

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 15, 2008
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 3, 2008

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Water Policy

RULE NOS.:	RULE TITLES:
5M-10.001	Purpose and Applicability
5M-10.002	Definitions
5M-10.003	Land Application Requirements
5M-10.004	Record Keeping

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 33, August 15, 2008 issue of the Florida Administrative Weekly.

5M-10.001 Purpose and Applicability.

No change.

Specific Authority 373.4595(4)(a)2.g., 373.4595(4)(b)2.g. FS. Law Implemented 373.4595 (4)(a)2.g., 373.4595 (4)(b)2.g. FS. History-New_____.

5M-10.002 Definitions.

(1) No change.

(2) “Technical Service Provider” is an individual, entity, or public agency certified by the Natural Resources Conservation Service (NRCS) and placed on the approved list to provide technical services to program participants.

(3)(2) “Conservation Plan” is a record of the decisions and supporting information for treatment of a unit of land or water consistent with the NRCS Field Office Technical Guide (FOTG) quality criteria for soil, water, air, plants, and animals; and takes into account economic and social considerations. The plan must be consistent with the NRCS National Planning Procedures Handbook, Amendment 4, December 2006, hereby incorporated by reference, as amended, be approved by NRCS or an ~~authorized~~ technical service provider, and specify the schedule of operations and activities needed to address identified natural resource issues. The Handbook National Planning Procedures Handbook, Amendment 4, may be viewed at <http://www.floridaagwaterpolicy.com> ~~http://policy.nrcs.usda.gov~~, or obtained from USDA/NRCS, P. O. Box 141510, 2614 N. W. 43rd St., Gainesville, FL 32614-1510.

(4)(3) “Nutrient Management Plan” is planned actions developed in accordance with Section IV, Code 590 of United States Department of Agriculture-Natural Resources Conservation Service (NRCS) FOTG, FL, September 2007, hereby incorporated by reference. Nutrient Management Plans specify the amount, placement, form, and timing of the application of nutrients, including manure, animal by-products, and soil amendments. The plan must be approved by NRCS or an ~~authorized~~ technical service provider. Code 590, Nutrient Management, may be viewed at <http://www.floridaagwaterpolicy.com> ~~http://www.nrcs.usda.gov/Technical/efotg/~~, or obtained from NRCS, P. O. Box 141510, 2614 N. W. 43rd St., Gainesville, FL 32614-1510.

Specific Authority 373.4595(4)(a)2.g., 373.4595(4)(b)2.g. FS. Law Implemented 373.4595 (4)(a)2.g., 373.4595 (4)(b)2.g. FS. History-New_____.

5M-10.003 Land Application Requirements.

(1)(a) through (b) No change.

(c) Not apply manure within 30 feet of any wetland, lake, stream or estuary sinkhole, wetland or other surface waters as defined in Section 403.031, F.S.; and

(d) No change.

(2)(a) No change.

(b) Not apply manure within 50 feet of any wetland, lake, stream or estuary sinkhole, wetland or surface waters as defined in Section 403.031, F.S.

Specific Authority 373.4595(4)(a)2.g., 373.4595(4)(b)2.g. FS. Law Implemented 373.4595 (4)(a)2.g., 373.4595 (4)(b)2.g. FS. History-New_____.

5M-10.004 Record Keeping.

No change.

Specific Authority 373.4595(4)(a)2.g., 373.4595(4)(b)2.g. FS. Law Implemented 373.4595 (4)(a)2.g., 373.4595 (4)(b)2.g. FS. History-New_____.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-6.03018	Special Programs for Students with Specific Learning Disabilities

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 38, September 19, 2008 Florida Administrative Weekly has been continued from December 2, 2008 to January 20, 2009.

DEPARTMENT OF EDUCATION

State Board of Education

RULE NO.:	RULE TITLE:
6A-10.0342	Vocational Education Program Performance Reporting

NOTICE OF CONTINUATION

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 38, September 19, 2008 Florida Administrative Weekly has been continued from December 2, 2008 to January 20, 2009.

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Housing and Community Development

RULE NO.: RULE TITLE:
9B-13.0041 Thermal Efficiency Standards
 Adopted

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 15, April 11, 2008 issue of the Florida Administrative Weekly.

A Notice of Change for the above-referenced rule was published in the November 14, 2008, edition of the Florida Administrative Weekly. There was an incorrect reference to Vol. 34, No. 31, August 1, 2008, for publication of the Notice of Proposed Rule. The correct volume, number and date is set out above.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

WATER MANAGEMENT DISTRICTS

Southwest Florida Water Management District

RULE NO.: RULE TITLE:
40D-26.101 Conditions of Eligibility
40D-26.201 Program Application

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 37, September 12, 2008 issue of the Florida Administrative Weekly.

40D-26.101 Conditions of Eligibility.

(1) Agricultural operations located within the District that are in compliance with the District's Environmental Resource Permitting rules in Chapters 40D-4, 40D-40 and 40D-400, F.A.C. and the District's Water Use Permitting rules in Chapter 40D-2, F.A.C. ~~all applicable federal, state and local laws, rules and regulations~~, District issued permits and District funding agreements and that have been operational for the preceding 3 years are eligible for the Program. Agricultural operations less than 3 years old are eligible if the project will result in a reduction in the use of ground water. A project shall not be eligible if the applicant previously received Program funds and construction of the funded project has not commenced.

(2) through (3) No change.

40D-26.201 Program Application.

(1) No change.

(2) Applicants for funding shall submit to the District the information required on District Form LEG-R.22.00 (8/08), titled Facilitating Agricultural Resource Management Systems Program Funding Application Form, adopted and incorporated by reference in this rule Rule 40D-1.659, F.A.C. This form is available from the District upon request.

(3) No change.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-710.210 Documents Incorporated by
 Reference

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly. The day of the week for a hearing on DEP's proposal to adopt a new form "8700-12FL – Florida Notification of Regulated Waste Activity" into Chapter 62-710, F.A.C., if a hearing is requested before December 5, 2008, will be FRIDAY, December 12, 2008, at 1:00 p.m., in Conference Room 609, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, FL 32399-2400.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-730.150 General

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly. The day of the week for a hearing on DEP's proposal to adopt a new form "8700-12FL – Florida Notification of Regulated Waste Activity" into Chapter 62-730, F.A.C., if a hearing is requested before December 5, 2008, will be FRIDAY December 12, 2008, at 1:00 p.m., in Conference Room 609, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, FL 32399-2400

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:
62-737.400 Requirements and Management
 Standards for Handlers and
 Transporters of Spent Universal
 Waste Lamps and Devices

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 34, No. 46, November 14, 2008 issue of the Florida Administrative Weekly. The day of the week for a hearing on DEP’s proposal to adopt a new form “8700-12FL – Florida Notification of Regulated Waste Activity” into Chapter 62-737, F.A.C., if a hearing is requested before December 5, 2008, will be FRIDAY December 12, 2008, at 1:00 p.m., in Conference Room 609, Bob Martinez Center, 2600 Blair Stone Road, Tallahassee, FL 32399-2400

DEPARTMENT OF HEALTH

Board of Orthotists and Prosthetists

RULE NOS.:	RULE TITLES:
64B14-4.001	Approved Examinations
64B14-4.100	Requirements for Prosthetic or Orthotic Residency or Internship

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 34, No. 18, May 2, 2008 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Speech-Language Pathology and Audiology

RULE NO.:	RULE TITLE:
64B20-2.003	Provisional License; Requirements

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 15, April 11, 2008 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (2) shall now read as follows:

(2) Any person desiring to receive a provisional license to practice speech-language pathology or audiology shall apply to the Department of Health and pay the fee required by Rule 64B20-3.002, F.A.C. The application shall be made on Form SPA-2, Application for Provisional Licensure, which is incorporated by reference herein, will be effective March 25, 1991, revised August 2008, and can be obtained from the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256. The Department shall notify the applicant by letter of any deficiencies in the application within 30 days after the application is filed. The applicant shall rectify all deficiencies in the application within one year from the date of such letter or the application will be processed as an incomplete application and the application file will be closed.
2. Subsection (4) shall now read as follows:

(4) In addition to the application form, candidates for a provisional license shall also complete Form SPA-2A, Speech-Language Pathology and/or Audiology Verification of Employment for a Provisional Licensee, which is incorporated by reference herein, will be effective March 25, 1991, revised August 2008, and can be obtained by the Board of Speech-Language Pathology and Audiology, Department of Health, 4052 Bald Cypress Way, #C06, Tallahassee, Florida 32399-3256. Said form shall provide the following:

(a) through (b) No change.

3. Subsection (5) shall remain as amended in the Notice of Proposed Rulemaking published on April 11, 2008, in Vol. 34, No. 15, of the Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ronda Bryan, Acting Executive Director, Board of Speech Language Pathology, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE NO.:	RULE TITLE:
65A-4.220	Amount and Duration of Cash Payment

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 37, September 12, 2008 issue of the Florida Administrative Weekly.

TEXT OF THE PROPOSED RULE CHANGE AND RULE CORRECTION:

65A-4.220 Amount and Duration of Cash Payment.

Proposed new subsections (7) through (8) removed.
 Specific Authority corrected to read 414.095(18), 414.45 FS.
 NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE IS CORRECTED TO READ: George H. Sheldon

IF REQUESTED WITHIN 7 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: December 17, 2008, 1:30 p.m.
 PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Cindy Keil, ACCESS Florida Program Policy, 1317 Winewood Boulevard, Building 3, Tallahassee, Florida 32399-0700, (850)410-3291

FINANCIAL SERVICES COMMISSION		69V-560.902	Definitions
Finance		69V-560.903	Deferred Presentment Transactions
RULE NOS.:	RULE TITLES:	69V-560.904	Transaction Agreement Disclosures and Requirements
69V-560.101	Scope		Transaction Fees
69V-560.1012	Adoption of Forms	69V-560.905	Consumer Credit Counseling Services
69V-560.1013	Electronic Filing of Forms and Fees	69V-560.906	Database Access
69V-560.102	Application or Appointment Procedures and Requirements	69V-560.907	Database Transaction Requirements
69V-560.103	Definitions	69V-560.908	Database Availability
69V-560.104	Application Fees	69V-560.909	Database Transaction Fees
69V-560.105	Regulatory Standards for Evaluating Applications	69V-560.910	Database Dispute Resolution for Customers
69V-560.107	Registration of Locations and Appointment of Authorized Vendors	69V-560.911	Database Confidentiality
69V-560.108	Declaration of Intent to Engage in Deferred Presentment Transactions	69V-560.912	Termination of Deferred Presentment Activity; Database Maintenance
69V-560.201	Requirements	69V-560.913	
69V-560.302	Renewal Fees, Deadlines, and Requirements		NOTICE OF CHANGE
69V-560.401	Scope		Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 34, No. 39, September 26, 2008 issue of the Florida Administrative Weekly.
69V-560.402	Bond		The rules have been changed to reflect comments from the Joint Administrative Procedures Committee (JAPC) and MoneyGram. The significant changes based on the comments received from the JAPC include the following. Form OFR-560-01, Application for Licensure as a Money Services Business, which is incorporated by reference in Rule 69V-560.102, F.A.C., has been amended to eliminate the requirement that the applicant or other required person disclose matters pertaining to arbitration. Rule 69V-560.902, F.A.C., is changed to correct a cross reference in subsection (1). In the Notice of Proposed Rule, the rules had a proposed effective date of January 1, 2009. The proposed effective has been removed. The rules will take effect 20 days after filing with the Department of State, if approved by the Financial Services Commission. No substantive changes have been made to Rules 69V-560.802, .907, .909, .910, .911, and .912, F.A.C. These rules were published only to reflect corrections to the history notes.
69V-560.403	Net Worth		The significant changes based on comments received from MoneyGram include the following. Rule 69V-560.609, F.A.C., is clarified to reflect the entities that are subject to state and federal suspicious activity reporting requirements. The recordkeeping requirements of Rules 69V-560.702 and .703, F.A.C., have been changed to reflect industry practices. As originally drafted, training materials, and subpoenas, warrants, and other requests from regulatory, law enforcement and prosecutorial agencies would have had to have been maintained in individual vendor files. Industry practice is for these types of records to be maintained in a central location. The rules have been changed to reflect this practice. Rule 69V-560.702, F.A.C., also has been changed to eliminate the requirement that suspicious activity reports be maintained by
69V-560.501	Scope		
69V-560.504	Reimbursement Rates for Examinations Conducted by the Office		
69V-560.505	Reimbursement Rates for Examinations Conducted by a Third Party		
69V-560.601	Definitions		
69V-560.602	Quarterly Reports		
69V-560.606	Annual Filing of Financial Audit Reports by Part II Licensees		
69V-560.608	Currency Transaction Report Filings		
69V-560.609	Suspicious Activity Report Filings		
69V-560.610	Report of International Transportation of Currency or Monetary Instruments		
69V-560.701	General		
69V-560.702	Payment Instrument Sellers		
69V-560.703	Money Transmitters		
69V-560.704	Records to Be Maintained by Check Cashers		
69V-560.705	Foreign Currency Exchangers		
69V-560.706	Records to be Maintained by Authorized Vendors		
69V-560.707	Records to be Maintained by Deferred Presentment Providers		
69V-560.801	Verification Fee		
69V-560.802	Minimum Disclosure		
69V-560.804	Payment Method		
69V-560.805	Gross Income Test		
69V-560.901	Scope		

the licensee in vendor files as this provision may conflict with 31 U.S.C. s. 5318(g) and these reports are able to be retrieved by the Office through FinCEN. Rule 69V-560.703, F.A.C., has been changed to eliminate the requirement for aggregation of money transmissions as this issue is addressed for all payment instrument sellers in subsection 69V-560.702(2), F.A.C.

It is noted that a new subsection (8) is added to Rule 69V-560.703, F.A.C., as a technical correction to provide how materials incorporated by reference in the rule may be obtained.

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-560.101 Scope.

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

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

69V-560.1012 Adoption of Forms.

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

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

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

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

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

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

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

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

(h) Florida Fingerprint Card (FL922720Z), effective _____.

(i) Currency Transaction Report, FinCEN Form 104, effective _____.

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

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

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

Specific Authority 560.105, 560.118, 560.141, 560.2085, 560.209, 560.403 FS. Law Implemented 560.118, 560.140, 560.141, 560.205, 560.2085, 560.209, 560.403, 943.053 FS. History–New _____.

69V-560.1013 Electronic Filing of Forms and Fees.

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

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

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

(4) Any person may petition for a waiver of the requirement of electronic filing of any form or fee under Chapter 69V-560, F.A.C., by filing a petition under Rule 28-106.301, F.A.C. The petition must demonstrate a technological or financial hardship that entitles the person to file the form or fees in a paper format. The Office will provide any person granted a waiver under this subsection a hardcopy version of the applicable form.

Specific Authority 560.105 FS. Law Implemented 560.105 FS. History–New _____.

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

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

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

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

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

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

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

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

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

(b) An existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint

venturer, controlling shareholder, and responsible person shall review and attest to the accuracy of the forms submitted on his or her behalf.

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

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

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

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

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

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

(b) Provided the Office of Financial Regulation has not already docketed a Notice of Intent to Deny the Application, an applicant may amend the application after receiving written

permission from the Office of Financial Regulation following the Office of Financial Regulation's review of and determination that the applicant's written request to amend:

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

(e) A request to amend which makes a material change to the application or to the Office of Financial Regulation's evaluation of the application is a violation of subsection (7) and the Office of Financial Regulation shall deny the application in accordance with Section 560.114(1)(a), F.S., unless the applicant has made a good faith effort to comply with the statutory requirements of Chapter 560, F.S., and the rules of this chapter. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will be deemed by the Office to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

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

~~(d)~~ When the Office of Financial Regulation grants a request to amend which makes a material change to the application, the amended application shall be treated as a new application with respect to the applicable rules of this chapter, except that no additional filing fee shall be required, unless the

material change upgrades the filing from a Part III applicant to a Part II applicant or there is a change in the applicant or the applicant's corporate structure.

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

69V-560.103 Definitions.

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

(1) "Agent" means an authorized vendor, as that term is defined in Section 560.103(2), F.S.

(2) "Applicant," with respect to the initial application for registration, means the corporation, partnership, association, individual, trust, or other group however organized, on behalf of which the application is being filed. For purposes of renewal, the "Applicant" is the registrant authorized by the Office of Financial Regulation to operate pursuant to Chapter 560, F.S.

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

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

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

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

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

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

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

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

- (a) Statement of Financial Condition (Balance Sheet);
- (b) Statement of Income;
- (c) Statement of Cash Flows; and
- (d) Statement of Changes in Stockholders' Equity.

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

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

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

(7) "Individual" means a natural person.

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

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

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

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

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

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

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

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

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

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

69V-560.104 Application Fees.

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

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

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

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

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

69V-560.105 Regulatory Standards for Evaluating Applications.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

69V-560.201 Requirements.

(1) Where a person or group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a money services business licensee money transmitter registrant, such person or group shall file with the Office no later than thirty (30) days prior to the date of such acquisition, a new application pursuant to Rule 69V-560.102, F.A.C., together with all required exhibits and fees. Additionally, the applicant shall file with the Office at the time the new application is filed, a notice of termination of licensure registration of the acquired entity on Form OFR-560-01, effective upon disposition of the new application by the Office. Form OFR-560-01 is incorporated by reference in Rule 69V-560.1012, F.A.C. subsection 69V-560.102(3), F.A.C.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A renewal of a check cashier or foreign currency exchanger registration (Part III registrant) shall include a nonrefundable renewal fee of \$500.00, plus \$50.00 for each

location being renewed, including branch offices and authorized vendors, operating within this state, or a total 2-year nonrefundable renewal fee of \$20,000.00 to renew all such locations operating within this state. The \$50.00 location renewal fee shall not apply to the registrant's primary business address.

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

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

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

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

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

69V-560.401 Scope.

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

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

69V-560.402 Bond.

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

~~(2) The corporate surety bond must be issued by a bonding company or insurance company authorized to do business in this state. The originally executed Form OFR-560-06, Money Transmitter Surety Bond Form, effective 7/15/07, which is hereby incorporated by reference, shall be maintained on file with the Office at all times. The bond form must be executed by the bonding company and the applicant.~~

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

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

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

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

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

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

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

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

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

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

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

~~(8) The bond, collateral deposit or combination thereof shall remain in place for 5 years after the registrant ceases operations in this state. The security shall be reduced or eliminated prior to that time upon written approval, if the Office of Financial Regulation determines that the registrant's outstanding payment instruments or funds transmitted in this state have been paid or reduced and that such lesser amount adequately protects the interests of the public.~~

~~(9) A registrant must at all times have and maintain the bond, collateral deposit or combination thereof in the amount prescribed by the Office of Financial Regulation. If the Office of Financial Regulation at any time reasonably determines that the bond or elements of the collateral deposit are insecure, deficient in amount, or exhausted in whole or in part, the~~

Office of Financial Regulation shall, by written order, require the filing of a new or supplemental bond or the deposit of new or additional collateral deposit items.

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

Specific Authority ~~560.105, 560.209 560.105(3), 560.209(2)(a)~~ FS. Law Implemented ~~560.207, 560.209~~ FS. History–New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.402, Amended 7-15-07, _____.

69V-560.403 Net Worth.

Any person engaging in a ~~licensed registered~~ activity under Part II of Chapter 560, F.S., shall meet the net worth stated in Section 560.209(1), F.S. Upon the Office's of ~~Financial Regulation's~~ request, a person must fully support, through items including, but not limited to, appraisals, receipts, titles, or bank account statements, the value or ownership they have assigned to an asset(s).

Specific Authority ~~560.105 560.105(3)~~ FS. Law Implemented 560.209(1) FS. History–New 9-24-97, Formerly 3C-560.403, Amended _____.

69V-560.501 Scope.

~~The Office of Financial Regulation shall conduct regular periodic examinations of a money transmitter or authorized vendor with at least 15 days prior notice. Whenever the Office of Financial Regulation has reason to believe that a money transmitter or authorized vendor is engaging in an unsafe or unsound practice or has violated or is violating any provision of the Money Transmitter Code, the Office of Financial Regulation shall conduct an examination without providing advance notice if the Office of Financial Regulation determines that an examination is necessary to determine the condition of the money transmitter or to determine the degree of noncompliance.~~

Specific Authority 560.105(3) FS. Law Implemented 560.118 FS. History–New 9-24-97, Formerly 3C-560.501, Repealed _____.

69V-560.504 Reimbursement Rates for Examinations Conducted by the Office.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by Office examiners under Sections 560.1091 and 560.1092, F.S.

(2) Fees for examiner time shall be calculated based on the direct compensation of the examiner conducting the examination. Rates will be assessed by examiner classification and shall be charged at the following rates:

- (a) Financial Examiner/Analyst I \$28 per hour.
- (b) Financial Examiner Analyst II \$30 per hour.
- (c) Financial Specialist \$34 per hour.

- (d) Financial Control Analyst \$35 per hour.
- (e) Financial Examiner Analyst Supervisor \$37 per hour.
- (f) Area Financial Manager and above \$42 per hour.

(3) Examiner per diem and other travel expense shall be charged in accordance with Section 112.061, F.S.

(4) Fees for administrative support staff providing clerical or research work in connection with the examination will be calculated at the rate of \$12.00 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days from the date of the invoice to remit payment for invoiced expenses to the Office.

Specific Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History–New _____.

69V-560.505 Reimbursement Rates for Examinations Conducted by a Third Party.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by third party contractors under Sections 560.1091 and 560.1092, F.S. Rates will be the direct charges billed to the Office by the third party contractor. Such rates will be established by contract with the Office.

(2) The Office shall select third party contractors from the list of persons or firms who are qualified by the Department of Management Services to render "Financial and Performance Audit Services" under State of Florida Contract #973-001-06-1, which is hereby incorporated by reference.

(3) Licensees will be charged for the third party contractor's actual and reasonable per diem and other travel costs. Per diem and other travel costs shall not, without prior written approval of the Office, exceed:

- (a) Fifty-eight and one-half cents per mile.
- (b) Maximum per diem rates for domestic travel approved by the United States General Services Administration for Florida for Fiscal Year 2009 as set forth in "Domestic Per Diem Rates", which may be found at www.gsa.gov/perdiem and is hereby incorporated by reference.

(4) Licensees will also be billed for administrative support and research directly related to the examination. Such work will be performed by administrative support staff of the Office and shall be charged at rate of \$12 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days after the date of the invoice to remit payment for invoiced expenses to the Office.

Specific Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History–New _____.

69V-560.601 Definitions.

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

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

(2) "Forty five (45) days after the conclusion of each quarter" means the end of business on the forty fifth day after the last calendar day of each calendar quarter.

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

Specific Authority 560.105(3) FS. Law Implemented 560.118(2) FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.601, Repealed _____.

69V-560.602 Quarterly Reports.

Every money services business money transmitter licensed registered pursuant to Chapter 560, F.S., the Code shall submit a quarterly report to the Office of Financial Regulation by filing a completed Form OFR-560-04, Money Services Business Transmitter Quarterly Report Form, effective 7/15/07, which is hereby incorporated by reference in Rule 69V-560.1012, F.A.C. and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. A completed quarterly report form shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a Saturday, Sunday or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period set forth in this rule defined in subsection (1).

Specific Authority 560.105, 560.118 560.105(3), 560.118(2)(b) FS. Law Implemented 560.118(2) FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.602, Amended 7-15-07, _____.

69V-560.606 Annual Filing of Financial Audit Reports Statements by Part II Licensees Registrants.

(1)(a) Each licensed registered funds money transmitter and payment instrument seller shall annually submit audited financial audit reports statements to the Office of Financial Regulation in accordance with Section 560.209(2), F.S., for the licensee's registrant's most recent fiscal year.

(b) Each registered payment instrument seller shall annually submit audited financial statements to the Office of Financial Regulation for the registrant's most recent fiscal year unless it is exempt pursuant to Section 560.118(2)(a), F.S. Any registrant claiming such exemption shall submit such claim in writing on Form OFR-560-08, Money Transmitter Audited Financial Statement Exemption Claim Form, effective 7/15/07, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail at the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. The claim shall be executed by the

registrant or an officer of the registrant under penalty of perjury. The exemption shall be valid for the current fiscal year only, and must be resubmitted each year by the registrant.

(c) Any payment instrument seller exempted from the requirement to submit audited financial statements shall file unaudited financial statements reviewed by a certified public accountant.

(2) Annual financial audit reports statements must be received by the Office of Financial Regulation within one hundred twenty (120) ninety (90) days after of the licensee's registrant's fiscal year end.

(3) ~~The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due.~~ A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (2).

(4) For purposes of adding new locations or authorized vendors, a Part II licensee registrant may rely upon its annual financial audit reports statements that were received by the Office of Financial Regulation in a timely manner as required in subsections (1) and (2) of this rule. The Office of Financial Regulation reserves the right to require additional documentation up to and including the submission of interim financial statements to substantiate the licensee's net worth.

Specific Authority 560.105, 560.118, 560.205 560.105(3), 560.118(2)(a), 560.205(3)(f), (4)(d) FS. Law Implemented 560.118, 560.118(2), 560.205, 560.208 FS. History—New 11-4-01, Formerly 3C-560.606, Amended 7-15-07, _____.

69V-560.608 Currency Transaction Report Filings.

Currency Transaction Reports, required by Section 560.123, F.S., must be filed with FinCEN using FinCen Form 104, which is incorporated by reference in Rule 69V-560.1012, F.A.C. Reports filed in this manner shall be deemed to have also been filed with the Office.

Specific Authority 560.105, 560.123 FS. Law Implemented 560.123, 560.1235 FS. History—New _____.

69V-560.609 Suspicious Activity Report Filings.

(1) Pursuant to Section 560.1235(1), F.S., licensees and authorized vendors must comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, 31 C.F.R. s. 103.20 (2007), relating to reports by money services businesses of suspicious transactions. For purposes of Section 560.1235(1), F.S., the federal law requirement to report suspicious transactions applies to the following money services businesses: payment instrument sellers that sell money orders or traveler's checks, money transmitters, and foreign currency exchangers. These entities are required to report suspicious transactions to FinCEN using FinCEN Form 109, Suspicious Activity Report by Money Service Business, and failure to do so is a violation of Section 560.1235, F.S.

(2) Under federal law, check cashers may, but are not required to, file reports of suspicious transactions; however, pursuant to Section 560.309(5), F.S., check cashers are required to report suspicious activity to the office or an appropriate regulator based on the criteria set forth in 31 C.F.R. 103.20 (2007). The Commission designates FinCEN as the appropriate regulator to receive such reports, which shall be submitted to FinCEN on FinCEN Form 109, Suspicious Activity Report by Money Service Business. Suspicious Activity Reports filed with FinCEN shall be deemed to have also been filed with the Office. Failure of a check casher to report suspicious activity to FinCEN is a violation of Section 560.309(5), F.S.

(3) FinCEN Form 109, Suspicious Activity Report by Money Service Business is incorporated by reference in Rule 69V-560.1012, F.A.C. Federal regulation 31 C.F.R. 103.20 (2007) is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 560.105, 560.309 FS. Law Implemented 560.1235, 560.309 FS. History--New _____.

69V-560.610 Report of International Transportation of Currency or Monetary Instruments.

Pursuant to Section 560.1235, F.S., all money services businesses shall file with FinCEN using a Report of International Transportation of Currency or Monetary Instruments, electronically or in paper form, on FinCEN Form 105, which is incorporated by reference in Rule 69V-560.1012, F.A.C., not later than 15 calendars days from the date of the transaction.

Specific Authority 560.105 FS. Law Implemented 560.1235 FS. History--New _____.

69V-560.701 General.

Each money transmitter shall maintain records required in Sections 560.211(1) and 560.310(1), F.S., and Rules 69V-560.702-.705, F.A.C., for at least 3 years, unless a longer period of time is required by federal or state law or regulations. Any readily accessible and retrievable form is acceptable, in lieu of maintaining original documents.

Specific Authority 560.105(3) FS. Law Implemented 560.211, 560.310 FS. History--New 9-24-97, Formerly 3C-560.701, Repealed _____.

69V-560.702 Payment Instrument Sellers.

(1) A payment instrument seller shall maintain records of the following information, which must be obtained for each issuance or sale of a payment instrument, regardless of the amount:

(a)(1) The date of purchase;

(b)(2) The serial number(s) or confirmation number of the payment instrument(s) purchased; and

(c)(3) The amount in dollars of each of the instruments purchased; and

(4) A general ledger containing all assets, liabilities, capital, income, and expense accounts. The general ledger shall be updated at least monthly.

(2) For all transactions that exceed \$3,000, the payment instrument seller shall also obtain and record the information required by 31 C.F.R. 103.29(a)(2), as it existed on September 4, 2008. For purposes of this section multiple payment instruments purchased in one or more transactions on a single day shall be aggregated.

(3) Every payment instrument seller shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.

(4) Every payment instrument seller shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. The policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:

(a) Chapter 560, F.S.

(b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.

(c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, as these regulations existed on September 4, 2008.

(d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).

(e) Sections 817.568 and 817.5681, F.S., regarding fraudulent use of personal information and breaches of information security.

(5) Every payment instrument seller shall maintain individual files for each authorized vendor that document the establishment and termination of these relationships. The file shall include the written contract between the payment instrument seller and authorized vendor as required by Section 560.2085, F.S.

(6) Subpoenas, warrants, and other requests from regulatory, law enforcement, or prosecutorial agencies and records relating to training as required by 31 C.F.R. s. 103.125, as it existed on September 4, 2008, shall be maintained so that they are retrievable as required by Section 560.1105(1), F.S.

(7) Records of all payment instrument sales shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

(8) All federal laws and regulations referenced in this rule are hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 560.105, 560.2085, 560.105(3) FS. Law Implemented 560.1105(1), 560.1235, 560.2085, 560.211 FS. History—New 9-24-97, Formerly 3C-560.702, Amended _____.

69V-560.703 Money Transmitters Funds Transmitters.

(1) A money funds transmitter shall maintain records of the following information for all inbound and outbound transmissions, which must be obtained for each money funds transmission, regardless of the amount:

(a)(1) The name and address of the sender customer;

(b)(2) A numbered receipt or confirmation number for each transaction;

(c)(3) The address of the location or foreign affiliate office where the transaction was conducted;

(d)(4) The name and address of the beneficiary or recipient;

(e)(5) Any instructions or messages relating to the transmission; ~~and~~

(f)(6) The method of payment (e.g., currency, check, credit card, etc.);

(g) Transaction date;

(h) Time of the transaction;

(i) Transaction amount in U.S. Dollars;

(j) Fees charged;

(k) Authorized vendor name; and

(l) Authorized vendor/foreign affiliate code/identifier as assigned by the licensee.

(2) For all transactions that exceed \$3,000, the money transmitter shall, in addition to the items in subsection (1), obtain and record:

(a) Social security number, passport number, or alien registration of the sender;

(b) Name and account number of recipient's financial institution, if applicable; and

(c) Sender's photo identification number, type, and state/country of issuance.

(3) Every money transmitter shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.

(4) Every money transmitter shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. These policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:

(a) Chapter 560, F.S.

(b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.

(c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, as these regulations existed on September 4, 2008.

(d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).

(e) Sections 817.568 and 817.5681, F.S., regarding fraudulent use of personal information and breaches of information security.

(5) Every money transmitter shall maintain individual files for each authorized vendor/foreign affiliate that document the establishment and termination of these relationships. The file shall include the written contract between the money transmitter and authorized vendor as required by Section 560.2085, F.S.

(6) Subpoenas, warrants and other requests from regulatory, law enforcement, and prosecutorial agencies, and records related to training as required by 31 C.F.R. s. 103.125, as it existed on September 4, 2008, and shall be maintained so that they are retrievable as required by Section 560.1105(1), F.S.

(7) Records of all money transmissions shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

(8) All federal laws and regulations referenced in this rule are hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 560.105, 560.405(3) FS. Law Implemented 560.1105(1), 560.211 FS. History—New 9-24-97, Formerly 3C-560.703, Amended _____.

69V-560.704 Records to be Maintained by Check Cashers.

(1) For purposes of this rule the term:

(a) "Corporate payment instrument", as referenced in Section 560.310(1), F.S., means a payment instrument on which the payee named on the face of the payment instrument is not a natural person.

(b) "Conductor" means a natural person who presents a payment instrument to a check casher for the purpose of receiving currency.

(c) "Customer file" in regard to a "corporate payment instrument" means the corporate entity shown as payee. In regard to "third-party payment instruments", the term "customer file" means the individual negotiating the payment instrument.

(d) “Dormant customer” shall include any customer who has not transacted business with the licensee within the past 180 days.

(e) “Third-party payment instrument”, as referenced in Section 560.310(1), F.S., means a payment instrument being negotiated by a party other than the payee named on the face of the payment instrument.

(2)(~~4~~) Every check casher shall maintain legible records of all payment instruments cashed. The records shall include the following information with respect to each payment instrument accepted by the registrant:

(a) ~~The name of the maker;~~ A copy of all payment instruments accepted and endorsed by the licensee to include the face and reverse (front and back) of the payment instrument. Copies shall be made after each payment instrument has been endorsed with the legal name of the licensee. Endorsements on all payment instruments accepted by the check casher shall be made at the time of acceptance.

(b) ~~The address of the maker;~~

(c) ~~The date appearing on the payment instrument;~~

(d) ~~The amount of the payment instrument;~~

(e) ~~The check number of the payment instrument accepted;~~

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

(c)(~~g~~) ~~The verification fee, if any, imposed on the customer; and~~

(h) ~~A line item description of the steps taken to verify the customer’s identity.~~

(3)(~~2~~) The following additional information shall be maintained:

(a) Records relating to all returned payment instruments that shall include, ~~if known,~~ the following:

1. A copy, face and reverse (front and back), of all returned payment instruments; The date the payment instrument was returned to the registrant;

2. ~~The name and address of the maker;~~

3. ~~The check number of the payment instrument accepted;~~

4. ~~The amount of the returned payment instrument;~~

2.5. ~~The date of deposit by the licensee registrant;~~

3. The date the payment instrument was returned to the licensee;

4.6. ~~The NSF fees~~ Documentation of all fees and charges, if any, imposed on, and paid by the customer in the collection of the returned item; and

5.7. ~~The date on which collection is made from the customer or charged-off by the licensee, registrant; and~~

8. ~~A brief description of the method by which collection was ultimately achieved.~~

(b) A daily summary of the business activities including the following documents:

1. Bank deposit receipts;

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

3. A daily cash reconciliation summarizing each day’s activities and reconciling cash on hand at the close of business. The daily cash reconciliation shall be sufficiently detailed to provide an audit trail of each day’s business activity. Where the licensee provides multiple business services through the same legal entity the daily cash reconciliation shall be maintained in such manner as to separate business activities such as check cashing.

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

(d) ~~A copy of the customer’s written authorization to electronically debit the customer’s account if the registrant intends to make use of such practice.~~

(e) ~~A copy of all payment instruments accepted by the registrant. The copy of the customer’s payment instrument shall suffice as compliance with the requirements of paragraphs (1)(a) through (e) and subparagraphs (2)(a)1. through 4. of this rule. The registrant may include the reasonable cost of such photocopy as part of the verification fee allowed pursuant to Rule 69V-560.801, F.A.C., if such fee is charged to that customer.~~

(f) ~~A photocopy of the customer’s verifiable means of identification, and any other documentation the money transmitter collects from the customer in order to verify the customer’s identity. The registrant shall only be required to make photocopies where a verification fee has been imposed.~~

(4) In addition to the records required in subsections (1) and (2), for payment instruments exceeding \$1,000.00, the check casher shall:

(a) Affix an original thumbprint of the conductor to the original of each payment instrument accepted which is taken at the time of acceptance;

(b) Secure and maintain a copy of the original payment instrument, including the thumbprint of the conductor;

(c) Secure and maintain a legible copy of the personal identification, as defined by Section 560.310(1)(b)1., F.S., presented by conductor at the time of acceptance;

(d) Create and maintain a customer file for each entity listed as the payee on corporate payment instruments and third party payment instruments accepted by the licensee. Each customer file must include, at a minimum, the following information:

1. Documentation from the Secretary of State verifying registration as a corporation or fictitious entity showing the listed officers and FEID registration number. If a sole proprietor uses a fictitious name or is a natural person, then the customer file shall include the social security number of the business owner and documentation of the fictitious name filing with the Secretary of State.

2. Articles of Incorporation or other such documentation which establishes a legal entity in whatever form authorized by law. For purposes of this rule a sole proprietor operating under a fictitious name registered with the Secretary of State shall not have to present such documentation.

3. Documentation of the occupational license from the county where the entity is located.

4. A copy of the search results screen page from Compliance Proof of Coverage Query Page webpage from the Florida Department of Financial Services – Division of Workers’ Compensation website (http://www.fldfs.com/WCAPP/Compliance_POC/wPages/query.asp).

5. Documentation of individuals authorized to negotiate payment instruments on the corporation or fictitious entity’s behalf including corporate resolutions or powers of attorney. Payment instruments for insurance claims where there are multiple payees shall be exempt from this provision provided that the maker of the check is an insurance company and the licensee has obtained and retained documentation as to the identity of the natural person listed as a payee on such payment instrument.

(e) Review and update all active customer files at least annually. The required review and update shall be attested to by the compliance officer or their designee, and such documentation shall be maintained within each customer’s file. For purposes of this rule it shall not be necessary to update dormant customer files. Should a customer previously identified as being dormant, resume transacting business with the licensee, the customer file information shall be updated before accepting any payment instrument.

(5)(a) In addition to the records required in subsections (1) and (2) for payment instruments \$1,000.00 or more, the check casher shall create and maintain an electronic log of payment instruments accepted which includes, at a minimum, the following information:

1. Transaction date;
2. Payor name;
3. Payee name;
4. Conductor name, if other than the payee;
5. Amount of payment instrument;
6. Amount of currency provided;
7. Type of payment instrument;
 - a. Personal check;
 - b. Payroll check;
 - c. Government check;
 - d. Corporate check;
 - e. Third party check; or
 - f. Other payment instrument;
8. Fee charged for the cashing of the payment instrument;
9. Branch/Location where instrument was accepted;
10. Identification type presented by conductor; and
11. Identification number presented by conductor.

(b) Electronic logs shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

Specific Authority 560.105 560.105(3) FS. Law Implemented 560.310 FS. History–New 9-24-97, Amended 11-4-01, Formerly 3C-560.704, Amended _____.

69V-560.705 Foreign Currency Exchangers.

(1) A foreign currency exchanger shall maintain receipts for each transaction, regardless of the amount. The receipts must include the date of the transaction, the amount and type of currency received and given in exchange.

(2) In addition to the above records, foreign currency exchangers must maintain records of the amount of each bank deposit, including currency deposited.

(3) A foreign currency exchanger shall maintain all monthly financial institution bank statements.

(4) A foreign currency exchanger shall maintain all records of purchases and sales of foreign currencies from financial institutions including dates, amounts, and rates of exchange.

Specific Authority 560.105 560.105(3) FS. Law Implemented 560.310 FS. History–New 9-24-97, Formerly 3C-560.705, Amended _____.

69V-560.706 Records to be Maintained by Authorized Vendors.

(1) Every authorized vendor of a money transmitter or payment instrument seller shall maintain at the location registered with the Office of Financial Regulation all records required by Sections 560.211(1) and 560.310(4), F.S., and Rules 69V-560.702 through 69V-560.7035, F.A.C., for at least 3 years, unless a longer period of time is required by federal or state law or regulations. Any readily accessible and retrievable form is acceptable, in lieu of maintaining original documents.

(2) Every authorized vendor of a money transmitter or payment instrument seller shall maintain at all times a copy of the written agreement between the money transmitter or payment instrument seller and the authorized vendor. It will only be necessary for the agreement to be maintained at the authorized vendor’s primary business address. Such agreements shall be made available to Office of Financial Regulation personnel upon request.

Specific Authority 560.105 560.105(3) FS. Law Implemented 560.205, 560.211, ~~560.307~~, 560.310 FS. History–New 11-4-01, Formerly 3C-560.706, Amended _____.

69V-560.707 Records to be Maintained by Deferred Presentment Providers.

(1) Every deferred presentment provider shall maintain the following records at a location in this state which has been designated to the Office of Financial Regulation:

(a) through (d) No change.

(e) A daily summary of the business activities including the following documents:

1. Bank deposit receipts and supporting records detailing the bank deposit;
2. Copies of checks and withdrawal receipts evidencing withdrawal of funds from accounts maintained by the provider; and
3. A daily cash reconciliation ~~reconciliation~~ summarizing each day's activities and reconciling cash on hand at the close of business.

(f) through (k) No change.

(2) No change.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.404, 560.407 FS. History–New 12-17-01, Formerly 3C-560.707, Amended 9-14-04, _____.

69V-560.801 Verification Fee.

(1) In addition to the fees established in Section 560.309(8) ~~560.309(4)~~, F.S., a check casher or deferred presentment provider may collect the direct costs associated with verifying a payment instrument holder's identity, residence, employment, credit history, account status, or other necessary information, including the verification of a drawer's status on the Office of Financial Regulation's administered database for deferred presentment transactions prior to cashing the payment instrument or accepting a personal check in connection with a deferred presentment transaction. Such verification fee shall be collected only when verification is conducted and shall not exceed \$5.00 per transaction. For example, a check casher shall not charge a drawer more than one (1) verification fee per diem, regardless of whether the check casher is cashing or has cashed more than one (1) of the drawer's payment instruments that day.

(2) For purposes of Section 560.309(8), F.S., and this rule, the "direct costs of verification" shall mean those costs that are allocated by the provider to a particular function or are readily ascertainable based upon standard commercial practices and include internal staff and infrastructure costs incurred by the provider in performing the verification function and payments to third party vendors who provide verification related services. It is the responsibility of the registrant to document that verification fees are based upon the actual costs associated with such verification.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.309, 560.309(4), 560.404(6) FS. History–New 9-24-97, Amended 12-17-01, Formerly 3C-560.801, Amended _____.

69V-560.802 Minimum Disclosure.

(1) through (2) No change.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.302(1), 560.309 FS. History–New 9-24-97, Amended 12-30-98, 12-17-01, Formerly 3C-560.802.

69V-560.804 Payment Method.

(1) Payment shall be made immediately in currency for every payment instrument received by a person engaging in the activities of a check casher.

~~(2) For purposes of this chapter, "currency" shall have the meaning defined in Section 560.103(6), F.S.~~

~~(2)(3) Each deferred presentment provider shall immediately provide the drawer with currency for the full amount of his or her personal check to be held by the provider, less only the fees authorized by Section 560.404, F.S. Only deferred presentment providers that are Part II licensees registrants may provide a payment instrument, including an Automated Clearing House credit, in lieu of currency; however, such a provider shall not require a drawer to accept a payment instrument in lieu of currency.~~

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.302(1), 560.309, 560.404 FS. History–New 9-24-97, Amended 12-17-01, Formerly 3C-560.804, Amended _____.

69V-560.805 Gross Income Test.

For purposes of determining whether a person is engaged in the business of check cashing for which registration is required the following formula will be applied:

Compensation for Check Cashing/Foreign Currency Exchange

$$\frac{\text{Gross Income} + \text{Compensation for Check Cashing/Foreign Currency Exchange}}{\text{"Gross Income" means Gross Revenue (Sales) – Cost of Goods Sold}}$$

Specific Authority 560.105, 560.105(2) FS. Law Implemented 560.304(2) FS. History–New 9-14-04, Amended _____.

69V-560.901 Scope.

This section contains the specific requirements for deferred presentment providers with respect to the procedures employed to accomplish a deferred presentment transaction.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History–New 12-17-01, Formerly 3C-560.901.

69V-560.902 Definitions.

(1) The term "provider" means a deferred presentment provider as defined by Section 560.103(10) ~~560.402(5)~~, F.S.

(2) The term "close of business" means the time of day that a provider closes its office to the public for that calendar day or 7:00 p.m. at the election of the licensee.

(3) The term "database" means the Office of Financial Regulation administered transactional database authorized by Section 560.404(23), F.S.

(4) The term “database vendor” means the vendor, which contracted with the Office of ~~Financial Regulation~~ for the purpose of developing and administering the daily operations of the database.

(5) The term “registered” means that a deferred presentment provider has provided to the database the information required to identify a valid deferred presentment transaction.

(6) The term “recorded” means that the database has assigned a transaction authorization number to a registered transaction, logged it as an open transaction, and communicated the transaction authorization number to the deferred presentment provider.

(7) The term “consumer credit counseling” means a confidential comprehensive personal money management review, including budget counseling resulting in a written assessment of the client’s financial situation by the consumer credit counselor which includes a suggested client action plan based upon a range of options chosen according to the best interests of the client. The suggested client action plan may include: the client handling their financial concerns on their own; enrollment in a debt repayment plan managed by the credit counseling agency; and/or information about bankruptcy other than legal advice.

(8) The term “notice” means written communication to the last address provided to the Office of ~~Financial Regulation~~ by regular mail, electronic mail, or facsimile; provided that notice to the Office of ~~Financial Regulation~~ must be to the DPP Database Contract Manager, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375, or by electronic mail to electronic_licensing@fldfs.com ~~mail.dbf.state.fl.us~~, or by facsimile to DPP Database Contract Manager, Office of Financial Regulation, (850)410-9279.

(9) The term “open transaction” or “open” means a transaction which has been registered and recorded but not terminated or pending.

(10) The term “pending transaction” or “pending” means an open transaction that is in the process of clearing the banking system, in the 60-day grace period pursuant to Section 560.404(22)(a), F.S., or returned to the provider pursuant to Section 560.406, F.S.

(11) The term “closed transaction” or “close” means a transaction terminated as provided in subsection 560.903(1), F.S.

(12) The term “immediately” means prior to the customer exiting the location in all circumstances except for depositing of checks, processing of ACH items for collection, or grace period related updates. In such instance, the term shall mean not later than 11:59 p.m. on the date that the event creating the need for the database update occurs.

(13) The term “check” includes but is not limited to any authorization to transfer or withdraw funds from an account signed by the drawer, including any authorization by a drawer to execute an Automated Clearing House debit transaction.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.402, 560.404 FS. History—New 12-17-01, Amended 4-17-02, Formerly 3C-560.902, Amended 9-14-04,_____.

69V-560.903 Deferred Presentment Transactions.

(1) No change.

(2)(a) The drawer shall provide evidence to the provider that his or her check that was the basis of a previous deferred presentment transaction has cleared the drawer’s account at least 24 hours prior to entering into a new deferred presentment transaction (except that the provider may obtain such evidence as provided in subparagraph 4. below). Evidence of a check having cleared the drawer’s account may include, but shall not be limited to:

1. A copy of the drawer’s bank statement showing the check has cleared;
2. The canceled check or a copy of the canceled check;
3. A copy of any other record provided by the drawer’s financial institution or electronic network to which that financial institution subscribes such as an ATM inquiry that shows the check to have cleared; or
4. A verbal representation, documented in writing by the provider, from the drawer’s financial institution to the provider that the drawer’s check has cleared, if the drawer’s financial institution will provide such representation.

(b) and (c) No change.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History—New 4-17-02, Formerly 3C-560.903, Amended 9-14-04,_____.

69V-560.904 Transaction Agreement Disclosures and Requirements.

(1)(a) Each deferred presentment transaction agreement must contain the following:

1. The drawer’s identification information including name, address, social security or alien registration number, and if provided, the drawer’s driver’s license number;
2. The name or trade name, registration number, address, and telephone number of the deferred presentment provider and the name and title of the person who signs the agreement on behalf of the deferred presentment provider;
3. The date the deferred presentment transaction was executed;
4. The face amount of the drawer’s personal check;
5. The length of the deferment period (in days);
6. The last day of the deferment period;

7. The time of day on the last day of the deferment period for the drawer to either redeem his or her check or request the grace period. Such time shall be the close of business for that calendar day;

8. The address and toll-free telephone number of the Office of Financial Regulation;

9. A clear description of the drawer's payment obligations under the deferred presentment transaction;

10. The disclosure notice required by Section 560.404(20), F.S.;

11. The transaction number assigned by the Office of Financial Regulation's database. This provision shall become effective on March 1, 2002;

12. The amount of currency or the amount of any payment instrument provided to the drawer;

13. A listing of all fees charged to the drawer categorized by fee type (i.e., 10% transaction fee and verification fee);

14. The disclosures required by Section 560.404(13), F.S.;

15. The drawer's written signature and date of execution which shall be done in the presence of the provider or an authorized employee of the provider;

16. The provider or its authorized employee's written signature and date of execution;

17. The check number of the drawer's check; and

18. The drawer's date of birth.

(b) If the deferred presentment provider (Part II licensees registrants only) intends to provide the drawer with a payment instrument in lieu of currency, the agreement shall also contain the drawer's acknowledgment that he or she has consented to accept the provider's payment instrument in lieu of currency. Such acknowledgment shall clearly state that it is the drawer's choice to obtain such payment instrument, and that the provider may not require a drawer to accept a payment instrument in lieu of currency. For purposes of this section, the drawer may accept disbursement of the proceeds via ACH credit to the drawer's account. This acknowledgment shall be separately initialed by the drawer;

(c) No change.

(2) No change.

(3)(a) Upon being given notice by a drawer in person that he or she will not be able to cover the check or pay the full amount owed to the of provider in accordance with the agreement, every provider shall verbally advise the drawer of the availability of the grace period. A provider shall provide the drawer with the written notice required by Section 560.404(22)(b)3., F.S. Such notice shall be executed and dated by both the drawer and an authorized employee of the registrant.

(b) The provider shall attach a free copy of the Office's of Financial Regulation's list of approved consumer credit counseling agencies including the toll-free telephone number of the Office of Financial Regulation.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History—New 12-17-01, Formerly 3C-560.904, Amended 9-14-04, _____.

69V-560.905 Transaction Fees.

(1) The transaction fee for a deferred presentment transaction shall be limited to ten percent (10%) of the amount of currency or payment instrument provided to the drawer. A deferred presentment provider may also charge a verification fee in accordance with Rule 69V-560.801, F.A.C. An example of the computation of the maximum fees allowed by the code in a transaction where the drawer is seeking an advance of \$500 would be as follows:

(a) \$500 advanced to the drawer;

(b) A \$50 fee (\$500 X 10%); and

(c) Up to \$5 for the direct costs associated with verification of the drawer's identity and/or employment. In this example, the provider would provide currency or a payment instrument (Part II licensees registrants) in the amount of \$500 to the drawer, and the drawer would provide a personal check in the amount of between \$550-\$555 depending upon the exact amount of the direct costs of verification, if any, assessed by the provider with respect to this drawer. Unless a drawer has met the requirements for an automatic grace period, the drawer would be required to either redeem his or her personal check in cash (face amount of the check) or the provider would on the due date or a reasonable time thereafter present such personal check to the financial institution for payment.

(2) through (4) No change.

Specific Authority 560.105, 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History—New 12-17-01, Formerly 3C-560.905, Amended _____.

69V-560.906 Consumer Credit Counseling Services.

(1) The Office of Financial Regulation shall publish a list of consumer credit counseling agencies by October 1st of each calendar year via the Office's of Financial Regulation's website (www.flofr.com). The Office of Financial Regulation will accept requests from consumer credit counseling agencies to be included on the list on an ongoing basis and may periodically republish the list at its discretion. If the Office of Financial Regulation makes a decision to publish the list more often, a notice of such change will be posted on the Office's of Financial Regulation's website. The provider will then be responsible for making and distributing such additional copies of the list to all branch locations engaging in deferred presentment transactions.

(2) Every deferred presentment provider shall maintain a copy of the Office's of Financial Regulation's list of approved consumer credit counseling agencies and shall provide a copy of the list, free of charge, to any drawer who requests the grace period in accordance with the provisions of Section 560.404(22), F.S.

(3) through (8) No change.

