

2. An initial staffing within 31 days of notification of first contact with the family by a participating agency or documenting the inability to conduct a staffing for the purposes of coordinating service delivery and improving service provision;

3. Ongoing staffings that occur for the purposes of coordinating service delivery, improving service provision, notifying about address changes, and updating the family support or case plan;

4. Designating a lead care coordinator when there are several case managers working with the family and specifying the roles of this lead care coordinator;

5. Coordinating service provision among all service providers including Healthy Start, Healthy Families, Children’s Medical Services, Department of Children and Families Family Safety staff and their contractees, and substance abuse treatment providers;

(o) Providing an integrated care coordination process that minimizes duplication of services;

(p) Complying with the reporting requirements of Chapter 39, F.S., when there are concerns about child abuse;

(q) Providing information to the court when decisions are being made about child placement;

(r) A mechanism for county health departments to offer services to substance abusing pregnant women and substance exposed children when there is no consent for Healthy Start services;

(s) Notifying service providers about plans for case closure and providing for effective transition to other service providers; and

(t) Following-up on recommended steps to alleviate identified risks.

(3) Healthy Start coalitions will coordinate the process of training prenatal health care providers and hospital and birth center staff to screen and refer substance abusing pregnant women and substance exposed children for Healthy Start care coordination for reasons other than score.

Specific Authority ~~383.011(2)(a), 383.14(2), 383.216(10), 420.535, 415.514~~ FS. Law Implemented ~~39.408, 381.001, 381.0022, 383.011, 383.14, 383.216, 393.068, 415.502-415.514~~ FS. History–New 11-30-93, Formerly 10D-115.007, Amended \_\_\_\_\_.

64F-4.007 Abuse Registry Staff Responsibilities.

Specific Authority 383.011, 415.514 FS. Law Implemented 383.011, 393.068, 415.502-.514 FS. History–New 11-30-93, Amended 5-8-96, Formerly 10D-115.008, Repealed \_\_\_\_\_.

64F-4.008 C&F Responsibilities.

Specific Authority 383.011, 415.514 FS. Law Implemented 39.408(3)(a), 383.011, 393.068, 415.502-.514 FS. History–New 11-30-93, Amended 5-8-96, Formerly 10D-115.009, Repealed \_\_\_\_\_.

64F-4.009 CHD Responsibilities.

Specific Authority 383.001, 397.406 FS. Law Implemented 383.001, 393.068, 397.406 FS. History–New 11-30-93, Amended 5-8-96, Formerly 10D-115.010, Repealed \_\_\_\_\_.

64F-4.010 Responsibilities of the Licensed Substance Abuse Treatment Providers and the Women’s Intervention Specialists.

Specific Authority 396.062, 397.031(6) FS. Law Implemented 393.068, 396.052, 397.215(1) FS. History–New 11-30-93, Formerly 10D-115.011, Repealed \_\_\_\_\_.

Section II  
Proposed Rules

DEPARTMENT OF BANKING AND FINANCE

Division of Securities and Finance

RULE TITLES:	RULE NOS.:
Scope	3C-560.101
Application Forms, Procedures and Requirements	3C-560.102
Definitions	3C-560.103
Application Fees	3C-560.104
Regulatory Standards for Evaluating Applications	3C-560.105
Exemptions from the Requirement to Register	3C-560.106
Registration of Locations and Authorized Vendors	3C-560.107
Declaration of Intent to Engage in Deferred Presentment Transactions	3C-560.108
Requirements	3C-560.201
Regulatory Standards for Evaluating Notices of Change of Control	3C-560.202
Scope	3C-560.301
Renewal Deadlines, Late Fees and Requirements	3C-560.302
Renewal Application Forms, Procedures and Requirements	3C-560.303
Renewal Fees	3C-560.304
Bond	3C-560.402
Definitions	3C-560.502
Examination Fee	3C-560.503
Definitions	3C-560.601
Quarterly Reports to be Filed by Check Cashers	3C-560.602
Quarterly Reports to be Filed by Foreign Currency Exchangers	3C-560.603
Quarterly Reports to be Filed by Funds Transmitters	3C-560.604
Quarterly Reports to be Filed by Payment Instrument Sellers	3C-560.605
Annual Filing of Financial Statements by Part II Registrants	3C-560.606
Quarterly Reports to be Filed by Deferred Presentment Providers	3C-560.607

Records to be Maintained by Check Cashers 3C-560.704  
 Records to be Maintained by  
 Authorized Vendors 3C-560.706  
 Postdated Check 3C-560.803

PURPOSE AND EFFECT: The purpose of the proposed amendments and new rules is to implement some of the provisions of Chapter 2001-119, Laws of Florida, enacted during the recent legislative session, and to make other substantive and technical changes.

SUMMARY: Rules 3C-560.106, 3C-560.502, 3C-560.503 and 3C-560.803 are repealed. Rule 3C-560.103 is amended to define the terms "audited financial statements," "financial statements," "location," and "unaudited financial statements." Rules 3C-560.101, 3C-560.102, 3C-560.104, and 3C-560.105 update the application forms, procedures and requirements for registering as money transmitter. Rule 3C-560.107 sets forth the forms and procedures for registering locations and authorized vendors. Rule 3C-560.108 sets forth the forms and procedures for a money transmitter to declare its intent to engage in deferred presentment transactions pursuant to Part IV of Chapter 560, F.S. Rules 3C-560.201 and 3C-560.202 are updated to reflect the requirements for a change of control over a money transmitter. Rules 3C-560.301, 3C-560.302, 3C-560.303, and 3C-560.304 are amended to update the forms, renewal and late fees, and other requirements to renew registration as a money transmitter and deferred presentment provider. Rules 3C-560.601, 3C-560.602, 3C-560.603, 3C-560.604, and 3C-560.605 are amended to provide a standardized form for the quarterly reports to be filed by money transmitters. 3C-560.607 will require deferred presentment providers to file quarterly reports. Rule 3C-560.607 will require Part II registrants to annually file financial statements with the Department. Rule 3C-560.704 is amended to set forth the records to be maintained by check cashers. Rule 3C-560.705 sets forth the records to be maintained by authorized vendors.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

Any person who wishes to provide information regarding the statement of estimated regulatory costs or to 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(3), 560.118(2), 560.205, 560.208, 560.209, 560.403 FS.

LAW IMPLEMENTED: 215.405, 560.118, 560.123, 560.203, 560.204, 560.205, 560.206, 560.207, 560.208, 560.209, 560.210, 560.303, 560.304, 560.305, 560.306, 560.307, 560.308, 560.310, 560.403 FS.

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

TIME AND DATE: 10:00 a.m., October 2, 2001  
 PLACE: Senate Room 301, The Capitol, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Rick White, Financial Administrator, Division of Securities and Finance, Room 550, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

PART I  
 APPLICATION AND REGISTRATION OF NEW FUNDS TRANSMITTERS, PAYMENT INSTRUMENT SELLERS, CHECK CASHERS, ~~AND/OR~~ FOREIGN CURRENCY EXCHANGERS, DEFERRED PRESENTMENT PROVIDERS, LOCATIONS AND AUTHORIZED VENDORS

3C-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 Department.

Specific Authority 560.105(3) FS. Law Implemented 560.204, 560.303(1), 560.403 FS. History--New 9-24-97, Amended.

3C-560.102 Applications Forms, Procedures and Requirements.

(1) Forms. Application forms for all registrations licenses actions covered by these rules may be obtained ~~from the department~~ at no cost from the Department's website (www.dbf.state.fl.us), by telephone, or in writing. All applications must be in the format required by the Department. Requests for forms should be sent to:

~~Director,~~ Division of Securities and Finance Banking  
 Department of Banking and Finance  
 101 East Gaines Street, ~~Sixth Floor~~  
 Tallahassee, Florida 32399-0350

(2)(a) Applications in the format required by the Department, accompanied by the prescribed fee for the requested registration license action, shall be filed with the Department at the address ~~indicated in subsection paragraph~~ (1) above. No application will be deemed filed or received unless accompanied by the proper filing fee; ~~or-~~

(b) In lieu of filing the required application forms, an applicant may file the application information electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

(3)(a) All applicants for registration must file a completed application Form DBF-MT-5-01, DBF-C-94 Application for Authority to Register as a Money Transmitter Pursuant to Chapter 560, F.S., revised 10/01 effective August 18, 1996, 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 DBF-MT-3-01, Declaration of Intent to Engage in Deferred Presentment Transactions, effective 10/01, 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. Applicants may file unaudited financial statements provided that such statements are verified by the applicant or an officer of the applicant under penalty of perjury, by completing Form DBF-C-971, effective September 24, 1997, which is hereby incorporated by reference.

(c) All applicants for registration shall submit a completed Form DBF-MT-2-01, Location Notification Form, effective 10/01, which is hereby incorporated by reference, for each proposed "location" as defined in Rule 3C-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 Department, 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 for the period subsequent to the audit report, 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.

(4) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, executive officer, principal, member, and controlling shareholders shall complete Addendum (1) to Form DBF-MT-7-01, Biographical Form, effective 10/01, which is hereby incorporated by reference DBF-C-94. If any of these

foregoing individuals are non-U.S. Citizens, in addition to Addendum (1), Addendum (1)(2) to the Biographical Form DBF-C-94 shall also be completed and filed submitted.

(a) If the applicant is applying to become a funds transmitter or payment instrument seller, and is not a corporation, the Financial Report and Statement of Income contained in the Confidential Section of DBF-C-94 shall be completed for each controlling shareholder of the applicant, and each responsible person who will be in charge of the applicant's registered activities. The Financial Report and Income Statement shall be dated no earlier than one (1) year prior to the date of the application.

(a)(b) An Each existing or proposed director, executive officer, controlling shareholder, and responsible person shall review and attest to the accuracy of the forms submitted on his or her behalf.

(5) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, executive officer, principal, member and all controlling shareholders, unless exempt under Sections 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL921050Z) accompanied by a nonrefundable \$39 processing fee. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Department reserves the right to require as many submissions of fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

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

(7)(6) Request for Additional Information. All information the applicant wants to present to support the application should be submitted with the original filing. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application. The additional information must be received by the Department within forty-five (45) days from the date of the request. Failure to respond within forty-five (45) days from the date of the request shall be grounds for the Department to deny the application for failure to complete the application. When the department determines that failure to complete the application is grounds for denial, the application shall be denied pursuant to Section 420.60 (1), F.S.

~~(8)(7)~~(a) Amendment of Application. A request to amend an application must be in writing and shall be submitted to the Department at the following address in subsection (1):

~~Licensing and Chartering  
Department of Banking and Finance  
101 East Gaines Street, Sixth Floor  
Tallahassee, Florida 32399-0350~~

(b) Provided the Department has not already docketed a Notice of Intent to Deny the Application, an applicant may amend the application after receiving written permission from the Department following the Department'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. Shall not be denied pursuant to subsection (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 Department's evaluation of the application is a violation of subsection paragraph (7) and the Department 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. Material changes include:

1. Changes in net worth;
2. The substitution or addition of a director, 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
5. Any change relating to the bond or collateral security item.

(d) When the Department 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.

~~(9)(8)~~ When an application is denied on the grounds set forth above, the applicant shall be duly notified.

Specific Authority 215.405, 560.105(3), 560.118(2), 560.205(1), 560.205(2), 560.403(1) FS. Law Implemented 215.405, 560.102, 560.118, 560.129, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307, 560.403 FS. History--New 9-24-97, Amended.

3C-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 Department 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)(3)~~ "Controlling shareholder" means any individual who exercises control as defined by Section 560.127, F.S.

~~(5)(4)~~ "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.

(6) "Financial Statements" shall be defined as those reports, schedules and statements, prepared in accordance with generally accepted accounting principles, which contain at least the following information:

- (a) Statement of Financial Condition (Balance Sheet); and
- (b) Statement of Income

~~(7)(5)~~ “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)(6)~~ “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, ~~or~~ funds transmitter, or deferred presentment provider.

~~(10)(7)~~ “Person” means any individual, corporation, partnership, association, trust, or other group, however organized.

~~(11)(8)~~ “Registrant” means a person registered by the Department pursuant to Part II or Part III of the Money Transmitters’ Code.

~~(12)(9)~~ “Responsible person” means any individual who has principal active management authority over the business as defined by Section 560.103(18), F.S.

~~(13)~~ “Unaudited Financial Statements” shall be defined as those financial statements prepared in accordance with 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.

~~(14)~~ “Holiday” means such days as are designated by Section 110.117, F.S.

Specific Authority 560.105(3) FS. Law Implemented 560.103~~(10),(18)~~, 560.118(2), 560.205(3),(4), 560.208 FS. History–New 9-24-97, Amended \_\_\_\_\_.

### 3C-560.104 Application Fees.

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

(2) An initial application for registration as a check casher or foreign currency exchanger shall be accompanied by ~~an nonrefundable application investigation~~ 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.

(5) Applicable fees for all initial applications may be paid by the applicant electronically by following the applicable instructions on the Department’s website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.

Specific Authority 560.105(3) FS. Law Implemented 560.205(2), 560.306, 560.307, 560.403 FS. History–New 9-24-97, Amended \_\_\_\_\_.

### 3C-560.105 Regulatory Standards for Evaluating Applications.

(1) When an application to register as ~~for authority to organize and operate~~ a new money transmitter is filed with the Department, it is the applicant’s responsibility to prove that the statutory criteria warranting the grant of registration authority are met. The ~~D~~department shall conduct an investigation pursuant to Sections 560.205, 560.206, and/or 560.306, F.S., as applicable. The ~~D~~department shall deny applications in accordance with Section 560.114, F.S.

(2) The ~~D~~department 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, executive officer, principal, member and all controlling shareholders to determine whether the qualifications and requirements for registration have been met the executive officers, and directors. The investigations shall, as required, include contacts with DEA, federal, state and local law enforcement agencies, and other federal, state and local government agencies.

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 \_\_\_\_\_.

### 3C-560.106 Exemptions from the Requirement to Register.

Specific Authority 560.105(3) FS. Law Implemented 560.104, 560.203, 560.303(3), 560.304 FS. History–New 9-24-97, Repealed \_\_\_\_\_.

### 3C-560.107 Registration of Locations and Authorized Vendors.

(1) Every registrant shall designate all locations and authorized vendors operating prior to October 1, 2001 by:

(a) Filing all of the information required by Form DBF-MT-2-01 (Location Notification Form) with the Department on or before December 1, 2001 for all locations and authorized vendors. After December 1, 2001, the registrant shall file all location information in accordance with subsection (2) of this rule; and

(b) No fee shall be required for the registration of locations and authorized vendor locations in operation prior to October 1, 2001 that have been designated by the registrant in accordance with the provisions of paragraph (a).

(2) Every registrant that commences operations at locations in this state on or after October 1, 2001 shall:

(a) File a completed Form DBF-MT-2-01 (Location Notification Form) which must be received by the Department within sixty (60) calendar days from the date that a location opens or an authorized vendor commences operations on behalf of the registrant on or after October 1, 2001;

(b) Demonstrate the required net worth for Part II registrants in accordance with the provisions of Rule 3C-560.606(4), F.A.C.; and

(c) Submit the required \$50 fee.

(3) Every registrant shall be responsible for filing a completed Form DBF-MT-2-01 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 registrant's behalf terminated by such registrant.

(4) In lieu of filing Form DBF-MT-2-01, a registrant may notify the Department of the opening or closing of locations and authorized vendors electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

Note: The sixty (60) day period referenced in subsections (2) and (3) above is solely for the filing of the required form and payment of the required nonrefundable fee. A registrant must notify the Department and pay the required fee for all locations of the registrant and authorized vendors that commence operations on behalf of the registrant. If the 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 registrant of the obligation to notify the Department in accordance with the provisions of this subsection.

Specific Authority 560.105(3), 560.208(3) FS. Law Implemented 560.205, 560.208, 560.307 FS. History—New \_\_\_\_\_.

#### 3C-560.108 Declaration of Intent to Engage in Deferred Presentment Transactions.

(1) All registrants actively registered pursuant to Part II or Part III of Chapter 560, F.S., before October 1, 2001 and who are acting as a deferred presentment provider as defined by Section 560.402, F.S., shall file a completed Form DBF-MT-3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions). This form and the required nonrefundable fee must be received by the Department by November 30, 2001.

(2) After October 1, 2001, any person who seeks to act as a deferred presentment provider as defined in Section 560.402, F.S., shall:

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

(b) Submit a completed Form DBF-MT-3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions) together with the required nonrefundable fee for deferred presentment providers.

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

(4) In lieu of filing Form DBF-MT-3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions), such declaration of intent may be made electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

Specific Authority 560.105(3), 560.403 FS. Law Implemented 560.403 FS. History—New \_\_\_\_\_.

#### 3C-560.201 Requirements.

Notices of change of control will be processed pursuant to Section 560.127, F.S.

(1) Regardless of whether the change of control involves a registered money transmitter, an Application for Authority to Register as a Money Transmitter (Form ~~DBF-MT-5-01~~ ~~DBF-C-94~~) shall be filed. All information requested by that form shall be submitted to the Department, along with the required nonrefundable ~~application~~ ~~investigation~~ fee as set forth in Rule 3C-560.104, F.A.C. The written notification should provide the Department with information concerning the change of control, ~~including to include~~ the proposed effective date and any significant changes to be made to the registrant's present business.

(2) The responsible person who will be in charge of the applicant's business activities in this state, each existing or proposed director, executive officer, principal, member and all controlling shareholders, unless exempt under Sections 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL921050Z) accompanied by a \$39 nonrefundable processing fee. No fingerprint card will be required from any person described above who has been reported to the Department by the registrant and for whom the Department has received the required Biographical Form (Form DBF-MT-7-01) prior to October 1, 2001. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Department reserves the right to require as many submissions of such fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(3)(2) An original of all parts of the application shall be filed, together with the appropriate filing fee at the following address:

~~Director~~, Division of ~~Securities and Finance~~ ~~Banking~~  
Department of Banking and Finance  
101 East Gaines Street, ~~Sixth Floor~~  
Tallahassee, Florida 32399-0350.

(4)(3) For purposes of this chapter "control" shall have the meaning defined in Section 560.127, F.S.

Specific Authority 215.405, 560.105(3) FS. Law Implemented 215.405, 560.127, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307 FS. History—New 9-24-97, Amended \_\_\_\_\_.

#### 3C-560.202 Regulatory Standards for Evaluating Notices of Change of Control.

(4) When a notice of change of control of a registered money transmitter is filed, it is the applicant's responsibility to prove that the statutory criteria warranting the grant of

authority are met. The Department shall conduct an investigation pursuant to Section 560.127(3), F.S. If the Department determines that any one of the criteria set forth in Section 560.127(3)(a) or (b), F.S., is not met, or any act in Section 560.114, F.S., is or has been committed, the Department may deny the change in control. Additionally, should the change of control involve an unregistered money transmitter and/or unregistered person(s), the Department will conduct an investigation pursuant to Section 560.206 and/or 560.306, F.S. The Department shall deny the application in accordance with Section 560.114, F.S.

~~(2) The department shall conduct background investigations on the acquiring person(s), and any new executive officers, responsible person who will be in charge of all the resulting registrant's business activities in this state, or directors. The investigations shall, as required, include contacts with DEA, federal, state and local law enforcement agencies, and other federal, state, and local government agencies.~~

Specific Authority 560.105(3) FS. Law Implemented 560.109, 560.114, 560.127, 560.205, 560.206, 560.306 FS. History—New 9-24-97, Amended \_\_\_\_\_.

### 3C-560.301 Scope.

These rules contain the specific procedures for filing and evaluating renewal applications for registered payment instrument sellers, funds transmitters, check cashers, and foreign currency exchangers, deferred presentment providers, locations and authorized vendors.

Specific Authority 560.105(3) FS. Law Implemented 560.207, 560.308, 560.403 FS. History—New 9-24-97, Amended \_\_\_\_\_.

### 3C-560.302 Renewal Deadlines, Late Fees and Requirements.

(1)(a) ~~For a Payment Instrument Seller or a Funds Transmitter (Part II rRegistrant): Registrations issued to Part II registrants Heensees 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 in effect through April 30 next following its date of issuance. Thereafter, renewals are issued for a 24-month period or remainder of such period.~~

(b) All renewal applications for Part II registrants must be filed on or after January 1 of the year in which the existing registration expires, but before the expiration date of April 30 March 31. If a renewal application is filed within 60 calendar days after the expiration date of an existing registration, the renewal application and renewal fees shall be accompanied by a nonrefundable late fee of \$500.00. If the registrant has not filed a renewal application within 60 calendar days after the expiration date of an existing registration, a new application shall be filed pursuant to Section 560.205, F.S.

(2)(a) ~~For a Check Casher or Foreign Currency Exchanger (Part III rRegistrant): Registrations issued to Part III registrants shall Heensees 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) All renewal applications for Part III registrants must be filed on or after June 1 of the year in which the existing registration expires, but not later than December 31 of that year. A renewal application, renewal fees, and a late fee of \$250.00 must be filed within 60 calendar days after the expiration date of an existing registration in order for the registration to be reinstated. If the registrant has not filed a renewal application within 60 days after the expiration date of an existing registration, 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. The renewal of a deferred presentment provider's "Declaration of Intent to Engage in Deferred Presentment Transactions" shall be indicated on Form DBF-MT-6-01 (Application to Renew Registration as a Money Transmitter Pursuant to Chapter 560, F.S.), and submitted together with the required nonrefundable renewal fee for a deferred presentment provider.

(b) A renewal declaration of intent and fee, and a late fee of \$500.00, must filed within 60 calendar days after the expiration of an existing registration in order for the declaration of intent to be reinstated. If the registrant has not filed a renewal declaration of intent within 60 days after the expiration date of an existing registration, a new declaration must be filed.

(4) If any date in this rule falls on a weekend or holiday, the renewal application together with the required renewal fees and any applicable late fees must be received by the Department by the close of business on the next business day.

Specific Authority 560.105(3) FS. Law Implemented 560.206, 560.207, 560.308, 560.403 FS. History—New 9-24-97, Amended 12-30-98, \_\_\_\_\_.

### 3C-560.303 Renewal Application Forms, Procedures and Requirements.

(1) Applicants for renewal of registration must complete Form DBF-MT-6-01, Application to Renew Registration as a Money Transmitter, effective 10/01, Form DBF-C-94R, dated September 24, 1997 which is hereby incorporated by reference; Renewal of Authority to Operate as a Money Transmitter

Pursuant to Chapter 560, F.S. Copies of such forms can be obtained by request from the Department at the address specified in subsection (5) paragraph (4) below.

(2)(+) The renewal application shall include any substantial changes that have occurred to registrant since its last application to the Department. These substantial changes include, but shall not be limited to, a change or an addition to an executive officer, director, principal, member, controlling shareholders, or responsible person/manager. A completed Biographical Form, Form DBF-MT-7-01, shall be submitted biographical form completed for each new individual, Addendum (1) to Form DBF-C-94R and, in the case of a non-U.S. citizen, Addendum (1)(2) to Form DBF-MT-7-01 DBF-C-94R, shall be required and must be attached to the renewal application. The fingerprint cards required by Rule 3C-560.102(5), F.A.C., and the Biographical Form (Form DBF-MT-7-01) shall be submitted only for those person(s) who have not previously submitted such documents in connection with the registrant. Other changes, such as any new businesses acquired, change in address, change in name, new branches, authorized vendors, or agents, material litigation, criminal convictions, etc. shall be reported, as required on the renewal form.

(3)(2) Part II aApplicants shall may file unaudited financial statements with their renewal application, provided that such statements are verified by the applicant or an officer of the applicant under penalty of perjury, by completing Form DBF-C-971. A registrant may file its required annual audited financial statements together with the registrant's renewal application in lieu of the unaudited statements so long as the date of the audited financial statements is not more than 90 days prior to the submission date of the renewal application.

(4)(3) If, as a result of subsection paragraph (1) above, a Biographical Form report is required on any individual, the individual shall review and attest to the accuracy of the form report.

(5)(a)(4) An original of all parts of the application shall be filed, together with the appropriate filing fee as specified in Rule 3C-560.303, F.A.C., at the following address:

Director, Division of Securities and Finance Banking  
 Department of Banking and Finance  
 101 E. Gaines Street, Sixth Floor  
 Tallahassee, Florida 32399-0350

(b) In lieu of filing the required forms, a registrant may renew its registration, locations, authorized vendors, and "Declaration of Intent to Engage in Deferred Presentment Transactions" electronically at the time of renewal by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

(6)(5) Processing. Applications to renew registration for the Renewal of Authority to Operate as a mMoney tTransmitter shall be processed, where applicable, pursuant to the provisions of Rules 3C-560.101 through 3C-560.1087, F.A.C.

Specific Authority 560.105(3) FS. Law Implemented 560.114(1)(2), 560.205(2),(3), 560.207, 560.305, 560.308 FS. History-New 9-24-97, Amended \_\_\_\_\_.

3C-560.304 Renewal Fees.

(1) A renewal application for funds transmitter or payment instrument seller registration (Part II registrant) shall be accompanied by a nonrefundable renewal registration fee of \$1,000.00, plus \$50.00 for each location being renewed, including branch offices and offices of authorized vendors, operating within this state, or a total 2-year nonrefundable fee of \$20,000.00 \$5,000.00 to register all such locations operating within this state. The \$50.00 location fee shall not apply to the registrant's primary business address.

(2) A renewal application for check casher or foreign currency exchanger registration (Part III registrant) shall be accompanied by a renewal registration fee of \$500.00, plus \$50.00 for each location being renewed, including branch offices and offices of authorized vendors, operating within this state, or a total of 2-year nonrefundable fee of \$20,000.00 \$5,000.00 to register all such locations operating within this state. The \$50.00 location fee shall not apply to the registrant's primary business address.

(3) Every deferred presentment provider shall renew its Declaration of Intent to Engage in Deferred Presentment Transactions to remain a deferred presentment provider at the same time as they renew their Part II or Part III registration accompanied by the required nonrefundable fee of \$1,000.00.

(4) All fees required to renew the registration of a money transmitter may be paid electronically by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

Specific Authority 560.105(3) FS. Law Implemented 560.207, 560.308, 560.403 FS. History-New 9-24-97, Amended \_\_\_\_\_.

3C-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 Department 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.

(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 bond



form included in Form ~~DBF-MT-5-01~~ ~~DBF-C-94~~, must be executed by the federally insured financial institution and the applicant.

(4)(a) Items eligible to be pledged to the ~~D~~department 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 required bond, collateral deposit or combination thereof for initial registration shall be calculated in accordance with Form ~~DBF-MT-5-01~~ ~~DBF-C-94~~.

(b) The required bond, collateral deposit or combination thereof for renewal registration shall be calculated in accordance with Form ~~DBF-MT-6-01~~ ~~DBF-C-94R~~.

(c) The required bond, collateral deposit or combination thereof shall not exceed \$250,000.00, unless the ~~D~~department determines that an extraordinary circumstance, such as those of Section 560.209(2)(a), F.S., exists which requires an additional amount above \$250,000.00. However, the maximum bond, collateral deposit or combination thereof shall be \$500,000.00.

(6) 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 ~~D~~department 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.

(7) A registrant must at all times have and maintain the bond, collateral deposit or combination thereof in the amount prescribed by the ~~D~~department. If the ~~D~~department 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 ~~D~~department shall, by written order, require the filing of a new or supplemental bond or the deposit of new or additional collateral deposit items.

Specific Authority 560.105(3), 560.209(2)(a) FS. Law Implemented 560.207, 560.209 FS. History—New 9-24-97, Amended 12-30-98,\_\_\_\_\_.

3C-560.502 Definitions.

Specific Authority 560.105(3), 560.118(1)(c) FS. Law Implemented 560.118(1) FS. History—New 9-24-97, Repealed.

3C-560.503 Examination Fee.

Specific Authority 560.105(3) FS. Law Implemented 560.118(1) FS. History—New 9-24-97, Repealed.

3C-560.601 Definitions.

As used in this section, the following definitions shall apply:

(1) ~~"Annual" and "annually" the quarterly report filed on December 31 of each calendar year~~

~~(1)(2)~~ "Quarter" and "quarterly" mean March 31, June 30, September 30, and December 31 of each calendar year.

~~(2)(3)~~ "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. ~~However, when registrants are corporations subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act of 1934 or whose securities are publicly traded on a national or a regional stock exchange, or subsidiaries of such corporations, "forty-five (45) days after the conclusion of each quarter" means the earlier of either the forty-fifth calendar day after receipt by the corporations of audited or interim financial statements from the corporations' certified public accountants or sixty days after the last calendar day of each calendar quarter.~~

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

Specific Authority 560.105(3) FS. Law Implemented 560.118(2) FS. History—New 9-24-97, Amended 12-30-98,\_\_\_\_\_.

3C-560.602 Quarterly Reports to be Filed by Check Cashers.

(1) Every registered check casher shall submit a quarterly report to the Department on Form DBF-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference to the department quarterly. Such report shall be received by the Department postmarked no later than forty-five (45) days after the conclusion of each quarter and shall be sent to ~~Director~~, Division of Securities and Finance Banking at the address listed in Rule 3C-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Department postmarked no later than the next business day. ~~Every quarterly report shall contain the following information:~~

~~(a) The total number of payment instruments cashed each month in the quarter;~~

~~(b) The total face amount of all payment instruments cashed each month in the quarter;~~

~~(c) The total fees received for all payment instruments cashed each month in the quarter;~~

~~(d) The complete name and address of all branches which have opened and/or closed since the previous quarterly report;~~

~~(e) The complete name and address of all new agents and authorized vendors since the previous quarterly report;~~

~~(f) The complete name and address of all persons within this State which no longer act, or are no longer authorized by the registrant to act, as an agent or authorized vendor since the previous quarterly report;~~

~~(g) The signed declaration by an officer of the check casher that such report is true and correct to the best of his or her knowledge and belief.~~

(2) In lieu of filing Form DBF-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. A computer generated report or spread sheet which contains the above information will be accepted by the department, if a signed declaration by an officer of the check casher of truth and correctness accompanies the electronic report.

~~(3) Annually, registered check cashers shall submit a complete listing of all branches, agents and authorized vendors, and report any change of or addition of an executive officer, director, or responsible person/manager.~~

~~(3)(4) The Department shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due, unless it is excused for good cause, such as incidental and isolated clerical errors or omissions. A report payment is "past due" if it is received by the Department postmarked one or more days beyond the period defined in subsection paragraph (1).~~

Specific Authority 560.105(3), 560.118(2)(b)(a) FS. Law Implemented 560.118(2)(a), (b) FS. History—New 9-24-97, Amended 12-30-98, \_\_\_\_\_.

3C-560.603 Quarterly Reports to be Filed by Foreign Currency Exchangers.

(1) Every registered foreign currency exchanger shall submit a quarterly report to the Department on Form DBF-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference to the department quarterly. Such report shall be received by the Department postmarked no later than forty-five (45) days after the conclusion of each quarter and shall be sent to ~~Director,~~ Division of Securities and Finance Banking at the address listed in Rule 3C-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Department postmarked no later than the next business day. Every quarterly report shall contain the following information:

- ~~(a) A summary of transactions for each month of the quarter;~~
- ~~(b) A summary of the service fees assessed for each month of the quarter;~~
- ~~(c) The complete name and address of all branches which have opened and/or closed since the previous quarterly report;~~
- ~~(d) The complete name and address of all new agents and authorized vendors since the previous quarterly report;~~
- ~~(e) The complete name and address of all persons within this State which no longer act, or are no longer authorized by the registrant to act, as an agent or authorized vendor since the previous quarterly report;~~
- ~~(f) The signed declaration by an officer of the foreign currency exchanger that such report is true and correct to the best of his or her knowledge and belief.~~

(2) In lieu of filing Form DBF-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. A computer generated report or spread sheet which contains the above information will be accepted by the department, if a signed declaration by an officer of the check casher of truth and correctness accompanies the electronic report.

~~(3) Annually, registered foreign currency exchangers shall submit a complete listing of all branches, agents and authorized vendors, and report any change of or addition of an executive officer, director, or responsible person/manager.~~

~~(3)(4) The Department shall levy a late payment penalty of up to \$100.00 per day or part thereof that a report is past due, unless it is excused for good cause, such as incidental and isolated clerical errors or omissions. A report is "past due" if it is received by the Department postmarked one or more days beyond the period defined in subsection paragraph (1).~~

Specific Authority 560.105(3), 560.118(2)(b)(a) FS. Law Implemented 560.118(2)(a), 560.123 FS. History—New 9-24-97, Amended 12-30-98, \_\_\_\_\_.

3C-560.604 Quarterly Reports to be Filed by Funds Transmitters.

(1)(a) Every registered funds transmitter shall submit a quarterly report to the Department on Form DBF-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference to the department quarterly. Such report shall be received by the Department postmarked no later than forty-five (45) days after the conclusion of each quarter and shall be sent to ~~Director,~~ Division of Securities and Finance Banking at the address listed in Rule 3C-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Department postmarked no later than the next business day. Every quarterly report shall contain the following information:

- ~~(a) A summary of the transactions both inbound and outbound for each month of the quarter, including the number of transmissions by country, and the dollar amount of transmissions;~~
- ~~(b) The highest daily number and dollar amount of transmissions outstanding during the quarter unless the maximum bond, collateral deposit or combination thereof has been filed and/or pledged to the Department;~~
- ~~(c) Quarterly statement of financial condition and quarterly statements of income and expenses to be completed on Form DBF-C-97;~~
- ~~(d) A description in the statement of financial condition of any collateral pledged to the department;~~
- ~~(e) A description in the statement of financial condition of the current market value, calculated in accordance with generally accepted accounting principles, of all permissible investments required by Section 560.210, F.S.;~~

~~(f) The complete name and address of all branches which have opened and/or closed since the previous quarterly report;~~

~~(g) The complete name and address of all new agents and authorized vendors since the previous quarterly report;~~

~~(h) The complete name and address of all persons within this State which no longer act, or are no longer authorized by the registrant to act, as an agent or authorized vendor since the previous quarterly report; and~~

~~(i) Form DBF-C-971, the declaration by an officer of the funds transmitter that such report is true and correct to the best of his or her knowledge and belief.~~

~~(2) In lieu of filing Form DBF-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. A computer generated report or spread sheet which contains the above information will be accepted by the department, if a signed declaration by an officer of the check easher of truth and correctness accompanies the electronic report.~~

~~(3) Annually, registered funds transmitters shall submit a complete listing of all branches, agents and authorized vendors, and report any change of or addition of an executive officer, director, or responsible person/manager.~~

~~(3)(4) The Department shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due, unless it is excused for good cause, such as incidental and isolated clerical errors or omissions. A report is "past due" if it is received by the Department postmarked one or more days beyond the period defined in subsection paragraph (1).~~

Specific Authority 560.105(3), 560.118(2)(b)(a) FS. Law Implemented 560.118(2)(a),(b), 560.123, 560.210 FS. History—New 9-24-97, Amended \_\_\_\_\_.

3C-560.605 Quarterly Reports to be Filed by Payment Instrument Sellers.

(1)(a) Every registered payment instrument seller shall submit a quarterly report to the Department on Form DBF-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference to the department quarterly. Such report shall be received by the Department postmarked no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Director, Division of Securities and Finance Banking at the address listed in Rule 3C-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Department postmarked no later than the next business day. Every quarterly report shall contain the following information

~~(a) Quarterly statement of financial condition and quarterly statements of income and expense to be completed on Form DBF-C-97;~~

~~(b) The highest daily number and dollar amount of payment instruments outstanding during the quarter, unless the maximum bond, collateral deposit or combination thereof has been filed and/or pledged to the Department;~~

~~(c) A description in the statement of financial condition of any collateral pledged to the Department of Banking and Finance;~~

~~(d) A description in the statement of financial condition of the current market value, calculated in accordance with generally accepted accounting principles of all permissible investments required by Section 560.210, F.S.;~~

~~(e) A summary of the transactions for each month of the quarter, including the number of instruments sold, and the dollar amount of payment instruments sold;~~

~~(f) The complete name and address of all branches which have opened and/or closed since the previous quarterly report;~~

~~(g) The complete name and address of all new agents and authorized vendors since the previous quarterly report;~~

~~(h) The complete name and address of all persons within this State which no longer act, or are no longer authorized by the registrant to act, as an agent or authorized vendor since the previous quarterly report; and~~

~~(i) Form DBF-C-971, the declaration by an officer of the payment instrument seller that such report is true and correct to the best of his or her knowledge and belief.~~

~~(2) In lieu of filing Form DBF-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet. A computer generated report or spread sheet which contains the above information will be accepted by the department, if a signed declaration by an officer of the check easher of truth and correctness accompanies the electronic report.~~

~~(3) Annually, registered payment instrument sellers shall submit a complete listing of all branches, agents and authorized vendors, and report any change of or addition of an executive officer, director, or responsible person/manager.~~

~~(3)(4) The Department shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due, unless it is excused for good cause, such as incidental and isolated clerical errors or omissions. A report is "past due" if it is received by the Department mailed and postmarked one or more days beyond the period defined in subsection paragraph (1).~~

Specific Authority 560.105(3), 560.118(2)(b)(a) FS. Law Implemented 560.118(2)(a),(b), 560.123, 560.210 FS. History—New 9-24-97, Amended \_\_\_\_\_.

3C-560.606 Annual Filing of Financial Statements by Part II Registrants.

(1)(a) Each registered funds transmitter shall annually submit audited financial statements to the Department for the registrant's most recent fiscal year.

(b) Each registered payment instrument seller shall annually submit audited financial statements to the Department 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 DBF-MT-4-01, Money Transmitter Audited Financial Statement Exemption Claim Form, effective 10/01, which is hereby incorporated by reference. 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 statements must be received by the Department within ninety (90) days of the registrant's fiscal year end.

(3) The Department 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 Department one or more days beyond the period defined in subsection (2).

(4) For purposes of adding new locations or authorized vendors, a Part II registrant may rely upon its annual financial statements that were received by the Department in a timely manner as required in subsections (1) and (2) of this rule or the net worth disclosure required by Form DBF-MT-2-01. The Department reserves the right to require additional documentation up to and including the submission of financial statements to substantiate the net worth disclosure on Form DBF-MT-2-01.

Specific Authority 560.105(3), 560.118(2)(a), 560.205(3)(f),(4)(d) FS. Law Implemented 560.118(2), 560.205, 560.208 FS. History—New

3C-560.607 Quarterly Reports to be Filed by Deferred Presentment Providers.

(1) Every registered deferred presentment provider shall submit a quarterly report to the Department on Form DBF-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference. Such report shall be received by the Department no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in Rule 3C-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Department no later than the next business day.

(2) In lieu of filing Form DBF-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Department's website (www.dbf.state.fl.us) on the Internet.

(3) The Department 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 Department one or more days beyond the period defined in subsection (1).

Specific Authority 560.105(3), 560.118(2) FS. Law Implemented 560.118(2) FS. History—New

3C-560.704 Records to be Maintained by Check Cashers.

(1) Every check casher shall maintain a records of all payment instruments cashed for each business day. The records shall include the following information with respect to each payment instrument accepted by the registrant:

(a) The name of the maker;

(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;

(f) The fee charged to cash the payment instrument;

(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.

(2) The following additional information shall be maintained:

(a) Records relating to all returned payment instruments that shall include, if known, the following: A daily business reconciliation; and

1. 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;

5. The date of deposit by the registrant;

6. The NSF fees, if any, imposed on the customer;

7. The date on which collection is made from the customer or charged-off by the 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: Records of all returned items

1. Bank deposit receipts;

2. Copies of checks or withdrawal receipts evidencing withdrawal of funds from accounts maintained by the registrant; and

3. A daily cash reconciliation summarizing each day's activities and reconciling cash on hand at the close of business.

(c) Bank statements of the registrant received and maintained no less often than monthly for all accounts from which the 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 3C-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.

Specific Authority 560.105(3) FS. Law Implemented 560.310 FS. History--New 9-24-97, Amended \_\_\_\_\_.

3C-560.706 Records to be Maintained by Authorized Vendors.

(1) Every authorized vendor of a money transmitter shall maintain at the location registered with the Department all records required by Sections 560.211(1) and 560.310(1), F.S., and Rules 3C-560.702 through 3C-560.705, 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.

(2) Every authorized vendor of a money transmitter shall maintain at all times a copy of the written agreement between the money transmitter 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 Department personnel upon request.

Specific Authority 560.105(3) FS. Law Implemented 560.205, 560.211, 560.307, 560.310 FS. History--New \_\_\_\_\_.

PART VIII

CHECK CASHER VERIFICATION FEE, MINIMUM DISCLOSURE, ~~POSTDATED CHECK~~, AND PAYMENT METHOD

3C-560.803 Postdated Check.

Specific Authority 560.105(3) FS. Law Implemented 560.103(3),(14), 560.302(1), 655.86 FS. History--New 9-24-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Ramsden, Financial Examiner/Analyst II, Division of Securities and Finance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Securities and Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 27, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001

DEPARTMENT OF INSURANCE

RULE TITLE: Mandatory Coverage of Diabetes Treatment  
 RULE NO.: 4-191.037

PURPOSE AND EFFECT: A question has arisen as to whether limitations on durable medical equipment in HMO contracts can be used to limit coverage for equipment used in diabetes treatment as mandated by § 641.31(26)(a), F.S. This rule answers that question.

SUMMARY: The proposed rule requires coverage for diabetes treatment regardless of contractual limits on durable medical equipment.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308, 641.36 FS.

LAW IMPLEMENTED: 624.307(1), 641.31(26)(a) FS.

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

TIME AND DATE: 9:30 a.m., October 2, 2001

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Brinkley, Bureau of Managed Care, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0347, (850)413-5338

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

4-191.037 Mandatory Coverage of Diabetes Treatment.

(1) Paragraph 641.31(26)(a), Florida Statutes, prohibits the application of monetary limitations to limit coverage of equipment, supplies, and services used to treat diabetes, if the patient's primary care physician or physician specializing in diabetes to whom the patient has been referred certifies that the equipment, supplies, or services are necessary.

(2) Coverage for equipment meeting the standard in paragraph 641.31(26)(a), Florida Statutes, shall not be limited by durable medical equipment limitations or other limitations in a health maintenance contract.



c. FWUA:

d. FRPCJUA:

11. Agent Licensing Requirements:

a. Agent Responsibilities:

b. Change of Address:

c. Continuing Education:

d. License Renewal:

12. Basic Florida Insurance Principles, Concepts, and Laws.

(b) At least 8 hours in:

1. Ethics:

2. Office Management:

3. Customer Relations:

(2) For designation as an Accredited Claims Adjuster (ACA), the requirement is at least 40 course hours:

(a) At least 26 hours in:

1. Property and Liability Insurance Concepts, Insurance Contracts and Law, and Adjusting Practices:

2. Casualty/Liability Insurance:

a. Automobile Liability:

b. Automobile No-Fault:

c. Uninsured Motorists:

d. Automobile Miscellaneous:

f. General Liability:

g. Crime and Surety:

h. Workers Compensation:

i. Umbrella/Excess Liability:

j. Commercial Property Insurance:

3. Fire and Allied Lines, Including Marine Insurance:

a. Dwelling Policies:

b. Homeowners Insurance:

c. Commercial Property Policy:

d. Business Owners Policy:

e. Boiler and Machinery:

f. Inland Marine Insurance:

g. Ocean Marine Insurance:

h. Flood Insurance:

i. Aviation Insurance:

4. Motor Vehicle Physical Damage and Mechanical Breakdown Insurance:

a. Personal Auto Insurance:

b. Business Auto Insurance:

c. Mechanical Breakdown:

5. Health Insurance:

6. Residual Markets:

7. Florida Statutes:

(b) At least 8 hours in:

1. Ethics:

2. Negotiation Skills:

3. Communication Skills.

Specific Authority 626.221 FS. Law Implemented 626.221 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jeff Odom, Division of Agent and Agency Services,  
Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: John Hale, Director, Division of  
Agent and Agency Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: August 27, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: August 3, 2001

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Building Commission**

RULE CHAPTER TITLE: Florida Building Commission –

RULE CHAPTER NO.:

Handicapped Accessibility

Standards

9B-7

RULE TITLE:

RULE NO.:

Procedures

9B-7.003

PURPOSE AND EFFECT: To update Request for Waiver, Forms No. 1997-03 and 1997-04, adopted by reference in this rule. Section 8 of Form No. 1997-03, "Reason(s) for Waiver Request," lists the criteria for waiver of accessibility requirements; part of the proposed revision will replace outdated criteria with those criteria currently prescribed in Rule 9B-7.003(6), F.A.C. The remainder of the revision will add a space for applicants and owner contact persons to supply an e-mail address, will add a request that applicants submit the application in electronic format, and will correct various typographic errors.

SUMMARY: Updates Request for Waiver, Forms No. 1997-03 and 1997-04, adopted by reference in this rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.512(1) FS.

LAW IMPLEMENTED: 553.512(1) FS.

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

TIME AND DATE: 8:20 a.m., October 2, 2001

PLACE: Rosen Centre Hotel, 9840 International Drive, Orlando, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM

277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824

THE FULL TEXT OF THE PROPOSED RULE IS:

9B-7.003 Procedures.

(1) All applications for a waiver or modification of the requirements of the Act or the Code shall be filed on the Request for Waiver, Forms No. ~~2001-1 1997-03~~ and ~~2001-2 1997-04~~, which the Commission hereby incorporates by reference, effective ~~October 1, 1997~~. Copies of Forms No. ~~2001-1 1997-03~~ and ~~2001-2 1997-04~~ are available by writing to the Codes and Standards Section, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100. Upon certification from an applicant that all information requested by these rules has been furnished the request will be scheduled for consideration at the Commission's next scheduled meeting provided that at least 14 days notice can be given to the members of the Advisory Council.

(2) through (7) No change.

Specific Authority 553.512(1) FS. Law Implemented 553.512(1) FS. History--New 1-31-79, Formerly 9B-7.03, Amended 10-1-96, 9-14-97, 9-7-00,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Building Commission

RULE CHAPTER TITLE: Florida Building Commission - Handicapped Accessibility Standards

RULE CHAPTER NO.:

9B-7

RULE TITLE: Florida Accessibility Code for Building Construction  
RULE NO.: 9B-7.0042

PURPOSE AND EFFECT: The purpose and effect of this rule revision is to adopt by reference the 2001 revisions to the 1997 Florida Accessibility Code for Building Construction (Code). The proposed 2001 revisions consist of minor amendments to Figure 30(e), which depicts three illustrations of an accessible toilet stall with a lavatory, and was first adopted by the Florida Building Commission (Commission) in 1999. In 1998, the U.S. Department of Justice (DOJ) certified the Code as equivalent to the new construction and alterations requirements of Title III of the Americans with Disabilities Act (ADA), and Section 553.502, F.S., requires that the Code be maintained to assure its certification by the DOJ. Upon final adoption of the 2001 revisions, the Commission will submit documentation of the revisions to the DOJ in order to obtain the DOJ's official review to ensure that this revision is equivalent to the new construction and alterations requirement of Title III of the ADA.

SUMMARY: Adopts by reference the 2001 revisions to the 1997 Florida Accessibility Code for Building Construction.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 553.503 FS.

LAW IMPLEMENTED: 553.503 FS.

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

TIME AND DATE: 8:20 a.m., October 2, 2001

PLACE: Rosen Centre Hotel, 9840 International Drive, Orlando, Florida

Any person requiring special accommodation at the hearing because of a disability or physical impairment should contact Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824, SUNCOM 277-1824, at least seven days before the date of the hearing. If you are hearing or speech impaired, please contact the Department of Community Affairs using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)487-1824



THE FULL TEXT OF THE PROPOSED RULE IS:

9B-7.0042 Florida Accessibility Code for Building Construction.

The 1997 Florida Accessibility Code for Building Construction (the Code) is adopted by reference as the rule of this Commission, effective October 1, 1997. The 2001 ~~1999~~ revisions to the Code are hereby incorporated into this rule by reference and shall take effect on the effective date of this rule. Copies of the Code and the 2001 ~~1999~~ revisions are available by writing to the Codes and Standards Section, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

Specific Authority 553.503 FS. Law Implemented 553.503 FS. History--New 9-14-97, Amended 10-31-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Shirley Collins, Director, Division of Housing and Community Development, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 10, 2001

**STATE BOARD OF ADMINISTRATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	19-12.001
Purpose	19-12.002
Limitation on Contributions	19-12.003
Annual Addition in Excess of Limitation	19-12.004
The Exclusive Benefit Rule of the Code and Forfeitures	19-12.005
Distribution of Benefits	19-12.006

**PURPOSE AND EFFECT:** These proposed rules effect compliance with the Internal Revenue Code for the defined contribution pension plan of the Florida Retirement System, called the Public Employee Optional Retirement Program.

**SUMMARY:** Proposed new Rule 19-12.001, F.A.C., provides definitions. Proposed new Rule 19-12.002, F.A.C., states the purpose of the rules. Proposed new Rule 19-12.003, F.A.C., provides requirements on limitations on contributions to participant accounts. Proposed new Rule 19-12.004, F.A.C., provides for the attribution of annual additions in excess of IRS limitations. Proposed new Rule 19-12.005, F.A.C., provides for the exclusive benefit rule and the application of forfeitures. Proposed new Rule 19-12.006, F.A.C., provides requirements for the distributions of benefits.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** The Board has prepared a statement and estimated the cost to be minimal.

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

**SPECIFIC AUTHORITY** 121.4501(13) FS.

**LAW IMPLEMENTED** 121.4501(1),(7),(13) FS.

**IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:**

**TIME AND DATE:** 9:00 a.m. – 11:30 a.m., Monday, October 1, 2001

**PLACE:** Room 116 (Hermitage Conference Room), 1801 Hermitage Blvd., Tallahassee, Florida 32308

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Cindy Gokel, Assistant General Counsel, State Board of Administration, P. O. Drawer 13300, Tallahassee, FL 32317-3300, (850)413-1199

THE FULL TEXT OF THE PROPOSED RULES IS:

19-12.001 Definitions.

The following words and terms shall have the following meanings for purposes of this Chapter:

(1) “Annual addition” means the sum for any limitation year of (a) all employer and employee contributions which are treated as annual additions to a defined contribution plan for purposes of s. 415(c) of the Code and (b) forfeitures. Examples of such contributions to a defined contribution plan include the following: contributions to the Public Employee Optional Retirement Program; contributions to the Senior Management Service Optional Annuity Program described in s. 121.055(6), F.S.; contributions to a Code s. 401(k) plan; employer contributions to an individual retirement account; voluntary employee contributions to accounts in a defined benefit plan [but not including contributions to a qualified cost-of-living arrangement in accordance with Code s. 415(k)]; amounts allocated to the separate account of a key employee for post-retirement medical benefits described in Code s. 419A(d)(2); and contributions to an individual medical benefit account, as described in Code s. 415(l). Examples of contributions which are not annual additions for purposes of s. 415(c) of the Code as applied to the Public Employee Optional Retirement Program include the following: rollover contributions or transfers from another eligible retirement plan to the Public Employee Optional Retirement Program; contributions to a Code s. 403(b) annuity plan; contributions to a Code s. 457 deferred compensation plan; and contributions which are additional elective deferrals under Code s. 414(v). With respect to the Public Employee Optional Retirement

Program, contributions are those specifically provided for in, or specifically permitted pursuant to, ss. 121.4501 and 121.571, F.S.

(2) “Benefits” is used in the same sense, and has the same meaning, as used in s. 121.4501(7), F.S.

(3) “Code” means the U.S. Internal Revenue Code, as amended.

(4) “Compensation” means all items of compensation specified in Treas Reg. s. 1.415-2 (d)(2), increased by any elective deferral as defined in Code s. 402(g)(3) or any amount which is contributed by the Employer at the election of the employee and which is not includible in the gross income of the employee by reason of Code ss. 125 or 457.

(5) “Defined contribution plan” means a plan which provides for an individual account for each participant and for benefits based solely on the amount contributed to the participant’s account, and any income, expenses, gains and losses, and any forfeitures of accounts of other participants which may be allocated to such participant’s account.

(6) “Direct rollover” means a payment by the Public Employee Optional Retirement Program to the eligible retirement plan specified by the distributee.

(7) “Distributee” means a Participant or former Participant. In addition, the Participant’s or former Participant’s surviving spouse and the Participant’s or former Participant’s spouse or former spouse who is the alternative payee under a qualified domestic relations order, as defined in Code s. 414(p), are distributees with regard to the interest of the spouse or former spouse.

(8) “Eligible retirement plan” means an individual retirement account described in Code s. 408(a), an individual retirement annuity described in Code s. 408(b), an annuity plan described in Code s. 403(a), an annuity contract described in Code s. 403(b), an eligible deferred compensation plan described in Code s. 457(b) which is maintained by an eligible employer described in Code s. 457(e)(1)(A) or a qualified trust described in Code s. 401(a), that accepts the distributee’s eligible rollover distribution.

(9) “Eligible rollover distribution” means any distribution of all or any portion of the balance of the Participant’s account(s) in the Public Employee Optional Retirement Program to the credit of the distributee. An eligible rollover distribution does not include any distribution which is made upon hardship of the employee; any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee’s designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Code s. 401(a)(9); the portion of any distribution that is not includible in gross income, unless transferred in accordance with the provisions of Code s. 402(c)(2) to a qualified trust

which is part of a plan which is a defined contribution plan, or to an individual retirement account described in Code s. 408(a) or an individual retirement annuity described in Code s. 408(b); or a deemed distribution of a loan under Code s. 72(p).

(10) “Employer” means an employer as defined in s. 121.4501(2)(e), F.S.

(11) “Limitation year” is the consecutive 12 month period of time to which Code limitations with respect to contributions and forfeitures are applied. For the Public Employee Optional Retirement Program, the limitation year is the calendar year.

(12) “Participant” means a participant of the Public Employee Optional Retirement Program as defined in s. 121.4501(2)(f), F.S.

(13) “Plan” means the Public Employee Optional Retirement Program of the Florida Retirement System created by ch. 2000-169, Laws of Florida, as set forth in Part II of ch. 121, F.S.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(1), 121.4501(7)(a), 121.4501(13) FS. History—New

#### 19-12.002 Purpose.

The primary purpose of this Rule Chapter is to ensure compliance of the Plan with certain requirements of the Code in order for the Plan to remain a qualified pension plan exempt from federal taxation. This Rule Chapter shall be interpreted in a manner consistent with the Code and regulations promulgated thereunder, including any applicable proposed regulations. This Rule Chapter also implements and interprets provisions of Part II of ch. 121, F.S., pertaining to Code requirements.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(1), 121.4501(7)(a), 121.4501(13) FS. History—New

#### 19-12.003 Limitation on Contributions.

In no event shall the aggregate of the allocation of contributions and forfeitures to a Participant’s account(s) in the Plan and the annual addition to a Participant’s account(s) in any other defined contribution plan maintained by the Employer exceed the limitation for defined contribution plans [the Code section “415(c) limitation”] set forth in the next sentence. The 415(c) limitation is exceeded if the sum of the annual addition to a Participant’s account(s) in the Plan and the annual addition to a Participant’s account(s) in any other defined contribution plan maintained by the Employer during a limitation year exceeds the lesser of 100% of such Participant’s compensation or \$40,000 [adjusted as provided in Code s. 415(d) for increases in the cost of living]. Employers shall cooperate with the Plan’s administrator or its agent in order for the administrator or its agent to be able to monitor the 415(c) limitation on contributions. Employers shall provide all financial and payroll data which the Plan’s administrator or its agent must use to determine whether or not the 415(c) limitation has been exceeded. [Note: Pursuant to s. 121.4501(5)(b), F.S., Employers are responsible for

notifying Participants regarding maximum contribution levels permitted under the Code and if a Participant contributes to any other tax-deferred plan, he or she is responsible for ensuring that total contributions made to the Plan and to any other such plan do not exceed federally permitted maximums.]

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(13) FS. History—New \_\_\_\_\_.

#### 19-12.004 Annual Additions in Excess of Limitation.

In the event the aggregate annual additions to a Participant's account(s) in the Plan and in any other defined contribution plan maintained by the Employer exceed the 415(c) limitation during any limitation year, the excess shall be attributed first to such other plans. If any excess remains after attribution to such other plans, the amount of any such excess attributable to the allocation of forfeitures, to a reasonable error in estimating a participant's annual compensation or to any other circumstances that the Commissioner of Internal Revenue finds is justified, in accordance with Treasury Regulation 1.415-6(b)(6), shall be used to reduce the Employer's contributions for such Participant under the Plan in the next and succeeding limitation years; provided, however, that if the Participant is not covered by the Plan at the end of the limitation year, such excess amount will be used to reduce the Employer's contributions to remaining Participants under the Plan in the next, and succeeding, limitation years. If the correction method, above, is not available, other methods of correcting excess annual additions are permitted if in accordance with Treasury Regulation 1.415-6(b)(6).

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(13) FS. History—New \_\_\_\_\_.

#### 19-12.005 The Exclusive Benefit Rule of the Code and Forfeitures.

In accordance with Code s. 401, the assets of the Plan shall only be used for the exclusive benefit of Participants or their beneficiaries, or to pay administrative expenses of the Plan. Consequently, any forfeited nonvested accumulations in the suspense account of the Public Employee Optional Retirement Program Trust Fund shall be applied in the following order in a manner consistent with Code requirements: first, to pay administrative expenses of the Plan; then to the extent any forfeited amounts remain, to reduce future Employer contributions to the Plan; and, finally, to be reallocated to the Plan accounts of other Participants.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(13) FS. History—New \_\_\_\_\_.

#### 19-12.006 Distribution of Benefits.

(1) All distribution of benefits from a Participant's account(s) in the Plan shall begin and be made no later than as prescribed by Code s. 401(a)(9) and the regulations issued thereunder, including any proposed regulations, and shall be subject to the incidental death benefit rules of Code s. 401(a)(9)(G).

(a) Distribution of benefits to a Participant shall be made or commence not later than April 1 following the close of the later of the calendar year during which the Participant attains age 70 1/2 or retires.

(b) If distribution of benefits has commenced before a Participant's death, any remaining benefits must be distributed at least as rapidly as under the method of distribution being used as of the date of the Participant's death.

(c) If a Participant dies before the commencement of distributions from the Participant's account(s) in the Plan, the method of distribution shall be as follows:

1. Any benefits not payable to a beneficiary designated by the Participant shall be distributed within five years after the Participant's death.

2. Any benefits payable to a beneficiary designated by the Participant shall be distributed over the life of such beneficiary (or over a period certain not extending beyond the life expectancy of such beneficiary), commencing not later than the end of the calendar year immediately following the calendar year in which the Participant died. If the designated beneficiary is the surviving spouse of the Participant, distributions shall commence on or before the later of the end of the calendar year immediately following the calendar year in which the Participant died and the end of the calendar year in which the Participant would have attained age 70 1/2.

3. If the designated beneficiary is the surviving spouse of the Participant and the surviving spouse dies before distributions to such spouse begin, this paragraph (c) shall be applied as if the surviving spouse were the Participant.

(2) Benefits shall be distributed to a Participant as a periodic distribution, a partial lump-sum payment whereby a portion of the accrued benefit is paid to the Participant less withholding taxes remitted to the Internal Revenue Service and the remaining amount is transferred directly to the custodian of an eligible retirement plan on behalf of the Participant, or as otherwise provided by s. 121.4501(7)(d), F.S. Benefits shall be distributed to a survivor as provided in s. 121.4501(7)(e), F.S. A distributee shall have the option to have all or any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(3) All distributions of benefits must be made in accordance with Code provisions, which shall override any distribution options inconsistent with such provisions.

Specific Authority 121.4501(13)(a) FS. Law Implemented 121.4501(1), 121.4501(7)(a), 121.4501(13) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tom Herndon, Executive Director, State Board of Administration

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Trustees of the State Board of Administration

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001

**DEPARTMENT OF CITRUS**

RULE CHAPTER TITLE: Containers, Packs, Stamping and Labeling of Fresh Fruit  
RULE CHAPTER NO.: 20-39  
RULE TITLES: Approved Boxes 20-39.003  
Approved Bags 20-39.004

PURPOSE AND EFFECT: Would provide for two new containers to be added to the list of containers approved for use in shipping fresh Florida Citrus.

SUMMARY: Approved containers for use in shipping fresh Florida Citrus.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Regulatory Cost has been prepared.

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

SPECIFIC AUTHORITY: 601.11 FS.  
LAW IMPLEMENTED: 601.11 FS.  
A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW:  
TIME AND DATE: 10:30 a.m., October 31, 2001  
PLACE: Department of Citrus Building, 1115 East Memorial Boulevard, Lakeland, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Alice P. Wiggins, Administrative Assistant, Legal Department, Florida Department of Citrus, P. O. Box 148, Lakeland, Florida 33802-0148

THE FULL TEXT OF THE PROPOSED RULES IS:

20-39.003 Approved Boxes.

(1) Unless otherwise noted, all approved boxes are 4/5 bushel capacity.

(2) The name of the manufacturer, and the official container number as designated in subsection (3) below, shall be printed on the bottom outside flap of each approved box body in plainly legible characters.

(3) The following containers are hereby designated as approved boxes and, unless otherwise noted, may be used for shipment of all varieties of citrus fruit:

Chart 1

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***	
			Body	Cover
DOC-01-P	Singlewall	17 x 10 5/8 x 9 5/8**	42-33-69	42-33-42
DOC-02-V	Singlewall	17 x 11 1/2 x 9 3/4	42-33-69	42-33-42
DOC-03-V	Singlewall	Oversized 17 x 12 x 9 3/4	42-33-69	42-33-42
DOC-04-PT	Tray Style	17 x 10 5/8 x 9 5/8**	42-33-42	42-33-42
DOC-05-PB	Bliss Style	17 x 10 5/8 x 9 5/8**	42-33-42	33-33-33
DOC-06-VT	Tray Style	17 x 11 1/2 x 9 3/4	42-33-42	42-33-42
DOC-07-VT	Tray Style	Oversized 17 x 12 x 9 3/4	42-33-42	42-33-42
DOC-08-VB	Bliss Style	Oversized 17 x 11 1/2 x 9 3/4	42-33-42	33-33-33
DOC-09-VB	Bliss Style	Oversized 17 x 12 x 9 3/4	42-33-42	33-33-33
DOC-10-P	Doublewall	17 x 10 5/8 x 9 5/8 Partial telescope self-locking lid Tangerines & citrus hybrids only. **	42-33-42-33-42	42-26-42
DOC-11-XP	Singlewall	17 x 10 5/8 x 10 1/8**	90-33-90	42-33-42
DOC-12-XPT	Tray Style	17 x 10 5/8 x 10 1/8**	69-33-69	42-33-42
DOC-13-XPS	Super X Style	17 x 10 5/8 x 10 1/8**	42-40-69	42-33-42
DOC-14-P ††	Singlewall	15 7/8 x 10 5/8 x 6 Full Telescope **	42-33-42	42-33-42
DOC-15-PT ††	Tray Style	17 5/8 x 10 5/8 x 6 Full Telescope **	42-33-42	42-33-42
DOC-16-WP	Wood Slat	16 1/8 x 10 5/8 x 10 5/8 End panels may be of material other than wood.**	Wood Slat	Wirebound
DOC-17-WP	Wood Slat	19 7/8 x 7 1/2 x 11 1/2 End panels may be of material other than wood. Tangerines and citrus hybrids only.**	Wood Slat	Wirebound
DOC-18-P	Singlewall	17 x 10 5/8 x 9 5/8**	42-40-42	42-33-42
DOC-19-P	Singlewall	17 x 10 5/8 x 9 5/8**	45-33-45	42-33-42
DOC-20-XP††	Singlewall	17 x 10 5/8 x 10 1/8**	69-40-69	42-33-42

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***  Body	Minimum Board Weights (actual weight may be heavier)***  Cover
DOC-21-PT	Tray Style	17 x 10 9/16 x 9 5/8 4" partial telescope tray cover. Tangerines and citrus hybrids only.**	42-40-69	42-33-42
DOC-22-P ††	Singlewall	13 1/4 x 10 5/8 x 7 Full telescope**	42-33-42	42-33-42
DOC-23-VT	Tray Style	17 x 12 x 9 5/8 End slotted with short end flaps. Oversized	69-33-42	42-33-42
DOC-24-P	Singlewall	17 x 10 5/8 x 9 5/8 4" partial telescoping tray cover. Tangerines and citrus hybrids only.**	69-40-90	42-33-42
DOC-25-PT ††	Tray Style	16 1/8 x 10 5/8 x 6 Full Telescope**	42-33-42	42-33-42
DOC-26-P	Singlewall	18 1/4 x 12 1/2 x 11 3/4 Having three plastic trays per carton*	90-40-90	42-33-42
DOC-27-WV ††	Collapsible wooden bin	46 x 38 x 21 Holds appx 20 4/5 bu. equiv. units	Wooden bin	None
DOC-28-P ††	Singlewall	17 x 10 5/8 x 6*** Full Telescope	42-33-42	42-33-42
DOC-29-P	Singlewall	16 3/4 x 11 1/2 x 11 3/8 Having fiberboard honeycomb cells**	42-40-69	42-33-42
DOC-30-P ††	Singlewall	17 x 10 x 6 15/16 Corrugated, full telescope**	90-40-90	42-33-42
DOC-31-P	Singlewall	16 11/16 x 11 8/16 x 11 14/16 Corrugated with honeycomb dividers**	69-40-42	42-33-42
DOC-32-OV ††	Triplewall-Bulk bin	46 1/2 x 38 x 36 Octagonal watermelon bin with self-locking lid. Holds appx. 28 4/5 bu. equiv.	69-33-69-33-69-33-90	69-26-69

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***	
			Body	Cover
DOC-33-P	Singlewall	20 15/16 x 11 13/16 x 7 Telescoping with two trays per carton **	42-33-69	42-33-42
DOC-34-OV ††	Triplewall-Bulk bin	46 x 37 1/2 x 36 Octagonal with interlocking flaps. Holds appx. 28 4/5 bu. equiv.	42-40-90-42-40-90-40-90	42-26-69
DOC-35-OV ††	Triplewall-Bulk bin	46 x 38 x 26 1/2 Tuff octagonal tube, holding appx. 24 4/5 bu. equiv.	90-33-42-33-42-33-90	69-26-69
DOC-36-P	Doublewall	23 5/8 x 15 5/8 x 7 Die cut platform tray, open top	42-36-33-26-42	
DOC-37-RV ††	Triplewall-Bulk bin	46 1/2 x 38 1/2 x 26 1/2 Corrugated rectagon with diagonal corners and interlocking bottom (holds appx. 20 to 24 4/5 bu. equiv.)	64-33-35-64-33-96	35-26-35
DOC-38-P	Singlewall	16 3/4 x 11 1/2 x 10 3/8 Telescoping, half-slotted, optional molded fiber spring cushion trays**	99-33-90	42-33-69
DOC-39-P	Doublewall	17 x 10 5/8 x 9 5/8 Corrugated, half-slotted	42-33-33-33-42	42-33-42
DOC-40-P	Doublewall	18 15/16 x 14 3/16 x 11 13/16 One-piece, die cut	42-33-42-33-42	n/a
DOC-41-P	Plastic	22 1/2 x 14 9/16 x 7 1/8 One-piece, reusable/recyclable high-density polyethylene	n/a	n/a
DOC-42-P††	Singlewall	17 1/2 x 11 1/8 x 8 3/4 Holding 2/3 of a standard 4/5 bu. container, two-layer, full telescoping	90-40-90	42-33-42

Approved Container Number	Construction Styles	Inside Body Dimension in inches (LxWxD)	Minimum Board Weights (actual weight may be heavier)***	
			Body	Cover
DOC-43-OV‡‡	Triplewall ½ bulk bin	38 1/4 x 23 3/4 x 25 1/4	69-26-38-26-38-26-65	38-26-38
DOC-44-PT	Doublewall	22 1/8 x 14 11/16 x 6 3/8	42-40-41-40-56	42-33-42
DOC-45-P	Singlewall	17 1/8 x 10 5/8 x 10 3/8	42-33-57	42-26-35
DOC-46-PT	Doublewall	23 5/8 x 15 5/8 x 7	42-40-42-40-42	n/a
DOC-47-PT	Doublewall	14 1/2 x 11 3/8 x 6 5/16	33-69-33-69	n/a

\*\* Container may be volume filled provided the sizes designated for each variety of fruit meet the requirements of subsections 20-39.007(1), 20-39.008(1) and 20-39.009(1), F.A.C.

‡‡ Container does not conform to 4/5 bushel requirement of subsection 20-39.003(1), F.A.C.

\*\*\* Minimum board weight requirements shall be waived when a compression strength test by an independent testing laboratory shows that the container made with a new material is equal to, or better than, compression strength of the container with minimum approved board weight. It shall be the responsibility of the packinghouse to acquire and provide records of such compression strength testing upon request.

(4) Each container must be ventilated.

Specific Authority 601.11 FS. Law Implemented 601.11 FS. History—Formerly 105-1.03(1)(a), Revised 1-1-75, Amended 8-16-75, 8-11-77, 8-1-78, 8-21-79, 1-15-80, 10-20-80, 5-1-81, 9-1-82, 11-6-83, 10-21-84, 1-1-85, Formerly 20-39.03, Amended 9-11-86, 12-20-87, 10-14-90, 8-23-92, 10-18-92, 1-19-93, 5-23-93, 10-10-93, 1-9-94, 10-16-94, 8-29-95, 10-13-96, 10-26-97, 12-6-98,

20-39.004 Approved Bags.

(1) Approved bags for all types of citrus shall be 1/3 standard shipping box size, 14 lb. net weight; 1/4 standard shipping box size, 10 lb. net weight; 1/5 standard shipping box size, 8 lb. net weight; 1/8 standard shipping box size, 5 lb. net weight; 1/10 standard shipping box size, 4 lb. net weight; 1/12 standard shipping box size, 3 lb. net weight; and two-count grapefruit bags.

(2)(a) Specifications:



Chart 2

	For Grapefruit	For all other varieties
** 2 count mesh	8 x 17"	n/a
3 lb. vexar	4 1/2" x 18 1/2"	4 1/2" x 18 1/2"
3 lb. mesh	n/a	9 x 17
4 lb. mesh	9 x 18"	9 x 18"
4 lb. open mouth poly	10 x 18 1/2"	10 x 18 1/2 1/2"
5 lb. mesh	11 x 20"	9 x 20"
5 lb. drawcord poly	10 1/2 x 15"	9 1/2 x 15"
5 lb. open mouth poly	10 1/2 x 19"	9 1/2 x 18 1/8"
8 lb. mesh	11 x 23"	11 x 23"
8 lb. drawcord poly	11 1/2 x 17"	10 1/2 x 17"
8 lb. open mouth poly	11 1/2 x 21"	10 1/12 x 20 1/2"
<u>8 lb. drawcord mesh</u>	<u>11 1/2 x 17"</u>	<u>11 1/2 x 17"</u>
10 lb. drawcord mesh	12 x 18 1/2"	12 x 18 1/2"
14 lb. mesh	11 1/2 x 24"	11 x 24"

\*\* Limited to sizes 14, 18, 23, and 27.

(b) Width of mesh bags shall be determined by measuring at the top with material stretched to form 90° angles in all corners of the diamonds. Length of mesh bags shall be determined by measuring from the inside of the bottom seam to the top of the bag.

(c) All polyethylene bags shall be ventilated. All 5 lb. polyethylene bag material shall be minimum of 1.5 mils and all 8 lb. polyethylene bag material shall be minimum of 2 mils. The length of open mouth polyethylene bags shall be measured, when flat, from the inside of the bottom seam to the top of the bag, and drawcord polyethylene bags measured from the bottom of the bag to the top of the bag. The width of polyethylene bags shall be measured, when flat, from side to side including any gusset.

(d) A tolerance of 15%, plus or minus, shall be allowed on inside dimensions for all bags.

Specific Authority 601.11 FS. Law Implemented 601.11 FS. History—Formerly 105-1.03(1)(c), Revised 1-1-75, Formerly 20-39.04, Amended 9-11-86, 9-6-87, 7-21-91, 10-18-92, 1-19-93, 10-13-96, 10-26-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mia L. McKown, General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mia L. McKown, General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 18, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 3, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Payment Methodology for Federally Qualified Health Center Services

RULE NO.: 59G-6.080

PURPOSE AND EFFECT: The purpose of the proposed amendment is to incorporate changes to the Florida Title XIX Federally Qualified Health Center Services Reimbursement Plan (the Plan) payment methodology, effective January 1, 2001, the proposed rates for Medicaid FQHCs' and RHCs' reimbursement will be rates resulting from the current methodology used to calculate per diem rates except for the following: In the first phase of the new Medicaid Prospective Payment System (PPS), January 1, 2001 – September 30, 2001, Florida will pay current FQHCs/RHCs the average of their Medicaid per diem rates in effect for the state fiscal years 1999 and 2000 (calculating the payment amount on a per visit basis). Beginning October 1, 2001, each FQHCs'/RHCs' Medicaid per diem rate will be increased by the percentage increase in the Medicare Economic Index (MEI) for primary care services. This increase shall be made annually on October 1. A FQHC/RHC may apply for an adjustment to its current Medicaid per diem rate if the FQHC/RHC experiences a change in their scope of service(s), which on a per visit basis is greater than 3% of the current per diem rate. Newly qualified FQHCs/RHCs after fiscal year 2000 will have initial payments established either by reference to payments to other clinics in the same or adjacent areas, or in the absence of such other clinics, through cost reporting methods. After the initial year, payment shall be set using the MEI methods used for other clinics.

The effect of the proposed amendment is the proposed rates for Medicaid FQHCs' and RHCs' reimbursement will be rates resulting from the current methodology used to calculate per diem rates except for the following: In the first phase of the new Medicaid Prospective Payment System (PPS), January 1, 2001 – September 30, 2001, Florida will pay current FQHCs/RHCs the average of their Medicaid per diem rates in effect for the state fiscal years 1999 and 2000 (calculating the payment amount on a per visit basis). Beginning October 1, 2001, each FQHCs'/RHCs' Medicaid per diem rate will be increased by the percentage increase in the Medicare Economic Index (MEI) for primary care services. This increase shall be made annually on October 1. A FQHC/RHC may apply for an adjustment to its current Medicaid per diem rate if the FQHC/RHC experiences a change in their scope of service(s), which on a per visit basis is greater than 3% of the current per diem rate. Newly qualified FQHCs/RHCs after fiscal year 2000 will have initial payments established either by reference to payments to other clinics in the same or adjacent areas, or in the absence of such other clinics, through cost reporting methods. After the initial year, payment shall be set using the MEI methods used for other clinics.

**SUMMARY:** The proposed rates for Medicaid FQHCs' and RHCs' reimbursement will be rates resulting from the current methodology used to calculate per diem rates except for the following: In the first phase of the new Medicaid Prospective Payment System (PPS), January 1, 2001 – September 30, 2001, Florida will pay current FQHCs/RHCs the average of their Medicaid per diem rates in effect for the state fiscal years 1999 and 2000 (calculating the payment amount on a per visit basis). Beginning October 1, 2001, each FQHCs'/RHCs' Medicaid per diem rate will be increased by the percentage increase in the Medicare Economic Index (MEI) for primary care services. This increase shall be made annually on October 1. A FQHC/RHC may apply for an adjustment to its current Medicaid per diem rate if the FQHC/RHC experiences a change in their scope of service(s), which on a per visit basis is greater than 3% of the current per diem rate. Newly qualified FQHCs/RHCs after fiscal year 2000 will have initial payments established either by reference to payments to other clinics in the same or adjacent areas, or in the absence of such other clinics, through cost reporting methods. After the initial year, payment shall be set using the MEI methods used for other clinics.

**SUMMARY OF ESTIMATED REGULATORY COST:** A statement of estimated regulatory cost has not been 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:** 409.905(11) FS.

**LAW IMPLEMENTED:** 409.908 FS.

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

TIME AND DATE: 9:00 a.m., October 1, 2001

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room C, Tallahassee FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: John Owens, Medicaid Program Analysis, Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Mail stop 21, Tallahassee, Florida 32308, (850)414-2756

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-6.080 Payment Methodology for Federally Qualified Health Center Services.

Reimbursement to participating health centers for services provided shall be in accordance with the Florida Title XIX Federally Qualified Health Center Reimbursement Plan Version III H \_\_\_\_\_ April 10, 1994 and incorporated herein by reference. A copy of the Plan as revised may be obtained by writing to the Office of the Deputy Secretary for Medicaid Director, 2727 Mahan Drive, Building 3, Mail Stop 8, Tallahassee, FL 32308 ~~1317 Winewood Boulevard, Building 6, Room 223, Tallahassee, Florida 32399-0700.~~

Specific Authority 409.905(11) ~~409.15(8)~~ FS. Law Implemented 409.908 FS. History—New 6-3-93, Formerly 10P-6.080, Amended 4-10-94, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** John Owens

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Bob Sharpe

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** August 28, 2001

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** August 10, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**RULE TITLE:** Disciplinary Guidelines **RULE NO.:** 61-20.010

**PURPOSE AND EFFECT:** The new rule is being created to implement requirements imposed by Section 455.2273, Florida Statutes, relating to disciplinary guidelines. The effect will be to provide notice to the regulated public of potential penalties for violating regulatory provisions and to provide guidance to courts and agency head on the assessment of penalties.

**SUMMARY:** The rule implements requirements imposed by Section 455.2273, Florida Statutes, relating to disciplinary guidelines.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** None.

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

SPECIFIC AUTHORITY: 455.2273(1) FS.

LAW IMPLEMENTED: 455.2273 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: Tom Thomas, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61-20.010 Disciplinary Guidelines.

(1) PURPOSE. Pursuant to Section 455.2273, Florida Statutes, the department provides within this rule disciplinary guidelines which shall be imposed upon applicants, registrants, or licensees whom it regulates under Chapter 468, Part VIII, Florida Statutes. The purpose of this rule is to notify applicants, registrants, and licensees of the ranges of penalties which will routinely be imposed unless the department finds it necessary to deviate from the guidelines for the stated reasons given in subsection (2). The ranges of penalties provided in this rule are based upon a single count violation of each provision listed. Multiple counts of the violated provisions or a combination of the violation may result in a higher penalty than that for a single, isolated violation. Each range includes the lowest and highest penalty and all penalties falling between. The purposes of the imposition of discipline are to punish the applicants, registrants, or licensees for violations and to deter them from future violations; to offer opportunities for rehabilitation, when appropriate; and to deter other applicants, registrants, or licensees from violations.

(2) AGGRAVATING AND MITIGATING CIRCUMSTANCES. The department shall be entitled to deviate from the disciplinary guidelines provided by this rule upon a showing of aggravating or mitigating circumstances by

clear and convincing evidence presented to the department prior to the imposition of a final penalty. The department must make a specific finding of mitigating or aggravating circumstances in order to deviate from the disciplinary guidelines. Based upon consideration of the facts present in an individual case, the department shall consider the following factors in aggravation and mitigation when deviating from the disciplinary guidelines set forth in this rule:

(a) Severity of the offense;

(b) Danger to the public;

(c) Physical or financial harm resulting from the violation;

(d) Number of violations;

(e) Prior violations committed by the subject;

(f) Length of time the registrant or licensee has practiced;

(g) Deterrent effect of the penalty;

(h) Correction or attempted correction of the violation;

(i) Effect on the registrant's or licensee's livelihood;

(j) Any efforts toward rehabilitation;

(k) Any other aggravating or mitigating factor which is directly relevant under the circumstances.

(3) PENALTIES CUMULATIVE AND CONSECUTIVE. Where several violations occur in one or several cases being considered together, the penalties shall normally be cumulative and consecutive.

(4) STIPULATION OR SETTLEMENT. The provisions of this part are not intended and shall not be construed to limit the ability of the department to dispose disciplinary actions by stipulation, agreed settlement, or consent order pursuant to Section 120.57(4), Florida Statutes.

(5) VIOLATIONS AND RANGE OF PENALTIES. In imposing discipline upon applicants, registrants, and licensees in proceedings pursuant to Section 120.569 and 120.57(1) and (2), Florida Statutes, the department shall act in accordance with the following disciplinary guidelines and shall impose a penalty within the range corresponding to the violations as set forth in this subsection. The verbal identification of offenses is descriptive only. The full language of each statutory provision cited must be consulted in order to determine the conduct included.

PENALTY RANGE

<u>VIOLATION:</u>	<u>MINIMUM</u>	<u>MAXIMUM</u>
<u>(a) Section 468.436(1)(b)1., F.S. – Violating any provision of this part, if not otherwise delineated in this rule.</u>		
<u>First Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine</u>	<u>Probation; \$2500 fine; costs</u>
<u>Third Offense</u>	<u>Probation; \$2500 fine</u>	<u>One year suspension; \$5000 fine; costs</u>
<u>(b) Section 468.436(1)(b)2., F.S. – Violating any lawful order or rule, if not otherwise delineated in this rule.</u>		
<u>First Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine</u>	<u>Probation; \$2500 fine; costs</u>
<u>Third Offense</u>	<u>Probation; \$2500 fine</u>	<u>One year suspension; \$5000 fine; costs</u>
<u>(c) Section 468.436(1)(b)3., F.S. – Being convicted of or pleading nolo contendere to a felony.</u>		
<u>First Offense</u>	<u>Reprimand; \$500 fine</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; \$1000 fine</u>	<u>Revocation; \$5000 fine; costs</u>
<u>(d) Section 468.436(1)(b)4., F.S. – Obtaining a license or certification or any other order, ruling, or authorization by means of fraud, misrepresentation, or concealment of material facts.</u>		
<u>First Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Revocation</u>	<u>Revocation; \$5000 fine; costs</u>
<u>(e) Section 468.436(1)(b)5., F.S. – Committing acts of gross misconduct or gross negligence in connection with the profession.</u>		
<u>First Offense</u>		
<u>Second Offense</u>	<u>\$500 fine</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$2500 fine; costs</u> <u>One year suspension; one year probation; \$2500 fine</u>	<u>Revocation; \$5000 fine; costs</u> <u>Revocation; \$5000 fine; costs</u> <u>Revocation; \$5000 fine; costs</u>
<u>(f) Rule 61-20.002(1), F.A.C. – Change of address, notification, license renewal.</u>		
<u>First Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Second Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Third Offense</u>	<u>Reprimand</u>	<u>\$2000 fine; costs</u>

(g) Rule 61-20.002(3)(c), F.A.C. – Legal name change, notification.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Second Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Third Offense</u>	<u>Reprimand</u>	<u>\$2000 fine; costs</u>

(h) Rule 61-20.503(2), F.A.C. – A licensee or registrant shall not make an untrue statement of a material fact or fail to state a material fact.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$1000 fine; costs</u>
	<u>One year probation; \$500 fine; costs</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(i) Rule 61-20.503(3), F.A.C. – A licensee or registrant shall perform only those services which he or she can reasonably expect to complete with professional competence.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$500 fine; costs</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>
	<u>Two years suspension; \$2500; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(j) Rule 61-20.503(4)(a), F.A.C. – A licensee or registrant shall exercise due professional care.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$500 fine</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>
	<u>Two years suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(k) Rule 61-20.503(4)(b), F.A.C. – A licensee or registrant shall not knowingly fail to comply with the requirements of the documents by which the association is created or operated.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$2500 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$1000 fine; costs</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>
	<u>\$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(l) Rule 61-20.503(5), F.A.C. – A licensee or registrant shall not permit others to commit certain acts or omissions.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>One year probation; \$500 fine; costs</u>	<u>Two years suspension; two year probation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension, \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(m) Rule 61-20.503(6)(a), F.A.C. – A licensee or registrant shall not withhold possession of records.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$2500 fine; one year suspension; costs</u>
<u>Second Offense</u>		
<u>Third Offense</u>	<u>\$500 fine</u>	<u>\$2500 fine; Revocation; costs</u>
	<u>\$1000 fine</u>	<u>Revocation; \$5000 fine; costs</u>

(n) Rule 61-20.503(6)(b), F.A.C. – A licensee or registrant shall not deny access to association records.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>\$2500 fine; one year suspension; one year probation; costs</u>
<u>Third Offense</u>	<u>One year probation; \$3000 fine; costs</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>

(o) Rule 61-20.503(6)(c), F.A.C. – A licensee or registrant shall not create false records.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand; \$1000 fine; costs</u>	<u>One year suspension; two years probation; \$1000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
	<u>Two years suspension; two years probation; \$5000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(p) Rule 61-20.503(6)(d), F.A.C. – A licensee or registrant shall not fail to maintain records.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$1000 fine; costs</u>
<u>Third Offense</u>	<u>\$500 fine; costs</u>	<u>Two years suspension; \$2500 fine; two years probation; costs</u>
	<u>One year suspension; two years probation</u>	<u>Revocation, \$5000 fine; costs</u>

(q) Rule 61-20.503(7), F.A.C. – Use funds for intended purpose.

<u>First Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>\$2500; two years probation; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation; \$5000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(r) Rule 61-20.503(8)(a), F.A.C. – Other license suspended, revoked, misconduct.

<u>First Offense</u>	<u>Two years probation</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$2500 fine costs</u>	<u>Revocation; \$5000 fine; costs</u>

(s) Rule 61-20.503(8)(b), F.A.C. – Perform services requiring licensure without requisite licensure.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$2500 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>\$5000 fine; one year suspension; two years probation; costs</u>
<u>Third Offense</u>	<u>\$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(t) Rule 61-20.503(8)(c), F.A.C. – Other licenses, reveal.

<u>First Offense</u>	<u>Reprimand</u>	<u>Reprimand; \$1000 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>One year suspension; two years probation; \$3000 fine; costs</u>
<u>Third Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(u) Rule 61-20.508(1), F.A.C. – Continuing Education.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year probation; \$1000 fine; compliance; costs</u>
<u>Second Offense</u>	<u>\$250 fine; compliance within 60 days</u> <u>\$1000 fine; compliance within 60 days</u>	<u>Suspension until compliance; \$2500 fine; costs</u>
<u>Third Offense</u>		<u>One year suspension or until compliance, whichever is greater; \$5000 fine; compliance; costs</u>

(v) Rule 61-20.5083(5), F.A.C. – Continuing education audit, failure to respond.

<u>First Offense</u>		
<u>Second Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Third Offense</u>	<u>\$500 fine</u> <u>One year probation; \$2500 fine; costs</u>	<u>\$2500 fine; costs</u> <u>One year suspension; \$2500 fine; costs</u>

(w) Rule 61-20.003(2), F.A.C. – Practice through unregistered entity 3 months or less.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$500 fine; costs</u>
<u>Second Offense</u>	<u>\$500 fine; costs</u>	<u>\$2500 fine; costs</u>
<u>Third Offense</u>	<u>One year probation; \$1000 fine; costs</u>	<u>One year suspension; \$5000 fine; costs</u>

(x) Section 455.271(1), F.S. – Practice on delinquent, inactive license.

<u>First Offense</u>	<u>Reprimand</u>	<u>\$100 per month fine</u>
<u>Second Offense</u>	<u>\$100 per month fine</u>	<u>\$2500 fine; costs</u>
<u>Third Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(y) Section 455.227(1)(c), F.S. – Being convicted or found guilty of a crime related to the practice of a licensee’s or registrant’s profession.

<u>First Offense</u>	<u>Reprimand</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$1500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
	<u>Two years suspension;</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$3000 fine; costs</u>	

(z) Section 455.227(1)(g), F.S. – Filing a false report or complaint with the department.

<u>First Offense</u>	<u>\$500 fine</u>	<u>One year suspension; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>Two years probation; \$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
	<u>One year suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>		

(aa) Section 455.227(1)(h), F.S. – Attempting, obtaining, or renewing a license by bribery or fraud.

<u>First Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$3000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
	<u>Two years suspension;</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$5000 fine; costs</u>	

(bb) Section 455.227(1)(i), F.S. – Failing to report any person in violation of this part or the chapter regulating the alleged violator.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>Reprimand; one year probation</u>	<u>Two years suspension; \$5000 fine; costs</u>
		<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Reprimand; two years probation; costs</u>	

(cc) Section 455.227(1)(j), F.S. – Aiding, assisting, unlicensed persons or entity.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>Two years suspension; two years probation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; one year probation; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(dd) Section 455.227(1)(k), F.S. – Failing to perform any statutory or legal obligation placed on a licensee or registrant, if the obligation is not otherwise covered by this rule.

<u>First Offense</u>	<u>Reprimand</u>	<u>One year suspension; two years probation; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>Reprimand</u>	<u>Two year suspension; two years probation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Reprimand; \$500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>



(ee) Section 455.227(1)(l), F.S. – Making a report that the licensee or registrant knows to be false, failing to file a required report.

<u>First Offense</u>	<u>\$500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>\$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>\$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(ff) Section 455.227(1)(m), F.S. – Making deceptive, untrue, or fraudulent misrepresentations, trick or scheme, related to the practice or profession.

<u>First Offense</u>	<u>Reprimand; \$500 fine</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year probation; \$1000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(gg) Section 455.227(1)(p), F.S. – Knowingly delegating or contracting for the performance of professional responsibilities.

<u>First Offense</u>	<u>Reprimand; costs</u>	<u>One year suspension; \$3000 fine; costs</u>
<u>Second Offense</u>	<u>Two years probation; \$500 fine; costs</u>	<u>Two years suspension; two years probation; \$5000; costs</u>
<u>Third Offense</u>	<u>One year suspension; two years probation; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

(hh) Section 455.227(1)(r), F.S. – Improperly interfering with an investigation or inspection authorized by statute, or within any disciplinary proceedings.

<u>First Offense</u>	<u>\$1000 fine</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Second Offense</u>	<u>One year suspension; \$2500 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>
<u>Third Offense</u>	<u>Two years suspension; \$5000 fine; costs</u>	<u>Revocation; \$5000 fine; costs</u>

Specific Authority 455.2273(1) FS. Law Implemented 455.2273 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Tom Thomas, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 11, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 7, 2000 (the published Notice of Rule Development used 61-20.005 as the proposed rule number for this proposed rule)

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Accounting Records	61B-22.002
Budgets	61B-22.003
Guarantees of Common Expenses Under Section 718.116(9)(a)2., Florida Statutes	61B-22.004
Reserves	61B-22.005
Financial Reporting Requirements	61B-22.006
Transition Financial Statements; Turnover Audit	61B-22.0062

PURPOSE AND EFFECT: To implement the statutory changes in Chapter 2000-302, Laws of Florida, relating to multi-condominiums and financial reporting; conform the rules to new statutory references to reflect renumbering; and delete obsolete rules.

SUMMARY: This rule amendment conforms the rules to the statutory changes made in Chapter 2000-302, Laws of Florida, relating to multi-condominiums and financial reporting requirements. It also deletes obsolete rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 718.111(13), 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.111(6), (12)(a)11.,(13),(14), 718.112(2)(b)2.,(e),(f), 718.113, 718.115, 718.116(9), 718.301(4), 718.501(1)(f), 718.618 FS.

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

TIME AND DATE: 10:00 a.m., October 1, 2001

PLACE: Warren Building, Meeting Room #402, 202 Blount Street, Tallahassee, Florida 32399-1030

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR COMMENTS IN WRITING: Sharon A. Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-22.002 Accounting Records.

All associations shall maintain accounting records in sufficient detail to permit determination of the revenues and expenses or receipts and disbursements attributable to separate condominiums and operating and reserve funds. Multi-condominium associations shall maintain separate accounting records for the association and for each condominium operated by the association. Multicondominium associations created prior to July 1, 2000, that do not create

separate ownership interests of the common surplus of the association for each unit, as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall not maintain separate fund balances for the association, and shall allocate all association revenues and expenses to each condominium operated by the association pursuant to the provisions of each condominium's declaration.

Specific Authority 718.501(1)(f) FS. Law Implemented 718.111(12)(a)11., ~~(14)(45)~~ FS. History—New 7-11-93, Formerly 7D-22.002, Amended 12-20-95,

61B-22.003 Budgets.

(1) through (3) No change.

(4) Multicondominium ~~Multi-condominium~~ associations. Multicondominium ~~Multi-condominium~~ associations shall comply with the following requirements:

(a) Provide a separate budget for each condominium operated by the association as well as for the association. Each such budget shall disclose:

1. Estimated expenses specific to a condominium such as the maintenance, deferred maintenance or replacement of the common elements of the condominium which shall be provided for in the budget of the specific condominium;

2. Estimated expenses of the association that are not specific to a condominium such as the maintenance, deferred maintenance or replacement of the property serving more than one condominium which shall be provided for in the association budget; and,

3. Multicondominium associations created after June 30, 2000, or that have created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include each unit's share of the estimated expenses of the association, referred to in subsection (2) of this rule, which shall be shown on the individual condominium budgets. Multicondominium associations created prior to July 1, 2000, that have not created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include eEach condominium's share of the estimated expenses of the association, referred to in subsection (2) of this rule, which shall be shown on the individual condominium budgets.

4. The budgets of multicondominium associations created after June 30, 2000 or of multicondominium associations that have created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall show the estimated revenues of each condominium and of the association.

(b) Associations that operate separate condominiums in a consolidated fashion pursuant to Section 718.111(6), Florida Statutes, may utilize a single consolidated budget.

(5) No change.

Specific Authority 718.501(1)(f) FS. Law Implemented 718.111(6), 718.112(2)(e),(f), 718.113, 718.618 FS. History—New 7-11-93, Formerly 7D-22.003, Amended 12-20-95, \_\_\_\_\_.

61B-22.004 Guarantees of Common Expenses Under Section 718.116(9)(a)2., Florida Statutes.

(1) through (4) No change.

(5) Calculation of guarantor's final obligation. The guarantor's total financial obligation to the association at the end of the guarantee period shall be determined on the accrual basis using the following formula:

(a) The guarantor shall fund the total common expenses incurred during the guarantee period; less,

(b) The total regular periodic assessments earned by the association from the unit owners other than the guarantor during the guarantee period regardless of whether the actual level charged was less than the maximum guaranteed amount.

(c) If a guarantee pursuant to Section 718.116(9), Florida Statutes, existed within a multicondominium association created prior to July 1, 2000, the guarantor's financial obligation to the association shall be calculated as provided in subsections (a) and (b) for each condominium in which the guarantee existed. If a guarantee pursuant to Section 718.116(9), Florida Statutes, existed within a multicondominium association created after June 30, 2000, or within a multicondominium association created prior to July 1, 2000, that has created separate ownership interests of the common surplus of the association for each unit as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, the guarantor's financial obligation to the association shall include the amount calculated pursuant to Section 718.116(9)(c), Florida Statutes.

Specific Authority 718.501(1)(f) FS. Law Implemented 718.112(2)(b)2., 718.116(9) FS. History—New 7-11-93, Formerly 7D-22.004, Amended \_\_\_\_\_.

61B-22.005 Reserves.

(1) through (6) No change.

(7) Restrictions on use. In a multicondominium ~~multi-condominium~~ association, no vote to allow an association to use reserve funds for purposes other than that for which the funds were originally reserved shall be effective as to a particular condominium unless conducted at a meeting at which the same percentage of voting interests in that condominium that would otherwise be required for a quorum of the association is present in person or by proxy, and a majority of the total voting interests in that condominium, those present in person or by limited proxy, vote to use reserve funds for another purpose. Expenditure of unallocated interest income earned on reserve funds is restricted to any of the capital expenditures, deferred maintenance or other items for which reserve accounts have been established.

(8) Annual vote required to waive reserves. Any vote to waive or reduce reserves for capital expenditures and deferred maintenance required by Section 718.112(2)(f)2., Florida

Statutes, shall be effective for only one annual budget. Additionally, in a multicondominium ~~multi-condominium~~ association, no waiver or reduction is effective as to a particular condominium unless conducted at a meeting at which the same percentage of voting interests in that condominium that would otherwise be required for a quorum of the association is a majority of the voting interests in that condominium ~~are~~ present, in person or by proxy, and a majority of those present in person or by limited proxy vote to waive or reduce reserves.

~~(9) Developer voting restrictions. Prior to turnover the developer may cast votes to waive or reduce reserves during the association's first two fiscal years only, beginning with the date of the recording of the declaration. In the case of a multi-condominium association this restriction applies to the association's first two fiscal years beginning with the recording of the initial declaration. During any period that the developer is precluded from casting its votes to waive or reduce the funding of reserves, the approval of a majority of the non-developer voting interests present at a duly called meeting of the association shall be required in order to waive or reduce the funding of reserves. For multicondominium multi-condominium associations in which the developer is precluded from casting its votes to waive or reduce the funding of reserves, no waiver or reduction is effective as to a particular condominium unless conducted at a meeting at which the same percentage of non-developer voting interests in that condominium that would otherwise be required for a quorum of the association is a majority of the non-developer voting interests in that condominium are present, in person or by proxy, and a majority of those present in person or by limited proxy vote to waive or reduce reserves. After turnover, the developer may cast its votes to waive or reduce the funding of reserves.~~

Specific Authority 718.501(1)(f) FS. Law Implemented 718.112(2)(f), 718.618 FS. History—New 7-11-93, Formerly 7D-22.005, Amended 12-20-95, 1-19-97, \_\_\_\_\_.

61B-22.006 Financial Reporting Requirements.

(1) Basis of accounting. The financial statements required by ~~Rule 61B-22.006(10), Florida Administrative Code, and Sections 718.111(13) and 718.301(4), Florida Statutes, as well as financial statements voluntarily prepared in lieu of a financial report as provided in Section 718.111(13), Florida Statutes,~~ shall be prepared on the accrual basis using fund accounting in accordance with generally accepted accounting principles. Reviewed financial statements shall be reviewed in accordance with standards for accounting and review services and audited financial statements shall be audited in accordance with generally accepted auditing standards. Reviews and audits of an association's financial statements shall be performed by an independent certified public accountant licensed by the Florida Board of Accountancy. As used in this rule the terms "generally accepted accounting principles," "standards for

accounting and review services,” and “generally accepted auditing standards” shall have the same meaning as set forth in Chapter 61H1-20, Florida Administrative Code.

(2) Components. The financial statements required by Sections 718.111(13)(14) and 718.301(4), Florida Statutes, shall at a minimum include the following components:

- (a) Accountant’s or Auditor’s Report;
- (b) Balance Sheet;
- (c) Statement of Revenues and Expenses;
- (d) Statement of Changes in Fund Balances;
- (e) Statement of Cash Flows, ~~direct method~~; and
- (f) Notes to financial statements.

(3) Disclosure requirements. The financial statements required by Sections 718.111(13)(14) and 718.301(4), Florida Statutes, shall contain the following disclosures within the financial statements, notes, or supplementary information:

(a) The following reserve disclosures shall be made regardless of whether reserves have been waived for the fiscal period covered by the financial statements:

1. The beginning balance in each reserve account as of the beginning of the fiscal period covered by the financial statements;

2. The amount of assessments and other additions to each reserve account including authorized transfers from other reserve accounts;

3. The amount expended or removed from each reserve account, including authorized transfers to other reserve accounts;

4. The ending balance in each reserve account as of the end of the fiscal period covered by the financial statements;

5. The manner by which reserve items were estimated, the date the estimates were last made, the association’s policies for allocating reserve fund interest, and whether reserves have been waived during the period covered by the financial statements; and

6. If the developer has established converter reserves pursuant to Section 718.618(1), Florida Statutes, each converter reserve account shall be identified and include the disclosures required by this rule.

(b) The method by which income and expenses were allocated to the unit owners;

(c) The specific purpose or purposes of any special assessments to unit owners pursuant to Section 718.116(10), Florida Statutes, and the amount of each special assessment and the disposition of the funds collected;

(d) The amount of revenues and expenses related to limited common elements shall be disclosed when the association maintains the limited common elements and the expense is apportioned to those unit owners entitled to the exclusive use of the limited common elements; and,

(e) If a guarantee pursuant to Section 718.116(9), Florida Statutes, existed at any time during the fiscal year, the financial statements shall disclose the following:

- 1. The period of time covered by the guarantee;
- 2. The amount of common expenses incurred during the guarantee period;
- 3. The amount of assessments charged to the non-developer unit owners during the guarantee period;
- 4. The amount of the developer’s payments pursuant to the guarantee; and
- 5. Any financial obligation due to or from the developer resulting from the guarantee.

(4) ~~Multi-condominium~~ Multicondominium ~~Multi-condominium~~ associations. Multicondominium ~~Multi-condominium~~ associations may present the financial statements required by Sections 718.111(13)(14) and 718.301(4), Florida Statutes, on a combined basis as long as the financial statements, notes, or supplementary information disclose the revenues, expenses, and changes in fund balance for each condominium, and the association, as applicable. The financial statements, notes, or supplementary information shall also disclose the revenues and expenses of the association ~~that~~ which are not directly associated with specified condominiums and the method used to allocate such expenses to the condominiums or units, as applicable. Additionally, the reserve disclosures required by this rule shall be presented separately for each condominium and for any association reserves not specifically identified with individual condominiums. The provisions of this rule shall apply to multicondominium financial reporting for fiscal periods ending on or after December 31, 2002. Earlier application of the provisions of this rule is permitted.

(5) Developer assessments. All financial ~~reporting reports and financial statements~~ required by Chapter 718, Florida Statutes shall disclose the assessment revenues from the developer separately from that of the non-developer unit owners.

(6) Financial reports required by Section 718.111(13)(b), Florida Statutes. The financial report required by Section 718.111(13)(b), Florida Statutes, shall meet the following requirements:

- ~~(a) The report shall be prepared on a cash basis;~~
- ~~(b) The report shall include the receipts and expenditures listed in Section 718.111(13);~~
- ~~(c) The report shall contain the reserve disclosures required by Rule 61B-22.006(3)(a), Florida Administrative Code; and,~~

~~(d)~~ If the association maintains limited common elements and the expense is apportioned to those units ~~owners~~ entitled to the exclusive use of the limited common elements the report shall contain the limited common element disclosures required by Rule 61B-22.006(3)(d), Florida Administrative Code.

~~(b)(e)~~ The financial reports of multicondominium ~~multi-condominium~~ associations shall separately disclose the following items:

1. The receipts and expenditures directly associated with specific condominiums; and
2. The receipts and expenditures of the association that are not directly associated with specific condominiums.

~~(7) Timing.~~

~~(a) Financial reports prepared pursuant to Section 718.111(13), Florida Statutes, as well as financial statements voluntarily prepared in lieu of a financial report as provided in Section 718.111(13), Florida Statutes, shall be mailed or delivered by the association to the unit owners within 60 days following the end of the fiscal or calendar year to which the statements relate or annually on such date as is otherwise provided in the association bylaws.~~

~~(b) Financial statements required by Rule 61B-22.006(10), Florida Administrative Code, shall be mailed or delivered by the association to the unit owners within 90 days following the end of the fiscal or calendar year to which the statements relate or annually on such date as is otherwise provided in the association bylaws.~~

~~(c) Financial statements required by Section 718.301(4)(c), Florida Statutes, shall be delivered by the developer to the association not more than 90 days after the date of the meeting at which the non-developer unit owners first elected a majority of the board of administration.~~

~~(8) Financial statements voluntarily prepared by the association in lieu of a financial report as provided in Section 718.111(13), Florida Statutes, may either be compiled, reviewed or audited. Financial statements required by Rule 61B-22.006(10), Florida Administrative Code, shall be compiled, reviewed or audited as provided by that rule.~~

~~(9) Effective date for financial reporting requirements. The provisions of this rule shall apply to the financial statements and financial reports of actual receipts and expenditures required by Chapter 718, Florida Statutes, for fiscal periods ending on or after December 31, 1993. Earlier application of the provisions of this rule is permitted.~~

~~(10) Financial Statements prepared in lieu of financial reports. Rather than providing the financial report specified in Section 718.111(13), Florida Statutes, associations operating more than 50 condominium units and having annual revenues of more than \$100,000 shall prepare and distribute to the unit owners a complete set of association financial statements meeting the requirements of this rule, unless this requirement is waived according to Section 718.111(14), Florida Statutes. The financial statements are not required to be filed annually with the division. The financial statements shall be compiled, reviewed, or audited depending on the total amount of annual revenues earned by the association as follows:~~

~~(a) Associations having annual revenues in excess of \$100,000 but less than \$200,000 shall, at a minimum, prepare compiled financial statements;~~

~~(b) Associations having annual revenues of at least \$200,000 but less than \$400,000 shall, at a minimum prepare reviewed financial statements; and~~

~~(c) Associations having annual revenues of \$400,000 or more shall prepare audited financial statements.~~

~~(11) Waiver of reporting requirements. The waiver of the requirement to provide compiled, reviewed, or audited financial statements is valid for one year only, and includes any vote to modify the association's obligations under this rule by allowing it to provide reviewed or compiled financial statements rather than audited financial statements or to provide compiled financial statements rather than reviewed financial statements.~~

~~(a) If the requirement for audited, reviewed, or compiled financial statements is waived the minimum report required shall be a financial report complying with Section 718.111(13), Florida Statutes, and Rule 61B-22.006(6), Florida Administrative Code.~~

~~(b) Prior to turnover the developer may cast votes to waive the audit requirement of paragraph (10)(c) of this rule during the association's first 2 fiscal years only, beginning with the date of the recording of the declaration. In a multi-condominium association this restriction applies to the period beginning with the recording of the initial declaration.~~

~~(7)(e) The minutes of the association shall reflect the number of votes cast by the membership to waive the requirement for audited, reviewed, or compiled financial statements and the type of financial reporting that the association will be preparing and disseminating to the membership.~~

~~(12) Association not precluded from exceeding standards. Nothing herein precludes an association from exceeding the requirements of this rule by requiring that financial statements be prepared rather than a financial report of actual receipts and expenditures, or that financial statements be reviewed or audited rather than compiled, or be audited rather than reviewed. Where the association's articles of incorporation, declaration of condominium, or bylaws impose such a requirement, however, the requirement may not be waived except as provided in those documents.~~

Specific Authority 718.111(13), 718.501(1)(f) FS. Law Implemented 718.111(12)(a)11.,(13),~~(14)~~, 718.301(4), 718.501(1)(f) FS. History--New 7-11-93, Formerly 7D-22.006, Amended 12-20-95, 2-13-97, \_\_\_\_\_.

61B-22.0062 Transition Financial Statements; Turnover Audit.

(1) through (2) No change.

Specific Authority 718.111(13), 718.501(1)(f) FS. Law Implemented 718.111(13),(14), 718.301(4)(c), ~~718.501(1)(f)~~ FS. History--New 7-11-93, Formerly 7D-22.0062, Amended 12-20-95.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jon Peet, Financial Examiner/Analyst Supervisor, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE TITLES: Definitions  
 Advertising Material

RULE NOS.: 61B-37.001  
 61B-37.002

PURPOSE AND EFFECT: To implement the statutory changes in Chapter 2000-302, Laws of Florida. Specifically, the rule changes will conform the rules to new statutory terminology and to the new partial deregulation of prior-review of timeshare advertising material.

SUMMARY: The proposed changes will conform the rules to statutory changes in Chapter 2000-302 as follows: replace the term "period" with "interest," throughout; change the DBPR form number of the Filing Statement for Advertising Material; remove the requirement that advertising material be filed "at least 10 days" prior to use; and add language indicating that advertising will be reviewed by the Division at the request of the developer.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 721.26(6) FS.

LAW IMPLEMENTED: 721.11, 721.111, 721.075 FS.

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

TIME AND DATE: 9:00 a.m., October 1, 2001

PLACE: Warren Building, Meeting Room #402, 202 Blount Street, Tallahassee, Florida 32399-1030

Those persons who cannot attend in person may submit their comments in writing: Sharon Elzie, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe

Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-37.001 Definitions.

For purposes of Sections 721.075, 721.11, and 721.111, Florida Statutes, and these rules, the following definitions apply:

(1) through (4) No change.

(5) "Item" means a timeshare interest ~~time-share period~~, a gift or prize premium, a product or service, or all of the above, as the context requires.

(6) "Lodging Certificates" means any promotion, arrangement, plan, scheme or other device, whether evidenced by contract, certificate, license, membership agreement, security, use agreement or otherwise, whereby a prospective timeshare ~~time-share~~ purchaser is offered complimentary or discounted accommodations or facilities at any hotel, motel, campground, timeshare ~~time-share~~ resort or other similar establishment regardless of where located, except that lodging certificates shall not mean the offering of the complimentary or discounted use of accommodations or facilities at a timeshare ~~time-share~~ project by a developer, seller or promotional entity in connection with the offer for sale of a timeshare interest ~~time-share period~~ at such resort.

(7) through (10) No change.

Specific Authority 721.26(6) FS. Law Implemented 721.075, 721.11, 721.111 FS. History--New 1-1-85, Formerly 7D-37.01, 7D-37.001, Amended 8-24-94, 2-15-00,\_\_\_\_\_.

61B-37.002 Advertising Material.

(1) No change.

(2) The developer of the timeshare plan ~~must shall~~ file ~~with the division~~ all advertising material with the division, including prize and gift promotional offers, ~~at least 10 days~~ prior to use, and shall accompany such filing with DBPR Form TS 6000-12, Filing Statement for Advertising Material, incorporated herein and effective \_\_\_\_\_ ~~2-15-00~~, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4). ~~Following receipt of advertising material the division shall issue a notice informing the developer of the date that the advertising material was filed with the division. At the request of the developer, the division shall review the advertising material and notify the developer of any~~

deficiencies within 10 days after the filing of advising the developer of specific deficiencies in the advertising material that must be corrected. Where additional or corrected material is submitted to modify previously filed advertising material, including advertising submitted in response to a deficiency notice from the division, such material must be filed with the division ~~at least 10 days~~ prior to use of the modified advertising material, ~~unless otherwise indicated by the division pursuant to paragraphs (b) and (c) of subsection (1) of Section 721.11, Florida Statutes.~~

(3) No change.

Specific Authority 721.11, 721.111, 721.26(6) FS. Law Implemented 721.11(4) FS. History--New 1-1-85, Formerly 7D-37.02, 7D-37.002, Amended 8-24-94, 2-13-97, 2-15-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glen, Chief, Bureau of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE TITLE: Time-Share Solicitor Licensing and Fees  
 PURPOSE AND EFFECT: To implement the statutory changes in Chapter 2000-302, Laws of Florida, all rules pertaining to the licensure of timeshare solicitors will be repealed.

RULE NO.: 61B-38.001

SUMMARY: The proposed changes delete all language in conformance with statutory changes in Chapter 2000-302, Laws of Florida.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 721.26(6) FS.

LAW IMPLEMENTED: 721.20 FS.

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

TIME AND DATE: 9:00 a.m., October 1, 2001

PLACE: Warren Building, Meeting Room #402, 202 Blount Street, Tallahassee, Florida 32399-1030

Those persons who cannot attend in person may submit their comments in writing: Sharon Elzie, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-38.001 Time-Share Solicitor Licensing and Fees.

Specific Authority 721.20(2), 721.26 FS. Law Implemented 721.20, 721.26(2) FS. History--New 1-1-85, Formerly 7D-38.01, 7D-38.001, Amended 8-12-93, 2-16-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glenn, Chief, Bureau of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE TITLES:	RULE NOS.:
Definitions	61B-39.001
Public Offering Statement and Purchase Agreement Requirements	61B-39.002
Filing of Single-Site Timeshare Plans	61B-39.003
Delivery of Single-Site Purchaser Public Offering Statements	61B-39.004
Filing of Multisite Timeshare Plans	61B-39.005

Delivery of Multisite Purchaser Public Offering Statements	61B-39.006
Public Offering Statement Amendments	61B-39.007
Filing and Delivery of Purchaser Public Offering Statements Through Alternative Media	61B-39.008

**PURPOSE AND EFFECT:** To implement the statutory changes in Chapter 2000-302, Laws of Florida: specifically, the proposed changes would: conform the rules to new statutory terminology; remove obsolete language pertaining to certain 1995 legislation; conform statutory references to reflect renumbering and deletion of unnecessary statutory disclosures; reflect a new effective date for changes to BPR form 513, Receipt of Timeshare Documents; renumber various Division forms; reflect deletion of surety bond previously required by statute relating to escrow agents; address consumer protection concerns regarding dissemination of CD-ROM public offering statements; and conform the rules to the new statutory provisions relating to purchaser cancellation periods.

**SUMMARY:** The proposed changes will conform the rules to statutory changes in Chapter 2000-302 as follows: delete the term "filed POS" and add the term "registered POS" to definitions; delete certain rules related to 1995 statutory changes that are no longer applicable; change DBPR form numbers; delete the surety bond requirement for escrow agents; add the requirement of a separate alternative media disclosure form that provides certain information related to alternative media; add a requirement that a copy of the executed alternative media disclosure statement be delivered to purchasers; and delete the rule related to developer's opinion as to whether an amendment is material and adverse.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No statement of estimated regulatory costs has been prepared.

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

**SPECIFIC AUTHORITY:** 721.07(6), 721.26(6) FS.

**LAW IMPLEMENTED:** 721.07, 721.55, 721.551 FS.

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

**TIME AND DATE:** 9:00 a.m., October 1, 2001

**PLACE:** Warren Building, Meeting Room 402, 202 Blount Street, Tallahassee, Florida 32399-1030

Those persons who cannot attend in person may submit their comments in writing: Sharon Elzie, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. Written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

**THE FULL TEXT OF THE PROPOSED RULES IS:**

**61B-39.001 Definitions.**

For purposes of Sections 721.07, 721.55, and 721.551, Florida Statutes, and these rules, the following definitions apply:

(1) "Alternative media" means any visually or audibly perceptible and legible display format which may require the use of a device or a machine to be viewed, including CD-ROM, microfilm, electronically transferred data, computer disk, computer or electronic memory, cassette tape, compact disk or video tape.

(2) "Any change to an approved filing" for purposes of Section 721.07(3)(a)1., Florida Statutes, means any actual or physical fact or circumstance which would render any part of the approved ~~registered~~ ~~filed~~ POS false or misleading, whether or not such fact or circumstance was within the developer's control.

(3) "Approved Amendment" for purposes of 721.07(3)(a)2., Florida Statutes, is an amendment, approved by the division, to that portion of the ~~registered~~ ~~filed~~ POS that constitutes the purchaser POS required to be delivered to an individual purchaser pursuant to Section 721.07(6), Florida Statutes, or Section 721.551, Florida Statutes, and these rules.

(4) "Approved by the division" for purposes of Chapter 61B-39 means that the division has approved the filing or amendment pursuant to Section 721.07, Florida Statutes.

(5) "Business days" for purposes of these rules means every day that is not a Saturday, Sunday, or holiday for employees of the State of Florida.

(6) "Days" shall be calculated in the following manner: The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

~~(7) "Filed POS" means a public offering statement which must be filed with the division pursuant to Section 721.07(5), Florida Statutes, or Section 721.55, Florida Statutes, and these rules.~~

~~(7)(8)~~ "Filed with the division" means that written materials have been received by the division in the Tallahassee, Florida, office and the date of receipt shall constitute the date of filing.



(8)(9) “Initial purchase price” means the price of the timeshare period not including title insurance, maintenance fees, exchange company management fees, costs of recordation, documentary stamp fees, or other similar costs.

(9)(10) “Notify,” for purposes of Sections 721.06(1)(f) and 721.065(2)(c), Florida Statutes, shall mean that a written notice of cancellation is delivered, by any means which may include certified mail return receipt requested, to the entity designated to receive the notice of cancellation in the statement required by Sections 721.06(1)(f) or 721.065(2)(c), Florida Statutes.

(10)(11) “Other required parties” means the timeshare purchasers, managing entity, the board of directors of the owners’ association, or similar person or entity.

(11)(12) “Public Offering Statement” or “POS” means the public offering statement, as defined in Chapter 721 ~~written materials describing a single site timeshare plan or a multisite timeshare plan, including a text and any exhibits attached thereto as required by Sections 721.07, 721.55, and 721.551, Florida Statutes.~~ The terms “public offering statement” and “POS” shall refer to both a registered filed POS and a purchaser POS, unless these rules or the context requires otherwise.

(13) “Purchaser POS” ~~means that portion of the filed POS which must be delivered to purchasers pursuant to Section 721.07(6), Florida Statutes, or Section 721.551, Florida Statutes, and these rules.~~

(12)(14) “Receipt” or “received” for purposes of Sections 721.07(2), 721.07(3), and 721.55, Florida Statutes, means that an original hard copy has been physically received by the division in the format required by these rules. No other form of submission shall be considered received for purposes of these rules. A date-stamp shall be evidence of receipt.

(13)(15) “Single-site” or “single-site timeshare plan” means a timeshare plan, as defined in Section 721.05, Florida Statutes, that is not subject to the requirements of Sections 721.55 or 721.551, Florida Statutes.

(14)(16) “Specified deficiencies” means deficiencies which have been specified by reference to the statutory section or subsection violated, but the term does not require a reference to the paragraph or language of the statute violated or the means or language by which the statutory deficiency may be corrected.

(15)(17) “Substantially complied” as used in Sections 721.07(5)(ii) and 721.55(5), Florida Statutes, means that:

(a) The information required in Section 721.07 or Section 721.55(5), Florida Statutes, or these rules if applicable, has been filed with the division;

(b) The information has been filed in the format required in these rules if applicable; and

(c) The purchasers have been furnished a purchaser POS pursuant to Section 721.07(6) or Section 721.551, Florida Statutes, and these rules.

Specific Authority 721.26(6) FS. Law Implemented 721.07, 721.55, 721.551 FS. History—New 5-8-94, Amended 6-12-96, 3-23-97, \_\_\_\_\_.

61B-39.002 Public Offering Statement and Purchase Agreement Requirements.

(1) Each registered filed public offering statement shall:

(a) Be paginated numerically in consecutive order within each tabbed section;

(b) Wherever possible, be printed on both sides of each page in 10-point size and on 8 1/2 x 11 paper;

(c) Be securely bound along the left margin, fastened between firm removable covers, and submitted in an expandable file folder;

(d) Contain a divider with a labeled tab between each prescribed portion of the POS corresponding to BPR form 503, Table of Contents to Multisite Public Offering Statement, effective 6-12-96, or DBPR Form TS 6000-9 ~~BPR form 515~~, Table of Contents to Single-Site/Component Site Public Offering Statement, effective \_\_\_\_\_, both incorporated herein by reference ~~and effective 6-12-96, as applicable~~; a copy of which may be obtained at the address referenced in Rule 61B-39.002(4); and

(e) Not contain conspicuous type except where required by statute or rule, or as permitted by the division pursuant to Section 721.07(5)(ii), Florida Statutes.

(2) All POS disclosures required to be in conspicuous type pursuant to statute or rule shall be made in bold font.

(3) The registered filed POS shall be submitted to the division in the English language and any reference, in an approval letter of the division, to the documents comprising the registered filed POS shall be to such documents in the English language. A developer may use non-English versions of the filed documents if: (i) any such document is an accurate translation of the English version that has been approved by the division, and (ii) the developer has identified each translated document in a completed, executed statement using the form prescribed in BPR form 511, Statement of Translation, incorporated herein by reference and effective 3-23-97, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4). Upon request by the division, a developer shall promptly deliver to the division a copy of any translated document that has been or is being used in an offering.

(4) Where brackets [ ] appear on the forms referenced in these rules, the words or symbols between the brackets are intended to solicit any applicable information relevant to the developer. Copies of the forms referenced in these rules may be obtained by writing:

Division of Florida Land Sales, Condominiums  
and Mobile Homes

Department of Business and Professional Regulation

Northwood Centre

1940 North Monroe Street

Tallahassee, Florida 32399-1032

(5) Approval by the division of a POS shall not be promoted to the public as an endorsement by the division of the developer or the timeshare plan or be used to induce the purchase of an interest in a timeshare plan.

(6) Within 30 days after recording any timeshare instrument, the developer shall provide the division with a copy of the recorded instrument.

(7) The division shall notify a developer within the first ten business days of the statutory review period prescribed in Sections 721.07(2)(a) and 721.07(3)(a)1., Florida Statutes, if a ~~registered filed~~ POS submitted to the division for review is not in the format required by these rules and if, by reason thereof, the ~~registered filed~~ POS is not considered "received" as defined in these rules and for purposes of beginning the statutory review period. If the Division does not so notify the developer, the statutory review period is not tolled during the first ten business days of the statutory review period.

(8) The substance of the definition of the term "notify" as defined in Rule 61B-39.001, Florida Administrative Code, shall be disclosed in the purchase agreement executed by a purchaser immediately following the space in the contract reserved for the signature of the purchaser, disclosed as a footnote to the disclosure required by Section 721.06(1)(f), or Section 721.065(2)(c), Florida Statutes.

~~(9) A developer shall not be required to amend the POS and purchase contract to include the disclosures set forth in Rule 61B-39.002(8), Florida Administrative Code, Section 721.06(1)(m), Florida Statutes, or Section 721.06(1)(n), Florida Statutes, until January 1, 1996. However, a developer may voluntarily make such amendment prior to January 1, 1996. Notwithstanding the foregoing, the developer must include such disclosures with any other amendment to the POS or purchase contract filed with the division prior to January 1, 1996.~~

~~(9)(10)~~ A developer of a multisite timeshare plan may combine the Receipt for Multisite Timeshare Documents for which a form is provided in Rule 61B-39.005 and the Receipt for Single-Site/Component Site Timeshare Documents for which a form is provided in Rule 61B-39.003 into a single Receipt for Timeshare Documents with respect to any one component site, provided that such developer follows the general format provided in the aforementioned forms and the resulting single form is approved by the division.

~~(10)(11)~~ It shall be a violation of Chapter 721, Florida Statutes, for any person to interfere with the delivery of a notice of cancellation by a purchaser.

Specific Authority 721.26(6), 721.07, 721.55, 721.551 FS. Law Implemented 721.06, 721.065, ~~721.03(1)(c)3, 721.07(2)(e)~~, 721.55, 721.551, 721.03 FS., ~~s. 66, Chapter 95-274, Laws of Florida~~. History—New 6-12-96, Amended 3-23-97, \_\_\_\_\_.

61B-39.003 Filing of Single-Site Timeshare Plans.

(1) Each developer of a single-site timeshare plan shall file a single-site ~~registered filed~~ POS with the division pursuant to Section 721.07(5), Florida Statutes, and these rules. The single-site ~~registered filed~~ POS shall:

- (a) Include all of the information and disclosures required in Section 721.07(5), Florida Statutes;
- (b) Follow the filing format and forms prescribed in this rule; and
- (c) Disclose any additional information prescribed in this rule.

(2) Every single-site ~~registered filed~~ POS must organize the required information and disclosures in the following manner and format:

(a) The first page shall be the cover page and shall contain the disclosures required in Section 721.07(5)(a), Florida Statutes;

(b) The next consecutive page(s) shall be the table of contents and shall list the POS text and exhibits of the POS by "Exhibit #", pursuant to Section 721.07(5)(c), Florida Statutes, as prescribed in ~~DBPR Form TS 6000-9 BPR form 515~~, Table of Contents to Single-Site/Component Site Public Offering Statement, referenced in Rule 61B-39.002. If any required exhibit is not applicable to a particular POS, the table of contents shall contain a notation to that effect where such exhibit would otherwise be described in the table of contents. However, such notations shall not cause a POS to deviate from either the order or numbering of presentation as prescribed in this rule;

(c) The next consecutive page(s) shall be the index and shall list the sections of the POS text with corresponding subject matter and page number, pursuant to Section 721.07(5)(c), Florida Statutes, as prescribed in ~~DBPR Form TS 6000-10 BPR form 516~~, Index to Single-Site/Component Site Public Offering Statement Text, incorporated herein by reference and effective \_\_\_\_\_ ~~6-12-96~~, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4). If any required information or disclosure is not applicable to a particular POS, the index shall contain a notation to that effect where such information or disclosure would otherwise be described in the index. However, such notations shall not cause a POS to deviate from either the order or numbering of presentation as prescribed in this rule;

(d) The next consecutive page(s) shall be labeled "I. Definitions and Abbreviations" and shall list and define alphabetically any terms of art or abbreviations to be used. The terms and abbreviations used in the POS text shall be consistent with statutorily defined terms and shall not create ambiguity as to statutorily defined terms;

(e) The next consecutive page(s) shall be labeled “II. Required Disclosures” and shall contain any conspicuous type disclosures required by Chapter 721 or Chapter 718, Florida Statutes, as applicable, and contained in exhibits that will be provided to purchasers in the purchaser POS;

(f) The next consecutive page(s), if applicable, shall be labeled “IIA. Developer Disclosures” and shall contain all of the disclosures that the developer wishes to appear in a font or type size or style different than the font or type that is used in the overall POS text. For developer disclosures, the developer shall not use a font or type that is larger than the font or type used for conspicuous type disclosures.

(g) The next consecutive pages shall be labeled “III. Public Offering Statement Text” and shall contain the subject matter indicated by, and be organized by section according to, the Index to Public Offering Statement Text, and contain the information and disclosures required in Sections 721.07(5)(e)(~~gg~~)(~~hh~~), 721.55, Florida Statutes, in the following order:

1. Section 1.a. shall contain the information required in Sections 721.07(5)(e)1. and (e)2., Florida Statutes. In addition, Section 1.a. shall contain an itemization of the timeshare periods being offered by a successor or concurrent developer, specified by reference to unit and week numbers.

2. Section 1.b. shall contain the information required in Section 721.07(5)(e)3., Florida Statutes;

3. Section 2. shall contain the applicable disclosures and information required in Sections 721.07(5)(~~h~~)(~~i~~)1., (~~h~~)(~~i~~)2.a.-d., (~~h~~)(~~i~~)3., and (~~h~~)(~~i~~)4., Florida Statutes,;

4. Section 3. shall contain the information required in Section 721.07(5)(~~f~~)4.~~5.~~, Florida Statutes;

5. Section 4.a. shall contain the information required in Sections 721.07(5)(~~o~~)(~~g~~), 721.07(5)(~~w~~)(~~z~~), and 721.07(5)(~~aa~~), Florida Statutes;

6. Section 4.b. shall contain the information required in Section 721.07(5)(~~k~~)(~~t~~), Florida Statutes;

7. Sections 5.a., 5.b., and 5.c. shall contain the information required in Sections 721.07(5)(~~f~~)1., (~~f~~)2., and (~~f~~)3., Florida Statutes, respectively;

a. Section 5.b. shall further contain the information required in Section 721.07(5)(~~r~~)(~~t~~), Florida Statutes, including whether the addition of undisclosed phases will change the purchaser’s pro rata interest in the common elements or pro rata share of common expenses, and whether the purchaser has the right of consent to such changes; and

b. Section 5.c. shall further contain the information required in Sections 721.07(5)(~~g~~)1.-(~~g~~)3.~~9.~~, 721.07(5)(~~i~~)(~~h~~)1.-(~~h~~)6., and 721.07(5)(~~j~~), Florida Statutes, as applicable;

8. Section 5.a.(1) shall contain the information required in Section 721.07(5)(~~s~~)(~~u~~), Florida Statutes. If purchasers are not entitled to use specific timeshare periods the following additional information shall be disclosed:

i. Beginning and ending dates for the period during which a purchaser must make reservations; and

ii. In conspicuous type, any contingencies resulting in a purchaser’s loss of occupancy rights including whether a purchaser is required to pay estimated, further assessments prior to obtaining the right to make a reservation;

9. Section 5.d. shall contain the information required in Section 721.07(5)(~~n~~)(~~o~~), Florida Statutes;

10. Section 5.e. shall contain the information required in Section 721.07(5)(~~aa~~)(~~aw~~), Florida Statutes;

11. Section 5.f. shall contain the information required in Section 721.07(5)(~~l~~)(~~ee~~), and (5)(~~t~~), Florida Statutes;

12. Section 5.g. shall contain the information required in Sections 721.07(5)(~~m~~)(~~f~~)4. and (5)(~~p~~), Florida Statutes;

13. Section 5.h. shall contain the information required in Sections 721.07(5)(~~p~~)(~~m~~), and (5)(~~v~~), Florida Statutes;

14. Section 5.i. shall contain the information required in Section 721.07(5)(~~n~~), Florida Statutes;

15. Section 5.j. shall contain the information and disclosure, if applicable, required in Section 721.07(5)(~~r~~), Florida Statutes;

16. Section 6. shall contain the information required in Section 721.07(5)(~~u~~)(~~x~~), Florida Statutes;

17. Section 7.a. shall contain the information required in Section 721.07(5)(~~z~~)(~~dd~~), Florida Statutes;

18. Section 7.b. shall contain the information required in Sections 721.07(5)(~~v~~), 721.07(5)(~~x~~), and 721.07(5)(~~y~~), (~~5~~)(~~bb~~), and (5)(~~ee~~), Florida Statutes;

19. Section 7.c. shall contain the information required in Section 721.07(5)(~~j~~)(~~k~~), Florida Statutes. If the developer does not own the real property underlying any particular accommodation or facility, the developer shall disclose the extent to which such accommodation or facility will be available to purchasers, including an explanation of any limitations, risk, or restrictions on availability. This disclosure shall not relieve the developer from complying with the financial assurance or non-disturbance requirements of Chapter 721, Florida Statutes, or these rules, where applicable;

20. Section 7.d. shall contain the information required in Sections 721.07(5)(~~q~~)(~~s~~)1. and (~~q~~)(~~s~~)2., Florida Statutes; and

21. Section 8. shall contain the information required in Section 721.07(5)(~~bb~~)(~~ff~~), Florida Statutes;

(h) The next consecutive page(s) shall contain the POS exhibits tabbed and labeled by “Exhibit #”, as previously listed pursuant to subsection (2)(b) of this rule or required pursuant to Section 721.07(5), Florida Statutes, including:

1. An exhibit containing the form receipt for timeshare documents to be furnished to purchasers as prescribed in DBPR Form TS 6000-7 BPR form 513, Receipt for Timeshare Documents, incorporated herein by reference and effective 6-12-96, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4); and

2. A description of exhibits that will not be provided to purchasers.

(3) The indexes and POS text may contain additional subsections which subdivide the required information in a more individualized fashion and may reference additional exhibits, numbered consecutively after the exhibits mandated in this rule.

(4) The single-site registered ~~filed~~ POS shall be accompanied by the following completed and executed forms and documents, where applicable:

(a) DBPR Form TS 6000-6 ~~BPR form 512~~, Single-Site/Component Site Timeshare Filing Statement, incorporated herein by reference and effective \_\_\_\_\_ ~~6-12-96~~;

(b) DBPR Form TS 6000-8 ~~BPR form 514~~, Certificate of Identical Documents, incorporated herein by reference and effective \_\_\_\_\_ ~~6-12-96~~, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4);

(c) A fully executed escrow agreement ~~and the original of a faithful performance surety bond, pursuant to Section 721.05(13), Florida Statutes~~, demonstrating that the developer has established an escrow account with an independent escrow agent pursuant to Section 721.08, Florida Statutes;

(d) Pursuant to Section 721.07(5)(~~ee~~)(~~gg~~), Florida Statutes, other documents or information that the seller wishes to include in the POS; and

(e) The correct filing fee.

(5) A copy of the single-site purchaser POS, prescribed in Rule 61B-39.004, Florida Administrative Code, shall not be required to be filed with the division as a separate document or exhibit, unless requested by the division pursuant to Section 721.07(5)(~~gg~~)(~~hh~~), Florida Statutes.

(6) The developer of a single-site timeshare plan, filed with the division prior to June 14, 1995 or amended after June 14, 1995, shall not be required to amend the single-site POS after the effective date of this rule in order to reorder, rearrange, re-subdivide or renumber information or exhibits or to modify or amend the font or style of required conspicuous type disclosures. Notwithstanding the foregoing, all disclosures required to be in conspicuous type shall remain in conspicuous type.

Specific Authority 721.26(6) FS. Law Implemented 721.05, 721.06(1)(~~g~~)(~~h~~), 721.07(5), 721.07(6), 721.52(4),(5), 721.53 FS. History--New 5-8-94, Amended 12-11-94, 6-12-96, \_\_\_\_\_.

61B-39.004 Delivery of Single-Site Purchaser Public Offering Statements.

(1) Pursuant to Section 721.07(6), Florida Statutes, a developer of a single-site timeshare plan shall deliver to every purchaser of the single-site timeshare plan a single-site purchaser POS, which shall contain all of the following:

(a) A copy of the single-site registered ~~filed~~ public offering statement text as prescribed in Section 721.07(5), Florida Statutes, and Rule 61B-39.003, Florida Administrative Code;

(b) A copy of the exhibits prescribed in Sections 721.07(5)(~~ff~~)(~~hh~~)1., 2., 4., 5., 8., and ~~16~~, ~~19~~, Florida Statutes, as applicable. Pursuant to Section 721.07(6)(b) and Section 721.07(5)(~~ff~~)(~~hh~~)19., Florida Statutes, if the single-site is one created as a tenancy-in-common, the purchaser shall receive the document or documents creating the tenancy-in-common, including at a minimum a Declaration of Covenants, Conditions and Restrictions; and

(c) Any other exhibit that the developer has filed with the division pursuant to Section 721.07(5), Florida Statutes, and Rule 61B-39.003, Florida Administrative Code, which the developer is not required but elects to include in the purchaser POS pursuant to Section 721.07(6)(d), Florida Statutes.

(2) In addition to the single-site purchaser POS, the developer shall deliver to the purchaser a copy of any document that the purchaser signs, including a copy of the executed purchase agreement, a copy of the executed alternative media disclosure statement prescribed in Rule 61B-39.008(1), Florida Administrative Code, and a copy of the executed receipt for timeshare documents prepared in accordance with DBPR Form TS 6000-7 ~~BPR form 513~~, Receipt for Timeshare Documents, incorporated by reference in Rule 61B-39.003, Florida Administrative Code.

(3) Any document required to be an exhibit to the single-site purchaser POS pursuant to Section 721.07(6), Florida Statutes, and this rule is not required to include any underlying or supporting exhibits to such document.

(4) A developer shall deliver the single-site purchaser POS as prescribed in this rule in the same order as prescribed in Rule 61B-39.003, Florida Administrative Code, but may renumber the exhibits indicated on BPR Form 503, Table of Contents to Single-Site/Component Site Public Offering Statement, incorporated by reference in Rule 61B-39.002, Florida Administrative Code, to reflect only those exhibits that are being delivered to purchasers pursuant to Section 721.07(6), Florida Statutes. Accordingly, a developer may remove cross-reference in the purchaser POS text that refers to an exhibit that is not being delivered to the purchaser.

Specific Authority 721.26(6), 721.07(6) FS. Law Implemented 721.07(6) FS. History--New 6-12-96, Amended \_\_\_\_\_.

61B-39.005 Filing of Multisite Timeshare Plans.

(1) Each developer of a multisite timeshare plan pursuant to Section 721.07, Florida Statutes, shall file a multisite registered ~~filed~~ POS pursuant to Section 721.55, Florida Statutes, and these rules. The multisite registered ~~filed~~ POS shall:

(a) Include all of the information and disclosures required in Section 721.55, Florida Statutes;

(b) Follow the filing format and forms prescribed in this rule; and

(c) Disclose any additional information prescribed in this rule.

(2) Every multisite ~~registered~~ ~~filed~~ POS must organize the required information and disclosures in the following manner and format:

(a) The first page shall be the cover page and shall contain the disclosures required in Section 721.55(1), Florida Statutes;

(b) The next consecutive page(s) shall be the table of contents and shall list the sections of the POS by Exhibit #, pursuant to Section 721.55(3), Florida Statutes, as prescribed in BPR form 503, Table of Contents to Multisite Public Offering Statement, incorporated by reference in Rule 61B-39.002, Florida Administrative Code. If any required exhibit is not applicable to a particular filing, the table of contents shall contain a notation to that effect where such exhibit would otherwise be described in the table of contents. However, such notations shall not cause a filing to deviate from either the numbering or order of presentation as prescribed in this rule;

(c) The next consecutive page(s) shall be the index and shall list the sections of the POS text with corresponding subject matter and page number, pursuant to Section 721.55(3), Florida Statutes, as prescribed in DBPR Form TS 6000-4 BPR form 504, Index to Multisite Public Offering Statement Text, incorporated herein by reference and effective \_\_\_\_\_ ~~6-12-96~~, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4). If any required information or disclosure is not applicable to a particular filing, the index shall contain a notation to that effect where such information or disclosure would normally be described in the index. However, such notations shall not cause a filing to deviate from either the order or numbering of presentation as prescribed in this rule;

(d) The next consecutive page(s) shall be labeled "I. Definitions and Abbreviations" and shall list and define alphabetically any terms of art or abbreviations to be used in the multisite POS text or exhibits. The terms and abbreviations used in the multisite POS text shall be consistent with statutorily defined terms and shall not create ambiguity as to statutorily defined terms;

(e) The next consecutive page(s) shall be labeled "II. Required Disclosures" and shall contain any conspicuous type disclosures required by Chapter 721, Florida Statutes, or Chapter 718, Florida Statutes, as applicable, and contained in exhibits that will be provided to purchasers in the purchaser POS;

(f) The next consecutive page(s), if applicable, shall be labeled "IIA. Developer Disclosures" and shall contain the disclosures, as approved by the division, that the developer wishes to appear in a font or type size or style different than the font or type that is used in the overall multisite POS text. For

developer disclosures, the developer shall not use a font or type that is larger than the font or type used for conspicuous type disclosures.

(g) The next consecutive pages shall be labeled "III. Public Offering Statement Text" and shall contain the subject matter indicated by, and be organized by section according to, the Index to Public Offering Statement Text, and contain the information and disclosures required in Section 721.55(4), Florida Statutes, in the following order:

1. Sections 1., 1.a., 1.b., 1.c., and 1.d. shall contain the information required in Section 721.55(4)(a), Florida Statutes;

2. Sections 2., 2.a., 2.b., and 2.c. shall contain the information required in Section 721.55(4)(b), Florida Statutes;

3. Sections 3., 3.a., 3.b., and 3.c. shall contain the information required in Sections 721.55(4)(c)1., (c)2., and (c)3., Florida Statutes;

4. Section 4. shall contain the information and conspicuous type disclosure required in Section 721.07(4)(d), Florida Statutes;

5. Section 5. shall contain the information required in Section 721.55(4)(e), Florida Statutes;

6. Sections 6., 6.a., 6.b., 6.c., 6.d. and 6.e. shall contain the information and conspicuous type disclosure required in Sections 721.55(4)(f)1.a., (f)1.b., and (f)1.c., Florida Statutes;

7. Sections 7., 7.a., 7.b., 7.c., 7.d. and 7.e. shall contain the information and conspicuous type disclosure required in Sections 721.55(4)(f)2.a. and (f)2.b., Florida Statutes;

8. Sections 8., 8.a., 8.b., 8.c., and 8.d. shall contain the information and conspicuous type disclosure required in Sections 721.55(4)(f)3., Florida Statutes;

9. Sections 9.a.(1)-a.(2) shall contain the information required in Section 721.55(4)(g)1., Florida Statutes;

10. Sections 9.b.(1)-b.(3) shall contain the information required in Section 721.55(4)(g)2., Florida Statutes;

11. Sections 10. and 10.a.-10.i. shall contain the information required in Section 721.55(4)(h)1.-7., Florida Statutes;

12. Section 11. shall contain the information and conspicuous type disclosure required in Section 721.55(4)(i), Florida Statutes;

13. Section 12. shall contain the conspicuous type disclosure required in Section 721.55(4)(j), Florida Statutes;

14. Section 13. shall contain the information required in Section 721.55(4)(k), Florida Statutes;

15. Sections 14.a.-14.d. shall contain the information required in Section 721.55(4)(l)1.-1)5., Florida Statutes. In describing each component site, the developer shall be permitted to include pictures, photographs, illustrations, sketches or other pictorial representations of each component site; provided, however, that such representations comply with the requirements of Section 721.553, Florida Statutes, and Section 721.26(5)(a)2., Florida Statutes;

16. Section 15. shall contain the conspicuous type disclosure required in Section 721.55(8)(b), Florida Statutes, if applicable; and

17. Section 16. shall contain, if applicable, the information permitted pursuant to Section 721.55(5), Florida Statutes, unless the division requests that such information be placed in another section of the multisite POS to ensure fair, effective, and meaningful disclosure.

(h) The next consecutive page(s) shall contain the multisite POS exhibits tabbed and labeled by "Exhibit #", as previously listed pursuant to subsection (2)(b) of this rule or required pursuant to Sections 721.55(7)(a)-(7)(k) and 721.55(5), Florida Statutes, including:

1. An exhibit containing the form receipt for timeshare documents to be furnished to purchasers as prescribed in DBPR Form TS 6000-7 ~~BPR form 513~~, Receipt for Timeshare Documents, incorporated by reference in Rule 61B-39.003, Florida Administrative Code;

2. A description of exhibits that will not be provided to purchasers; and 3. An exhibit (consecutively numbered if more than one) for each component site whose accommodations or facilities are either located in this state or with respect to which a timeshare estate or specific timeshare license is offered in this state, pursuant to Section 721.55(7)(l), Florida Statutes. Each such exhibit shall consist of the registered filed POS for each such component site with contents and format as required for a single-site filed POS pursuant to Section 721.07(5), Florida Statutes, and Rule 61B-39.003, Florida Administrative Code;

(3) The indexes and POS text may contain additional subsections which arrange or subdivide the required information in a more individualized fashion and may reference additional exhibits, numbered consecutively after the exhibits mandated in this rule.

(4) Except for the information required by Section 721.55(4)(l), Florida Statutes, the multisite POS text may contain cross-references to information contained in a single-site POS text, attached as an exhibit to the multisite POS text, in lieu of repeating such information in the multisite POS text.

(5) The multisite registered filed POS shall be accompanied by the following completed and executed forms and documents, where applicable:

(a) BPR form 517, Multisite Timeshare Filing Statement, incorporated herein by reference and effective 6-12-96, a copy of which may be obtained at the address referenced in Rule 61B-39.002(4);

(b) DBPR Form TS 6000-8 ~~BPR form 514~~, Certificate of Identical Documents, incorporated by reference in Rule 61B-39.003, Florida Administrative Code;

(c) A fully executed escrow agreement ~~and the original of a faithful performance surety bond, pursuant to Section 721.05(13), Florida Statutes~~, demonstrating that the developer has established an escrow account with an independent escrow agent pursuant to Section 721.08;

(d) Pursuant to Section 721.55(6), Florida Statutes, other documents or information that the seller wishes to include in the POS as approved by the division;

(e) An affidavit or other evidence pursuant to Section 721.56(1), Florida Statutes, from each component site managing entity; and

(f) The correct filing fee.

(6) A copy of the multisite purchaser POS, prescribed in Rule 61B-39.004, Florida Administrative Code, shall not be required to be filed with the division as a separate document or exhibit, unless requested by the division pursuant to Section 721.55(5), Florida Statutes.

(7) In accordance with Sections 721.53 and 721.56, Florida Statutes, the reservation system facility of a multisite timeshare plan that must be the subject of a subordination and notice to creditors instrument includes any part of the reservation system without which the reservation system could not operate absent the acquisition of any necessary substitute part. Likewise, a terminated managing entity, that owns any part of the reservation system of a multisite timeshare plan must comply with the trust provisions of Section 721.56, Florida Statutes, when any part of the reservation system owned by the managing entity is a part without which the reservation system could not operate absent the acquisition of any necessary substitute part.

Specific Authority 721.26(6), 721.55 FS. Law Implemented 721.55 FS. History—New 5-8-94, Amended 12-11-94, 6-12-96, \_\_\_\_\_.

61B-39.006 Delivery of Multisite Purchaser Public Offering Statements.

(1) Pursuant to Section 721.551(2), Florida Statutes, a developer of a multisite timeshare plan shall deliver to every purchaser of the multisite timeshare plan a multisite purchaser POS, which shall contain all of the following:

(a) A copy of the multisite registered filed public offering statement text as prescribed in Section 721.55(1)-(6), Florida Statutes, and Rule 61B-39.005, Florida Administrative Code;

(b) If the purchaser will receive a timeshare estate or specific timeshare license in a component site located or sold in this state, the single-site purchaser POS with content and format as required by Section 721.07(6)(a) and (6)(b), Florida Statutes, and Rule 61B-39.004, Florida Administrative Code; and

(c) Any other exhibit that the developer has filed with the division pursuant to Section 721.55, Florida Statutes, and Rule 61B-39.005, Florida Administrative Code, which the developer elects to include pursuant to Section 721.551(2)(d), Florida Statutes.

(2) In addition to the purchaser POS, the developer shall deliver to the purchaser a copy of any document which the purchaser signs including a copy of the executed purchase agreement, a copy of the executed alternative media disclosure statement prescribed in Rule 61B-39.008(1), Florida Administrative Code, and a copy of the executed receipt for multisite timeshare documents prepared in accordance with DBPR Form TS 6000-7 BPR form 513, Receipt for Multisite Timeshare Documents, incorporated by reference in Rule 61B-39.003, Florida Administrative Code.

(3) Any document required to be an exhibit to the multisite purchaser POS pursuant to Section 721.551, Florida Statutes, and this rule is not required to include any underlying or supporting exhibits to that document.

(4) A developer shall deliver the multisite purchaser POS as prescribed in this rule in the same order as prescribed in Rule 61B-39.005, Florida Administrative Code, but may renumber the exhibit numbers indicated on BPR Form 503, Table of Contents to Multisite Public Offering Statement, incorporated by reference in Rule 61B-39.002, Florida Administrative Code, to reflect only those exhibits that are being delivered to purchasers pursuant to Section 721.551, Florida Statutes.

Specific Authority 721.26(6), 721.551(1) FS. Law Implemented 721.551 FS. History—New 6-12-96, Amended \_\_\_\_\_.

#### 61B-39.007 Public Offering Statement Amendments.

(1) through (5) No change.

(6) ~~The developer may indicate in the written statement required to be provided to the purchaser who has not closed, pursuant to Section 721.07(3)(b), Florida Statutes, the developer's opinion regarding the materiality of an amendment to the purchaser. The developer may indicate that the amendment does not materially alter or modify the offering in a manner which is adverse to the purchaser if the amendment consists only of one or more of the following:~~

~~(a) Any grammatical or typographical correction, or change in presentation or format, which does not affect the meaning of any provision of the approved POS, provided that the amended POS remains in compliance with the format requirements of these rules;~~

~~(b) Any substitution of an executed, filed or recorded copy of a document for the otherwise identical unexecuted, unfiled or unrecorded copy of the document contained in the approved POS;~~

~~(c) Any addendum or rider to the purchase agreement or other document in the approved POS required by a jurisdiction other than Florida if such addendum or rider does not conflict with the language or intent of Chapter 721, Florida Statutes;~~

~~(d) Any inclusion of updated information such as identification or description of:~~

~~1. The current officers and directors of the owners' association;~~

~~2. Phases added to the timeshare plan pursuant to the developer's reserved right as previously disclosed and the inclusion of the documents of the phase amendments;~~

~~3. The total number of units and timeshare periods currently in the timeshare plan;~~

~~4. Any action taken pursuant to any previously disclosed reserved right not arising under Section 718.110(4), Florida Statutes;~~

~~5. Improvements for which construction has been completed; or~~

~~6. Any transfer of control of the owners' association.~~

~~(e) Any inclusion of information which will have application only to prospective purchasers, including:~~

~~1. Increased closing costs for prospective purchasers;~~

~~2. Change of escrow agent; or~~

~~3. Change in the description of incidental benefits offered by the developer, if any.~~

~~(f) Any increase in the insurance coverage for the protection of the accommodations and facilities of the timeshare plan.~~

~~(g) Any inclusion of supplemental disclosure required by a jurisdiction other than Florida if such supplemental disclosure does not conflict with the language or intent of Chapter 721, Florida Statutes.~~

~~(h) Any biennial disclosure of average levels of occupancy as prescribed in Section 721.55(4)(c)3., Florida Statutes.~~

~~(i) Any change to a POS required by these rules or Chapter 721, Florida Statutes, for the purchase of reordering, rearranging, resubdividing or renumbering information or exhibits; modifying or amending font or style of required conspicuous type disclosures; or adding conspicuous type disclosures.~~

~~(6)(7) Notwithstanding the provisions of these rules, the written statement required by Section 721.07(3)(b), Florida Statutes, shall contain a disclosure in substantially the following language: "Under Florida law, you are entitled to void your purchase contract, within 10 days from receipt of this amendment, if the amendment materially alters or modifies the offering in a manner which is adverse to you."~~

~~(7)(8) Amendments which materially alter or modify the offering in a manner which is adverse to some, but not all, purchasers shall not be construed to confer a right to the 10-day voidability period on the purchasers who are not adversely affected. This rule shall not be construed to relieve any duty of the developer pursuant to Section 721.07(3)(a), Florida Statutes.~~

~~(8)(9) An approved amendment to any of the documents required by Rule 61B-39.004, Florida Administrative Code, to constitute the portion of the purchaser POS for one component site of a multisite timeshare plan shall be delivered to purchasers of only that particular component site pursuant to Section 721.07(3)(a)2., Florida Statutes, and these rules.~~

However, such amendment shall not be considered an approved amendment to the purchaser POS given to a purchaser at any other component site of the multisite timeshare plan.

~~(10) A developer of a single-site or multisite timeshare plan who files an amendment to the POS with the division prior to January 1, 1996, for the purpose of complying with the requirements of Section 721.07(5) or Section 721.55, Florida Statutes, and these rules, may conduct closings based upon the delivery of a POS approved under Florida law as it existed prior to June 14, 1995, until such time as the division approves such amendment.~~

Specific Authority 721.26(6) FS. Law Implemented 721.07(3)(a), 721.06 FS. History—New 5-8-94, Amended 6-12-96,\_\_\_\_\_.

61B-39.008 Filing and Delivery of Purchaser Public Offering Statements Through Alternative Media.

(1) Developers may provide purchasers with the option of receiving all or any portion of a single-site or multi-site purchaser POS through alternative media in lieu of receiving the written materials in the format prescribed in Rule 61B-39.004 or 61B-39.006, Florida Administrative Code, as applicable. The purchaser’s choice of the delivery method shall be set forth in writing on a separate form which shall also disclose the system requirements necessary to view the alternative media, which form shall be signed by the purchaser. The form shall state that the purchaser should not select alternative media unless the alternative media can be viewed prior to the 10 day cancellation period. The alternative media disclosure statement shall be listed on the form receipt for timeshare documents in the manner prescribed in DBPR Form TS 6000-7 BPR form 513, Receipt for Timeshare Documents, or DBPR Form TS 6000-7 BPR form 513, Receipt for Multisite Timeshare Documents, as both of which are referenced in Rule 61B-39.003, Florida Administrative Code. If a portion, but not all, of the purchaser POS is delivered through the use of alternative media, then the developer shall identify in the purchaser POS table of contents and in the receipt for timeshare documents that information which appears in the alternative media and that information which appears in the written materials.

(2) The order and content of a single-site purchaser POS delivered through alternative media shall comply with Rule 61B-39.004, Florida Administrative Code, and the order and content of a multisite purchaser POS delivered through alternative media shall comply with Rule 61B-39.006, Florida Administrative Code.

(3) Prior to delivery of the purchaser POS through alternative media, the developer must submit to the division a copy of the purchaser POS through the alternative media proposed to be used by the developer together with an executed certificate, using the form prescribed in DBPR Form TS 6000-8 BPR form 514, the Certificate of Identical Documents, referenced in Rule 61B-39.003, Florida Administrative Code,

certifying that the portion of the purchaser POS delivered through the proposed alternative media is an accurate representation of and, where practical, identical to the corresponding portion of the written purchaser POS.

(4) The alternative media format used to display the purchaser POS may also contain materials in addition to the purchaser POS, such as advertising. In the event that alternative media contains material other than the purchaser POS, the location of the purchaser POS in the alternative media must be specifically and prominently identified in the alternative media.

(5) In the event that the developer amends the POS, the alternative media purchaser POS must also be amended to conform to such amendment, and the developer shall be required to file with the division an executed certificate, using the form prescribed in DBPR Form TS 6000-8 BPR form 514, Certificate of Identical Documents, referenced in Rule 61B-39.003, Florida Administrative Code, certifying that the portions of the purchaser POS set forth in alternative media are identical to the corresponding portions of the written purchaser POS, as amended.

Specific Authority 721.26(6) FS. Law Implemented 721.07(5),(6), 721.55, 721.551 FS. History—New 6-12-96, Amended\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glenn, Chief, Bureau of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE TITLES:	RULE NOS.:
Definitions	61B-40.001
Scope	61B-40.002
Books and Financial Records; Fiscal Year	61B-40.003
Budgets	61B-40.004
Guarantee of Common Expenses Under Sections 718.116(9) and 721.15(2), Florida Statutes	61B-40.005
Reserves	61B-40.006
Funding Requirements and Restrictions on Use	61B-40.0061
Waiver of Reserves	61B-40.0062
Financial Reporting Requirements	61B-40.007



PURPOSE AND EFFECT: To implement the statutory changes in Chapter 2000-302, Laws of Florida, relating to multi-condominiums; conversion of existing improvements to a timeshare condominium form of ownership; conform the rules to new statutory references to reflect renumbering; and delete obsolete rules.

SUMMARY: This rule amendment conforms the rules to the statutory changes made in Chapter 2000-302, Laws of Florida, relating to multi-condominiums and the conversion of existing improvements to a timeshare condominium form of ownership. It also deletes obsolete rules.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No statement of estimated regulatory costs has been prepared.

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

SPECIFIC AUTHORITY: 718.111(13), 718.501(1)(f), 721.03(2), 721.13(3)(d)3., 721.26(6) FS.

LAW IMPLEMENTED: 718.104, 718.110(12), 718.111(6), (12)(a)11., 718.112(2)(f), 718.113(1), 718.115(2), 718.116(9), 718.403(6)(e), 721.03(3), 721.07(5)(u)3., 721.13(2)(a), (3)(c)1.,2.,(d)3., 721.15(2),(5) FS.

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

TIME AND DATE: 9:00 a.m., October 1, 2001

PLACE: Warren Building, Meeting Room #402, 202 Blount Street, Tallahassee, Florida 32399-1030

Those persons who cannot attend in person may submit their comments in writing: Sharon Elzie, Senior Management Analyst II, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030, within 21 days of this notice. written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing is asked to advise the agency at least 48 hours before the hearing by contacting Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE FULL TEXT OF THE PROPOSED RULES IS:

61B-40.001 Definitions.

For purposes of Chapter 721, Florida Statutes, and Chapter 61B-40, Florida Administrative Code, the following definitions shall apply:

- (1) through (7) No change.

~~(8) “Multi-condominium association” means a single condominium association that is responsible for the operation of more than one condominium.~~

~~(9)(9) “Reserve fund balance” means the cumulative excess or deficit of reserve revenues over reserve expenses for a reserve category at a particular point in time.~~

~~(9)(10) “Reserves” means categories of funds, other than operating funds, that are restricted for deferred maintenance and capital expenditures, including the categories roof replacement, building painting, pavement resurfacing, replacement of unit furnishings and equipment and any other component of the facilities whose useful life is less than that of the overall structure, as required by Section 721.07(5)(u)(\*)3., Florida Statutes. Funds that are not restricted as to use shall not be considered reserves within the meaning of this rule regardless of the label attached to such items.~~

~~(10)(11) “Timeshare condominium” means a condominium in which any unit is a “timeshare unit” as defined in Section 721.05, Florida Statutes.~~

Specific Authority 721.03(2)(\*)3., 721.26(6), 718.501(1)(f) FS. Law Implemented 718.104, 721.03(3), 721.07(5)(u)(\*)3., 721.13(3)(d)3.,4. FS. History–New 2-5-96, Amended \_\_\_\_\_.

61B-40.002 Scope.

These rules apply to all condominium and non condominium timeshare plans and to all units in any timeshare condominium. Chapter 61B-22, Florida Administrative Code, shall not apply to timeshare condominiums.

Specific Authority 718.501(1)(f), 721.03(2)(\*)3., 721.26(6) FS. Law Implemented 721.03(2)(\*)3. FS. History–New 2-5-96, Amended \_\_\_\_\_.

61B-40.003 Books and Financial Records; Fiscal Year.

(1) Maintenance of books and financial records. The books and financial records of every timeshare plan shall be maintained in sufficient detail to permit determination of the revenues and expenses attributable to separate component sites, condominiums, associations, categories of funds such as operating, reserve or property tax, and other revenue generating activities within a timeshare plan.

(2) Separate books and financial records required. Every managing entity shall maintain separate books and financial records as follows:

(a) If the common expenses of a component site are not common expenses of the multisite timeshare plan, the managing entity shall maintain books and financial records for such component site separately from the books and financial records of the multisite timeshare plan;

(b) The managing entity of a multicondominium ~~multi-condominium~~ timeshare plan shall maintain separate accounting books and financial records for the multi-condominium association and for each condominium operated by the association. Multicondominium associations created prior to July 1, 2000, that do not create separate ownership interests of the common surplus of the association

for each unit, as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall not maintain separate fund balances for the association, and shall allocate all association revenues and expenses to each condominium operated by the association pursuant to the provisions of each condominium's respective declaration;

(c) For timeshare plans engaged in activities that generate nonassessment ~~non-assessment~~ revenues, the managing entity shall maintain books and financial records in sufficient detail to permit the determination of the revenues and expenses of each such revenue generating activity.

(3) Fiscal year. Every timeshare plan shall establish a fiscal year and shall document the fiscal year in the books and records of the timeshare plan. Such fiscal year shall be the same as the budget year.

Specific Authority 718.501(1)(f), 721.03(2)(~~3~~), 721.13(3)(d)3., 721.26(6) FS. Law Implemented 718.111(12)(a)11., 721.13(3)(c)1., 721.13(3)(d) FS. History--New 2-5-96, Amended.

61B-40.004 Budgets.

(1) Required elements for estimated operating budgets. The proposed and adopted budget for each timeshare plan shall:

- (a) Be stated on an annual basis;
- (b) Disclose the fiscal year for which the budget will be in effect;
- (c) Show the total assessment for each use availability period or ownership interest according to its proportionate share of ownership or as allocated by the timeshare instrument, as applicable;
- (d) Include a good faith estimate of all revenues of the timeshare plan. Revenue classifications, such as interest, assessments, and other categories shall be shown separately. If applicable, the following items shall be included in the estimated revenues section of the budget:

- 1. Estimated non assessment revenues; and
- 2. Estimated common surplus as of the beginning of the period for which the budget will be in effect.

(e) Include a good faith estimate of all common expenses or expenditures of the timeshare plan including the categories set forth in Section 721.07(5)(u)(~~3~~), Florida Statutes. The following minimum reserve disclosures for proposed budgets are required:

- 1. Reserves for capital expenditures and deferred maintenance as required by Section 721.07(5)(u)(~~3~~), Florida Statutes, shall be included in the proposed annual budget, or as a separate reserve budget, stating each such reserve category for capital expenditures and deferred maintenance as a separate line item and with the following minimum disclosures:
  - a. The total estimated useful life of the asset;
  - b. The estimated remaining useful life of the asset;
  - c. The estimated replacement cost or deferred maintenance expense of the asset;

d. The estimated fund balance of the asset as of the beginning of the period for which the budget will be in effect; and

e. The developer's total funding obligation, as if all timeshare periods are sold, for each converter reserve account established pursuant to Section ~~721.03(3)(e)~~ 718.618, Florida Statutes, if applicable.

2. Categories of expense that are restricted as to use shall be stated in the reserve portion of the budget. Categories of expense that are not restricted as to use shall be stated in the operating portion of the budget.

(f) Include estimated common deficits as of the beginning of the period for which the budget will be in effect as a separate line item of the budget.

(2) through (5) No change.

(6) Multicondominium ~~Multi-condominium~~ timeshare plans. The managing entity of a multicondominium ~~multi-condominium~~ timeshare plan shall:

(a) Provide a separate schedule of estimated expenses specific to each condominium such as the maintenance, deferred maintenance, repair or replacement of the common elements of that condominium;

(b) Provide a separate schedule of estimated expenses of the association that are not specific to a condominium such as the maintenance, deferred maintenance, repair or replacement of the property serving more than one condominium;

(c) Multicondominium associations, created after June 30, 2000, or multicondominium associations that have created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include the estimated common surplus of the association and the condominium as a line item in the revenue section of the respective budgets; and

(d)(~~e~~) Multicondominium associations created after June 30, 2000, or multicondominium associations that have created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall include each purchaser's share of the estimated expenses of the association, referred to in subsection (b) of this rule, which shall be shown on the individual condominium budgets. Multicondominium associations created prior to July 1, 2000, that have not created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, shall disclose each condominium's share of the estimated expenses of the association, as referenced in subsection (b) of this rule.

(7) through (10) No change.

Specific Authority 718.501(1)(f), 721.03(2)(~~3~~), 721.13(3)(d)3., 721.26(6) FS. Law Implemented 718.111(6), ~~718.112(2)(e)~~, 718.112(2)(f), 718.113(1), 718.115(2), 718.403(6)(e), 721.03(3), 721.07(5)(u)(~~3~~), 721.13(2)(a), 721.15(2), 721.15(5) FS. History--New 2-5-96, Amended.

61B-40.005 Guarantee of Common Expenses Under Sections 718.116(9) and 721.15(2), Florida Statutes.

(1) through (4) No change.

(5) Calculation of guarantor's final obligation. The guarantor's total financial obligation at the end of the guarantee period shall be determined on the accrual basis. Such financial obligation shall not be reduced by contributions of real or personal property. The guarantor shall fund the total common expenses incurred during the guarantee period including the full funding of reserves as included on the adopted budget, less the following items:

(a) Depreciation expense on real property;

(b) Depreciation expense on personal property contributed by the guarantor; and

(c) For guarantee agreements established on or subsequent to June 14, 1995, and for guarantee agreements established prior to June 14, 1995 in which no method for calculating the guarantee was specified, the total revenues of the timeshare plan regardless of whether the actual level of assessments was less than the maximum guaranteed amount. For guarantee agreements established prior to June 14, 1995, in which a method for calculating the guarantee was specified, the maintenance assessment revenues of the timeshare plan regardless of whether the actual level of assessments was less than the maximum guaranteed amount.

(d) If a guarantee pursuant to Section 718.116(9) or Section 721.15(2), Florida Statutes, existed within a multicondominium association created prior to July 1, 2000, the guarantor's financial obligation to the association shall be calculated as provided in subsections (a) through (c) for each condominium in which the guarantee existed. If a guarantee pursuant to Section 718.116(9) or Section 721.15(2), Florida Statutes, existed within a multicondominium association created after June 30, 2000, or a multicondominium association that created separate ownership interests of the common surplus of the association for each purchaser as provided in Sections 718.104(4)(h) and 718.110(12), Florida Statutes, the guarantor's financial obligation to the association shall include the amount calculated pursuant to Section 718.116(9)(c), Florida Statutes.

Specific Authority 718.501(1)(f), 721.03(2)(~~g~~), 721.13(3)(d)3., 721.26(6) FS. Law Implemented 718.116(9), 721.15(2) FS. History—New 2-5-96, Amended \_\_\_\_\_.

61B-40.006 Reserves.

(1) Reserves required by statute. The proposed annual budget shall include the reserves required by Section 721.07(5)(u)(~~xx~~), Florida Statutes, for capital expenditures and deferred maintenance, including roofing, painting, paving, unit furnishings, and any other building components having a useful life that is less than that of the overall structure.

(2) Calculating reserves required by statute. Reserves for deferred maintenance and capital expenditures required by Section 721.07(5)(u)(~~xx~~), Florida Statutes, shall be calculated

using a formula that will provide funds equal to the total estimated deferred maintenance expense or total estimated replacement cost for an asset, over the remaining useful life of the asset. The amount of the current year funding for each reserve category shall be the sum of the following two calculations:

(a) If the fund balance of the reserve category is less than zero, the total estimated amount necessary to bring such negative reserve category balance to zero; and

(b) The total estimated deferred maintenance expense or total estimated replacement cost of the asset less the estimated balance of the reserve category as of the beginning of the period for which the budget will be in effect, the remainder of which shall be divided by the estimated remaining useful life of the asset. The formula may consider factors such as inflation and earnings on invested funds and may be adjusted each year for changes in estimates and deferred maintenance performed during the year.

(3) Estimating reserves when the developer is funding converter reserves. For the purpose of estimating non converter reserves for condominium timeshare plans, the estimated fund balance of the non converter reserve account related to any asset for which the developer has established a converter reserve, pursuant to Section 721.03(3)(e) ~~718.618~~, Florida Statutes, shall be the sum of:

(a) The developer's total funding obligation for the converter reserve account, calculated as if all timeshare periods are sold; and

(b) The estimated fund balance of the non converter reserve account, excluding the developer's converter reserve obligation, as of the beginning of the period for which the budget will be in effect.

Specific Authority 718.501(1)(f), 721.03(2)(~~g~~), 721.26(6) FS. Law Implemented 721.03(3)(e) ~~718.618~~, 721.07(5)(u)(~~xx~~) FS. History—New 2-5-96, Amended \_\_\_\_\_.

61B-40.0061 Funding Requirements and Restrictions on Use.

(1) through (2) No change.

Specific Authority 721.03(2)(~~g~~), 721.26(6) FS. Law Implemented 721.03(3), 721.07(5)(u)(~~xx~~), 721.13(3)(c)2. FS. History—New 2-5-96.

61B-40.0062 Waiver of Reserves.

(1) Annual vote required to waive funding requirements. For condominium timeshare plans any vote to waive or reduce the funding of reserves required by Section 718.112(2)(f)2., or 721.07(5)(u)(~~xx~~), Florida Statutes, shall be effective for only one annual budget. In a multi-condominium association no waiver or reduction of the funding of reserves shall be effective as to a particular condominium unless:

(a) Conducted at a duly called meeting of the association;

(b) The same percentage of voting interests of the condominium as is otherwise required for a quorum of the association is ~~A majority of the voting interests in that condominium~~ are present, or represented by proxy; and

(c) A majority of those voting interests in that condominium that are present, or represented by proxy, vote to waive or reduce the funding of reserves.

~~(2) Developer voting restrictions for condominium associations. Prior to condominium association turnover, the developer may cast votes to waive or reduce the funding of reserves during the first two fiscal years only, beginning with the date of the recording of the condominium declaration. After the first two fiscal years, the approval of a majority of the non-developer voting interests present or represented by proxy at a duly called meeting of the association is required in order to waive or reduce the funding of reserves. For multi condominium associations, a majority of the non-developer voting interests of a particular condominium must be present or represented by proxy and the approval of a majority of such voting interests is required in order to waive or reduce the funding of reserves related to that condominium. After turnover, the developer may again cast its votes to waive or reduce the funding of reserves.~~

~~(2)(3)~~ Waivers prohibited for non condominium timeshare plans. For noncondominium timeshare plans, reserves required by Section 721.07(5)(u)(~~xx~~), Florida Statutes, shall be included on the proposed annual budget and shall not be waived or reduced.

Specific Authority 718.501(1)(f), 721.03(2)(~~g~~), 721.26(6) FS. Law Implemented 718.112(2)(f), 721.03(3), 721.07(5)(u)(~~xx~~) FS. History—New 2-5-96, Amended \_\_\_\_\_.

61B-40.007 Financial Reporting Requirements.

(1) through (2) No change.

(3) Multicondominium ~~Multi-condominium~~ associations. For multicondominium ~~multi-condominium~~ associations, the audited financial statements required by Sections 718.301(4)(c) and 721.13(3)(e), Florida Statutes, may present the financial statement components on a combined basis as long as the financial statements, notes, or supplementary information disclose the revenues, expenses, and changes in fund balance for each condominium and the association, as applicable. Additionally, the financial statements, notes, or supplementary information shall disclose the following:

(a) The revenues and expenses of the association not directly related to any specific condominium and the method used to allocate such expenses to the purchasers, or such condominiums, as applicable; and

(b) The reserve disclosures required by subsection (3)(a) of this rule, presented separately for each condominium and for any association reserves not directly related to any specific condominium.

(c) The provisions of this rule shall apply to multicondominium financial reporting for fiscal periods ending on or after December 31, 2002. Earlier application of the provisions of this rule is permitted.

(4) through (6) No change.

Specific Authority 718.501(1)(f), 721.03(2)(~~g~~), 721.26(6) FS. Law Implemented 718.111(13), ~~501(1)(j)~~, 718.301(4)(c), 721.03(3), 721.13(3)(e) FS. History—New 2-5-96, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Laura Glenn, Chief, Bureau of Standards and Registration, Division of Florida Land Sales, Condominiums and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32399-1030

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kim Binkley-Seyer, Secretary, Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 29, 2000

**DEPARTMENT OF HEALTH**

RULE TITLE: Registration Requirements, Fee  
RULE NO.: 64-2.001

PURPOSE AND EFFECT: Senate Bill 1558, effective July 1, 2001, established new Section 456.0375, F.S., requiring the Department of Health (DOH) to provide for the registration of all clinics, as defined by that section of Florida Statutes. To carry out its new statutory duty, DOH was granted rulemaking authority to implement the clinic registration program. Accordingly, DOH is proposing new Rule 64-2.001, F.A.C., to establish clinic registration procedures, along with the necessary form for filing, and a fee, estimated not to exceed the cost of administering and enforcing compliance with the new statute.

SUMMARY: Paragraph (a) of subsection (1) of proposed new Rule 64-2.001, F.A.C., requires every clinic as defined in Section 456.0375(1), F.S., (2001), to, within 60 days of October 1, 2001, or prior to the inception of the clinic's operation, register and maintain a valid registration with the Department of Health. Form DH-4130, necessary to accomplish such registration, is incorporated by reference. Paragraph (b) of the same subsection, requires that each clinic location be registered separately even though operated under the same business name or management; paragraph (1)(c), establishes that a clinic's registration expires automatically two (2) years after the date of its issuance; and paragraph (1)(d) requires that each clinic conspicuously display its registration certificate within the clinic so as to be readily visible to all patients. Finally, subsection (2) of the proposed new rule, establishes a \$150.00 fee to cover the cost of clinic registration.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES. None.

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

SPECIFIC AUTHORITY: 456.0375 FS. (2001)

LAW IMPLEMENTED: 456.0375 FS. (2001)

THE DEPARTMENT OF HEALTH WILL CONDUCT A PUBLIC RULEMAKING HEARING ON THE PROPOSED RULES AT THE TIME, DATE AND PLACE SHOWN BELOW:

TIME AND DATE: 9:30 a.m. – 11:30 a.m., September 24, 2001

PLACE: Betty Easley Center, Capital Circle Office Center, 4075 Esplanade Way, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring a special accommodation at this meeting because of a disability or physical impairment should contact Gloria Wooden, (850)245-4124, at least five (5) calendar days prior to the meeting. If you are hearing or speech impaired, please call Gloria Wooden using the Florida Dual Party Relay System which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

All written material received by the Department within 21 days of the date of publication of this notice shall be made a part of the official record.

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE DEPARTMENT WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, THEY WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane Orcutt, Bureau Chief, Health Care Practitioner Regulation, 4052 Bald Cypress Way, Bin C11, Tallahassee, FL 32399-3261

THE FULL TEXT OF THE PROPOSED RULE IS:

#### CLINIC REGISTRATION

##### 64-2.001 Registration Requirements, Fee.

##### (1) Registration Requirements.

(a) Effective October 1, 2001, every clinic as defined in s. 456.0375(1), F.S., must, within 60 days, or prior to the inception of the clinic's operation, register and maintain a valid registration with the Department of Health. Such registration shall be accomplished by filing Form DH-4130, with the

department. Form DH-4130, effective 8/01, is hereby adopted and incorporated by reference, and can be obtained from the Department of Health, Bureau of Facility Programs, at: 4052 Bald Cypress Way, Bin A08, Tallahassee, Florida 32399-1710.

(b) Each clinic location shall be registered separately even though operated under the same business name or management.

(c) A clinic's registration expires automatically two (2) years after the date of its issuance.

(d) A clinic's registration certificate must be displayed in a conspicuous location within the clinic so as to be readily visible to all patients.

(2) Fee. The cost of registration shall be \$150.00.

Specific Authority 456.0375 FS. Law Implemented 456.0375 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane Orcutt, Bureau Chief, Health Care Practitioner Regulation, 4052 Bald Cypress Way, Bin C11, Tallahassee, FL 32399-3261

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Orcutt, Bureau Chief, Health Care Practitioner Regulation, 4052 Bald Cypress Way, Bin C11, Tallahassee, FL, 32399-3261

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN THE FAW: The Notice of Rule Development was originally published as a rule development for Rule 64B-5, in the August 17, 2001 issue of the Florida Administrative Weekly, Vol. 27, No. 33

#### **DEPARTMENT OF HEALTH**

##### **Division of Medical Quality Assurance**

RULE TITLE: Physician Assistant Examination for

RULE NO.:

Graduates of Foreign Medical Schools 64B-1.015

PURPOSE AND EFFECT: The Department of Health is repealing Rule 64B-1.015, F.A.C., because the format for the exam as indicated by this rule no longer exists.

SUMMARY: Rule 64B-1.015, F.A.C., is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: Has not been prepared regarding this proposed rule repeal.

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

SPECIFIC AUTHORITY: 458.347(7)(b)3. FS.

LAW IMPLEMENTED: 458.347(7)(b)3. FS.

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

All written material received by the Department within 21 days of the date of publication of this notice shall be made a part of the official record.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Lucy Gee, Chief, Bureau of Operations, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-1.015 Physician Assistant Examination for Graduates of Foreign Medical Schools.

Specific Authority 458.347(7)(b)3. FS. Law Implemented 458.347(7)(b)3. FS. History—New 7-5-99, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Lucy Gee, Chief, Bureau of Operations, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lucy Gee, Chief, Bureau of Operations, 4052 Bald Cypress Way, Bin #C10, Tallahassee, Florida 32399-3260

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 28, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Renewal Fees RULE NO.: 64B8-3.003

PURPOSE AND EFFECT: The proposed rule amendment is intended to increase renewal fees from \$350 to \$385.

SUMMARY: The proposed rule amendment increases renewal fees to \$385.

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

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

SPECIFIC AUTHORITY: 456.025, 458.309(1), 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345 FS.

LAW IMPLEMENTED: 456.025(1), 456.036(3), 458.319(1), 458.345(4) FS.

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

TIME AND DATE: 10:00 a.m., October 3, 2001

PLACE: Room 324, Collins Building, 107 W. Gaines Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Tanya Williams, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-3.003 Renewal Fees.

(1) No change.

(2) The following renewal fees are prescribed by the Board:

(a) Biennial renewal fee for physicians licensed pursuant to Sections 458.311, 458.3115, 458.3124, and 458.313, F.S., for physicians holding a limited license; and for physicians holding a medical faculty certificate as a distinguished medical scholar, a temporary certificate for practice in areas of critical need, a public psychiatry certificate, or a public health certificate shall be ~~\$350.00~~ \$385.00. However the following exceptions shall apply:

1. through 4. No change.

(b) No change.

Specific Authority 456.025, 458.309(1), 458.3145, 458.315, 458.316, 458.3165, 458.317, 458.319, 458.345 FS. Law Implemented 456.025(1), 456.036(3), 458.319(1), 458.345(4) FS. History—New 12-5-79, Amended 10-24-85, Formerly 21M-19.03, Amended 12-4-86, 11-3-87, 5-24-88, 11-15-88, 11-12-89, 1-9-92, Formerly 21M-19.003, Amended 9-21-93, 4-14-94, Formerly 61F6-19.003, Amended 10-10-95, 6-24-96, 1-26-97, Formerly 59R-3.003, Amended 6-7-98, 8-11-98, 12-14-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 8, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2001

**Section III  
Notices of Changes, Corrections and  
Withdrawals**

**DEPARTMENT OF INSURANCE**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
4-128.002	Definitions
4-128.011	Limits on Disclosure of Nonpublic Personal Financial Information to Nonaffiliated Third Parties
4-128.014	Exception to Opt-Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers and Joint Marketing