or no expertise in the individual, specific needs of the senior client or understanding of the product that they are selling. To address this issue, the National Association of Securities Administrators (NASAA) formed a task force to study this issue and develop a model rule for state regulators. The proposed rules adopt the model rule recommended by NASAA.

SUMMARY: The proposed rules prohibit the misleading use by any person of senior and retiree designations while also providing a means by which the Office may recognize the use of certain designations which have been accredited. Rule 69W-600.0133, F.A.C., is being proposed to prohibit the use of a senior specific certification or designation in connection with

the offer, sale or purchase of securities or the provision of advice as the advisability of investing in, purchasing or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical practice in the securities business in violation of Section 517.161(1)(d) or 517.161(1)(h), Florida Statutes. The Rule provides examples of misleading designations, including use of certifications unearned, nonexistent or self-conferred titles and use of titles that imply a certification or designation the person does not have. Also included in paragraph (1)(d) of the Rule with this category are use of certifications or designations from an organizations that: 1) is primarily engaged in the business of instruction in sales and /or marketing; 2) does not have reasonable standards or procedures for assuring the competency of its designees or certificants; 3) does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or 4) does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certification. In subsection (2) of the Proposed Rule, a rebuttable presumption is created that organizations accredited by the American National Standards Institute, National Commission for Certifying Agencies or any Organization on the U.S. Department of Education list entitled “Accrediting Agencies Recognized for Title IX Purposes” will not be disqualified under the terms of subparagraphs (1)(d)1. through 4. In determining whether words constitute a certification or professional designation indicating or implying a special expertise in advising or servicing senior citizens, use of the words such as “senior,” “elder,” “retirement,” combined with such words such as “certified,” “registered,” “chartered,” and like words will be considered. See text of Rule for complete index. Job titles within an organization are excluded. This Rule is based on the National Association of Securities Administrators Association (NASAA) Model Rule adopted March 20, 2008. Rule 69W-600.013 and Rule 69W-600.0131, F.A.C., are amended to add conforming amendments that provide that any unethical practice pursuant to Rule 69W-600.0133, F.A.C., shall constitute a demonstration of unworthiness by the dealers and their associated persons per Rule 69W-600.013, F.A.C., and investment advisers and their associated persons per Rule 69W-600.0131, 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.

SPECIFIC AUTHORITY: 517.03(1), 517.1215(2), 517.1217 FS.

LAW IMPLEMENTED: 517.081, 517.12, 517.1215, 517.1217, 517.161 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, Securities Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9783, bill.reilly@flofr.com.

THE FULL TEXT OF THE PROPOSED RULES IS:

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) through (n) No change.

(o) Any unethical practice pursuant to Rule 69W-600.0133, F.A.C.

(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) through (g) No change.

(h) Engaging in any of the practices specified in paragraph (1)(a), (b), (e), (f), (g), (h), (i), (k), (l), (m), ~~or~~ (n) or (o).

(3) No change.

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,_____.

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) through (t) No change.

(u) Any unethical practice pursuant to Rule 69W-600.0133, F.A.C.

(2) through (3) No change.

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 410-30-03, Formerly 3E-600.0131, Amended 10-23-06,_____.

69W-600.0133 Use of Senior-Specific Certifications and Professional Designations by Associated Persons and Investment Advisers.

(1) The use of a senior specific certification or designation by any person in connection with the offer, sale, or purchase of securities, or the provision of advice as to the value of or the advisability of investing in, purchasing, or selling securities, either directly or indirectly or through publications or writings, or by issuing or promulgating analyses or reports relating to securities, that indicates or implies that the user has special certification or training in advising or servicing senior citizens or retirees, in such a way as to mislead any person shall be a dishonest and unethical business practice in the securities industry in violation of Section 517.161(1)(d) or 517.161(1)(h), F.S., by an associated person of a dealer or investment adviser. The prohibited use of such certifications or professional designation includes, but is not limited to, the following:

(a) Use of a certification or professional designation by a person who has not actually earned or is otherwise ineligible to use such certification or designation;

(b) Use of a nonexistent or self-conferred certification or professional designation;

(c) Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training, or experience that the person using the certification or professional designation does not have; and

(d) Use of a certification or professional designation that was obtained from a designating or certifying organization that:

1. Is primarily engaged in the business of instruction in sales and/or marketing;

2. Does not have reasonable standards or procedures for assuring the competency of its designees or certificants;

3. Does not have reasonable standards or procedures for monitoring and disciplining its designees or certificants for improper or unethical conduct; or

4. Does not have reasonable continuing education requirements for its designees or certificants in order to maintain the designation or certificate.

(2) There is a rebuttable presumption that a designating or certifying organization is not disqualified solely for purposes of paragraph (1)(d) above when the organization has been accredited by:

(a) The American National Standards Institute; or

(b) The National Commission for Certifying Agencies; or

(c) An organization that is on the United States Department of Education’s list entitled “Accrediting Agencies Recognized for Title IV Purposes” and the designation or credential issued therefrom does not primarily apply to sales and/or marketing.

(3) In determining whether a combination of words (or an acronym standing for a combination of words) constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing senior citizens or retirees, factors to be considered shall include:

(a) Use of one or more words such as "senior," "retirement," "elder," or like words, combined with one or more words such as "certified," "registered," "chartered," "adviser," "specialist," "consultant," "planner," or like words, in the name of the certification or professional designation; and

(b) The manner in which those words are combined.

(4) For purposes of this rule, a certification or professional designation does not include a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency, when that job title:

(a) Indicates seniority or standing within the organization;
or

(b) Specifies an individual's area of specialization within the organization.

For purposes of this subsection, financial services regulatory agency includes, but is not limited to, an agency that regulates broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940, 15 U.S.C. s. 80a-1 et seq.

(5) Nothing in this rule shall limit the Office of Financial Regulation's authority to enforce existing law.

Specific Authority 517.03(1), 517.1215(2), 517.1217 FS. Law Implemented 517.1215(2), 517.1217, 517.161 FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Bill Reilly, Chief, Securities Regulation, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9783, bill.reilly@lofr.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 16, 2008

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 20, 2008

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Library and Information Services

RULE NOS.:	RULE TITLES:
1B-30.001	Rule Numbering and Rule Title
1B-30.0015	Definitions
1B-30.002	Style and Form for Filing Rules; Certification Accompanying Materials
1B-30.003	Florida Administrative Weekly
1B-30.004	Legal Citations and History Notes
1B-30.005	Materials Incorporated By Reference
1B-30.007	Uniform Indexing Procedures

NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule development, as noticed in Vol. 33, No. 32, August 10, 2007 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NOS.:	RULE TITLES:
9B-65.020	Definitions
9B-65.021	Distribution of Funds
9B-65.022	Energy Assistance Benefits
9B-65.023	Client Eligibility
9B-65.024	Energy Payments
9B-65.025	Hearings

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 27, July 3, 2008, issue of the Florida Administrative Weekly.

9B-65.020 Definitions.

(1) "Act" means Title XXVI of the Omnibus Budget Reconciliation Act of 1981, Public Law 97-35, as amended [42 U.S.C. Sections 8621-~~8630~~ ~~8629~~] and [45 CFR Part 96, Subpart H, Sections 96.80-96.89], all of which are incorporated by reference herein.

(2) through (8) No change.

Specific Authority ~~409.508~~ ~~463.03(3)~~ FS. Law Implemented ~~409.508~~ ~~463.03~~ FS. History--New _____.