

## Section I

### Notices of Development of Proposed Rules and Negotiated Rulemaking

#### DEPARTMENT OF EDUCATION

##### State Board of Education

RULE NO.: 6A-1.09981      RULE TITLE: Implementation of Florida's System of School Improvement and Accountability

**PURPOSE AND EFFECT:** The purpose of the rule development is to amend the sections of rule pertaining to the calculation of school grades and to eliminate the requirements related to school improvement with the creation of Differentiated Accountability.

**SUBJECT AREA TO BE ADDRESSED:** School Grades.

**RULEMAKING AUTHORITY:** 1008.34(8) FS.

**LAW IMPLEMENTED:** 1008.34 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** July 6, 2010, 10:00 a.m. – 12:00 Noon

**PLACE:** Department of Education, 325 West Gaines Street, Room 1703/07, Tallahassee, Florida 32399-0400

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Juan Copa, Chief, Bureau of Research and Evaluation, 325 West Gaines Street, Room 834, Tallahassee, Florida 32399-0400. To request a rule development workshop, please contact: Lynn Abbott, Agency Clerk, Department of Education, (850)245-9661 or e-mail [lynn.abbott@fldoe.org](mailto:lynn.abbott@fldoe.org) or go to <https://app1.fl DOE.org/rules/default.aspx>

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.**

#### DEPARTMENT OF COMMUNITY AFFAIRS

##### Division of Housing and Community Development

RULE NOS.: 9B-1.006      RULE TITLES: Certification of Agencies  
9B-1.010      Manufacturer's Quality Control  
9B-1.016      Manual Procedures  
9B-1.017      Department Insignia  
9B-1.017      Insignia Application and Issuance

**PURPOSE AND EFFECT:** Clarification of requirements that manufacturers and agencies develop written procedures for the receipt, storage and release of insignias and submittal of completed inspection documentation on the Building Code Information System; and means of delivery of insignias to the agency.

**SUBJECT AREA TO BE ADDRESSED:** Manufactured buildings inspections and insignias.

**RULEMAKING AUTHORITY:** 553.37(2), 553.381 FS.

**LAW IMPLEMENTED:** 553.37(2), (6), (8), 553.38, 553.381 FS.

**A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** July 8, 2010, 10:00 a.m.

**PLACE:** Department of Community Affairs, Randall Kelley Training Room, Third Floor, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; Participation by communications media technology available as follows: Conference call, telephone number 1(888)808-6959, Conference Code: 1967168

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)487-1824. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Ila Jones, Community Program Administrator, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100; (850)487-1824

Draft text is available from Ila Jones or from the Building Code Information System, [www.floridabuilding.org](http://www.floridabuilding.org).

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

#### DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

##### Division of Motor Vehicles

RULE NO.: 15C-18.001      RULE TITLE: Electronic Filing System

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

**SUBJECT AREA TO BE ADDRESSED:** Electronic Filing System for third parties to issue motor vehicle titles and registrations.

**RULEMAKING AUTHORITY:** 320.03(10) FS.

**LAW IMPLEMENTED:** 320.03(10) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATES, TIME AND PLACE SHOWN BELOW:

DATES AND TIME: July 8 and July 13, 2010, 10:00 a.m.

PLACE: Neil Kirkman Building, 2900 Apalachee Parkway, Auditorium Room A427, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Julie Baker, Assistant Bureau Chief, Division of Motor Vehicles, 2900 Apalachee Parkway, Room 334, MS-70, Tallahassee, Florida, juliebaker@flhsmv.gov. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Julie Baker, Assistant Bureau Chief, 2900 Apalachee Parkway, Room 334, MS-70, Tallahassee, Florida, juliebaker@flhsmv.gov

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

#### **DEPARTMENT OF CORRECTIONS**

**RULE NO.:** 33-501.301      **RULE TITLE:** Law Libraries

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to clarify that members of a security threat group may not work in a law library and to remove the requirement that inmate law clerks be presented with a certificate of completion of training by the department's Central Office.

**SUBJECT AREA TO BE ADDRESSED:** Law Libraries.

**RULEMAKING AUTHORITY:** 944.09, 944.11 FS.

**LAW IMPLEMENTED:** 20.315, 944.09, 944.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.301 Law Libraries.

(1) through (6) No change.

(7) Use of Inmates as Clerks in Law Libraries.

(a) No inmate whom the department has identified as a member or suspected member of a security threat group shall be assigned to work in a law library.

(a) through (d) renumbered (b) through (e) No change.

(f) Law clerk training program. Central office library services shall develop a training program to provide inmates who work in law libraries with knowledge of legal research and writing, use of legal research materials to include digital or non-print resources in the law library collection, the law and rules of criminal law and post-conviction remedies, prisoners' civil rights, and other subject matter identified as necessary for an inmate law clerk to provide meaningful assistance to inmates. ~~Inmates who successfully complete the law clerk training program shall be given a certificate by central office library services documenting successful completion of the program, and a notation shall be recorded in the department's offender database. Central office library services will document an inmate's successful completion of the law clerk training program in the department's offender database.~~ Central office library services shall revoke or suspend certification for commission of acts prohibited by this section or for failure to satisfactorily perform the duties assigned to an inmate law clerk.

(f) through (q) renumbered (g) through (r) No change.

(8) through (11) No change.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 20.315, 944.09, 944.11 FS. History—New 4-6-93, Amended 7-3-94, 11-2-94, 4-28-96, 9-30-96, 12-7-97, Formerly 33-3.0055, Amended 2-15-01, 11-4-01, 12-23-03, 1-7-07, 1-6-09, 6-16-09, 4-19-10, \_\_\_\_\_.

#### **DEPARTMENT OF CORRECTIONS**

**RULE NO.:** 33-501.401      **RULE TITLE:** Admissible Reading Material

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule is to clarify that staff shall remove any improper packing material from admissible reading material before providing the contents to the receiving inmate.

**SUBJECT AREA TO BE ADDRESSED:** Admissible Reading Material.

**RULEMAKING AUTHORITY:** 944.09, 944.11 FS.

**LAW IMPLEMENTED:** 944.11 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Kendra Lee Jowers, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-501.401 Admissible Reading Material.

(1) through (25) No change.

(26) No packaging other than standard envelopes shall be given to inmates. The following types of packaging shall be removed by staff before providing the contents to the inmate: boxes, padded envelopes, envelopes that include metal parts, multilayer packaging, bubble wrap, packing peanuts, or other forms of extra packaging.

Rulemaking Authority 944.09, 944.11 FS. Law Implemented 944.11 FS. History—New 10-8-76, Amended 3-3-81, 9-24-81, Formerly 33-3.12, Amended 6-9-87, 3-11-91, 12-17-91, 3-30-94, 11-2-94, 5-10-98, 10-20-98, Formerly 33-3.012, Amended 3-21-00, 8-10-00, 10-13-02, 7-2-03, 12-30-04, 9-5-05, 8-1-06, 6-16-09.

## WATER MANAGEMENT DISTRICTS

### Suwannee River Water Management District

RULE NO.: 40B-4.1090      RULE TITLE: Publications and Agreements  
Incorporated by Reference

PURPOSE AND EFFECT: The purpose of the rule development is to adopt the most current version of the items incorporated by reference. The effect of the rule development will incorporate the new flood insurance studies for the Alapaha, Suwannee and Withlacoochee rivers within Hamilton County and the Aucilla, Suwannee and Withlacoochee rivers within Madison County.

SUBJECT AREA TO BE ADDRESSED: This proposed rule will address items incorporated by reference.

RULEMAKING AUTHORITY: 373.044 FS.

LAW IMPLEMENTED: 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Linda Welch, Rules & Contracts Coordinator, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

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

## DEPARTMENT OF ELDER AFFAIRS

### Federal Aging Programs

RULE NOS.: 58A-5.0181	RULE TITLES: Admission Procedures, Appropriateness of Placement and Continued Residency Criteria
58A-5.0185	Medication Practices

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendment to Rule 58A-5.0181, F.A.C., are to remove references of Adult Family-Care Homes (AFCHs) from the rule language and the health assessment form incorporated by reference in the rule. The form is currently entitled, "AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities and Adult Family-Care Homes, April 2010." The amendment will change the rule language and form to read, "AHCA Form 1823, Resident Health Assessment for Assisted Living Facilities." The purpose and effect of the proposed rule amendment to Rule 58A-5.0185, F.A.C., are to make the rule language consistent with the requirements of Section 464.003(3)2., F.S. This statute pertains to the assistance with self-administration or administration of medications by a licensed nurse. It requires that a licensed nurse must have an order from a licensed health care provider when dispensing over-the-counter (OTC) products.

SUBJECT AREA TO BE ADDRESSED: Rule 58A-5.0181, F.A.C.: Amend language to remove reference of Adult Family-Care Homes (AFCHs) from the rule language and the health assessment form incorporated by reference in the rule. Rule 58A-5.0185, F.A.C.: Amend rule language to comply with Section 464.003(3)2., F.S., in regards to OTC products administered by a licensed nurse.

RULEMAKING AUTHORITY: 429.07, 429.256, 429.41 FS.

LAW IMPLEMENTED: 429.07, 429.255, 429.256, 429.26, 429.41 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 14, 2010, 11:00 a.m. – 12:00 Noon EST

PLACE: Department of Elder Affairs, Conference Room 309, 4040 Esplanade Way, Tallahassee, Florida 32399-7000

IF NOT REQUESTED IN WRITING BY JULY 2, 2010, A RULE DEVELOPMENT WORKSHOP WILL NOT BE CONDUCTED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org. If you are hearing or

speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

58A-5.0181 Admission Procedures, Appropriateness of Placement and Continued Residency Criteria.

(1) No change.

(2) HEALTH ASSESSMENT. As part of the admission criteria, an individual must undergo a face-to-face medical examination completed by a licensed health care provider, as specified in either paragraph (a) or (b) of this subsection.

(a) No change.

(b) A medical examination completed after the resident's admission to the facility within 30 calendar days of the admission date. The examination must be recorded on AHCA Form 1823, Resident Health Assessment ~~for Assisted Living Facilities, and Adult Family Care Homes, April 2010.~~ The form is hereby incorporated by reference. A faxed copy of the completed form is acceptable. A copy of AHCA Form 1823 may be obtained from the Agency Central Office or its website at [www.fdhc.state.fl.us/MCHQ/Long\\_Term\\_Care/Assisted\\_living/pdf/AHCA\\_Form\\_1823.pdf](http://www.fdhc.state.fl.us/MCHQ/Long_Term_Care/Assisted_living/pdf/AHCA_Form_1823.pdf). The form must be completed as follows:

1. through 2. No change.

3. ALF providers may continue to use AHCA Form 1823, April 2010, for up to six months after the effective date of this rule amendment. After that date, providers must use AHCA Form 1823, 2010.

(c) through (g) No change.

(3) through (5) No change.

Rulemaking Authority 429.07, 429.41 FS. Law Implemented 429.07, 429.26, 429.41 FS. History—New 9-17-84, Formerly 10A-5.181, Amended 10-20-86, 6-21-88, 8-15-90, 9-30-92, Formerly 10A-5.0181, Amended 10-30-95, 6-2-96, 10-17-99, 7-30-06, 10-9-06, 4-15-10.

#### 58A-5.0185 Medication Practices.

Pursuant to Sections 429.255 and 429.256, F.S., and this rule, licensed facilities may assist with the self-administration or administration of medications to residents in a facility. A resident may not be compelled to take medications but may be counseled in accordance with this rule.

(1) through (7) No change.

(8) OVER THE COUNTER (OTC) PRODUCTS. For purposes of this subsection, the term OTC includes, but is not limited to, OTC medications, vitamins, nutritional supplements and nutraceuticals, hereafter referred to as OTC products, which can be sold without a prescription.

(a) through (c) No change.

(d) A facility cannot require a licensed health care provider's order for ~~all~~ OTC products when a resident self-administers his or her own medications, or when staff provides assistance with self-administration ~~or administration~~ of medications pursuant to Section 429.256, F.S. Pursuant to Section 464.003(3)(2), F.S., a licensed health care provider's order is required when a licensed nurse provides assistance with self-administration or administration of medications, which includes OTC products. When such an order for an OTC product exists, only the requirements of paragraphs (b) and (c) of this subsection are required.

Rulemaking Authority 429.256, 429.41 FS. Law Implemented 429.255, 429.256, 429.41 FS. History—New 10-17-99, Amended 7-30-06, 4-15-10.

## DEPARTMENT OF ELDER AFFAIRS

### Federal Aging Programs

RULE NOS.:

58A-14.0061

RULE TITLES:

Admission Criteria and Procedures, Appropriateness of Placement, and Continued Residency Requirements Standards and Practices for Care and Services

PURPOSE AND EFFECT: The purpose and effect of the proposed rule amendments for Rule 58A-14.0061, F.A.C., are as follows: to include an additional requirement for determining admission procedures and continued residency; to include the requirement that residents must be made aware of the location of documents in order to make complaints; to amend the "Advance Directives" subsection to remove the term "advance directives" and replace with "Do Not Resuscitate Orders"; to add the word "licensed" before the references of "nurse" and "health care provider" in subsection (1); and to replace the word "physician" with "licensed health care provider" in subsection (7). The purpose and effect of the proposed rule amendments to Rule 58A-14.007, F.A.C., are to comply with the changes made in Rule 58A-14.0061, F.A.C.

SUBJECT AREA TO BE ADDRESSED: For Rule 58A-14.0061, F.A.C.: An additional requirement for determining admission procedures and continued residency; the requirement that residents must be made aware of the location of documents in order to make complaints; and amendment to the "Advance Directives" subsection to remove the term "advance directives" and replace with "Do Not Resuscitate Orders." For Rule 58A-14.007, F.A.C.: Changes to comply with amendments to Rule 58A-14.0061, F.A.C.

RULEMAKING AUTHORITY: 429.73 FS.

LAW IMPLEMENTED: 429.65, 429.73, 429.85 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 14, 2010, 9:30 a.m. – 10:30 a.m. EST  
PLACE: Department of Elder Affairs, Conference Room 309, 4040 Esplanade Way, Tallahassee, Florida 32399-7000

IF NOT REQUESTED IN WRITING BY JULY 2, 2010, THE WORKSHOP WILL NOT BE HELD.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 72 hours before the workshop/meeting by contacting: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Jim Crochet, Department of Elder Affairs, Office of the General Counsel, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; telephone number: (850)414-2113; Email address: crochethj@elderaffairs.org

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

58A-14.0061 Admission Criteria and Procedures, and Appropriateness of Placement, and Continued Residency Requirements.

(1) ADMISSION. In order to be admitted as a resident to an AFCH, an individual must:

(a) through (b) No change.

(c) Be capable of self-preservation in an emergency situation involving the immediate evacuation of the AFCH, with assistance with ambulation, if needed.

(d) through (h) No change.

(i) Not have stage 3 or 4 pressure sores. An individual with a stage 2 pressure sore may be admitted only if the individual is under the care of a licensed nurse pursuant to a plan of care issued by a licensed health care provider. Such nursing service must be provided in accordance with Rule 58A-14.007, F.A.C.

(j) through (l) No change.

(2) HEALTH ASSESSMENT. Prior to admission to an AFCH, the individual must be examined by a health care provider using AHCA Form 3110-1023 (AFCH-1110) 01/08, Resident Health Assessment for Adult Family Care Homes (AFCH), January 2008, which is incorporated by reference, and available from the Agency for Health Care Administration, 2727 Mahan Drive, Mail Stop 30, Tallahassee, FL 32308. The

form may also be obtained from the agency's Web site at [http://ahca.myflorida.com/MCHO/Long\\_Term\\_Care/Assisted\\_living/afc/Res\\_Health\\_Asmmt.pdf](http://ahca.myflorida.com/MCHO/Long_Term_Care/Assisted_living/afc/Res_Health_Asmmt.pdf).

(a) Prior to admission to an AFCH, an individual must have a face-to-face medical examination conducted by a licensed health care provider using AHCA Form 3110-1023, Resident Health Assessment for Adult Family-Care Homes (AFCH), January 2008, which is incorporated by reference. It is available by writing to the Agency for Health Care Administration, Long-Term Care Bureau, 2727 Mahan Drive, Mail Stop 30, Tallahassee, FL 32308-5403 or calling (850)487-2515. It also may be obtained from the Agency's website at [http://ahca.myflorida.com/MCHO/Long\\_Term\\_Care/Assisted\\_living/afc/Res\\_Health\\_Asmmt.pdf](http://ahca.myflorida.com/MCHO/Long_Term_Care/Assisted_living/afc/Res_Health_Asmmt.pdf).

1. Items on the form that may have been omitted by the licensed health care provider during the examination do not necessarily require an additional face-to-face examination for completion.

2. The AFCH provider, or relief person, may obtain the omitted information either verbally or in writing from the licensed health care provider.

3. Omitted information received verbally must be documented in the resident's record, including the name of the licensed health care provider giving the information, the name of the AFCH provider or relief person recording the information, and the date the information was obtained.

(b) Every year thereafter, or after a significant change as defined in subsection (4) of Rule 58A-14.007, F.A.C., whichever comes first, the resident must have a face-to-face medical examination conducted by a licensed health care provider using the form referenced in paragraph (a) of this subsection. After the effective date of this rule, providers shall have up to 12 months to comply with this requirement for residents currently living in the AFCH.

(3) HOUSE RULES AND COMPLAINT PROCEDURES. Prior to, or at the time of admission a copy of the AFCH house rules, the Resident's Bill of Rights established under Section 429.85, F.S., the name, address, and telephone number of the district long-term care ombudsman council and the Florida Abuse Hotline, and the procedure for making complaints to the ombudsman council and the abuse registry must be provided to the resident or the resident's representative.

(a) Prior to, or at the time of admission, the AFCH must provide the resident, or representative, with the following:

1. A copy of the AFCH house rules;

2. The Resident's Bill of Rights established under Section 429.85, F.S.;

3. Written information referenced in subsection (6) of Rule 58A-14.004, F.A.C., and the procedure for making complaints to these entities.

(b) Additionally, the provider, or relief person, must make the resident, or representative, aware of the location of the documents posted pursuant to subsection (6) of Rule 58A-14.004, F.A.C.

(4) DO NOT RESUSCITATE ORDERS ADVANCE DIRECTIVES:

(a) Each ~~adult family care home~~ (AFCH) must have written policies and procedures, which delineate the AFCH's position with respect to the state law and rules relative to do not resuscitate orders (DNROs) advance directives. The policies shall not condition treatment or admission upon whether or not the individual has executed or waived an DNRO advance directive. In the event of conflict between the AFCH's policies and procedures and the resident's advance directive, provision should be made in accordance with Chapter 765, F.S.

(b) The AFCH's policy must include:

1. No change.

2. At the time of admission, providing each resident, or the resident's representative, with written information concerning the AFCH's policies regarding DNROs resuscitation and advance directives, including information concerning DH Form 1896, Florida Do Not Resuscitate Order Form, incorporated by reference in Rule 64E-2.031, F.A.C.

3. At the time of admission, providing each resident, or the resident's representative, with written information concerning the AFCH's policies respecting advance directives.

3.4. The requirement that documentation of whether or not the resident has executed an DNRO advance directive must be contained in the resident's record. If an DNRO advance directive has been executed, a copy of that document must be made a part of the resident's record. If the AFCH does not receive a copy of the DNRO advance directive for a resident, the AFCH must document in the resident's record that it has requested a copy.

4.5. An AFCH shall be subject to revocation of its license pursuant to Section 408.815, F.S., if the AFCH, as a condition of treatment or admission, requires an individual to execute or waive an DNRO advance directive, pursuant to Section 765.110, F.S.

(c) Pursuant to Section 429.73, F.S., in the event a resident experiences cardiopulmonary arrest, an AFCH must honor a properly executed DNRO as follows:

1. The AFCH provider, or relief person, who is trained in cardiopulmonary resuscitation (CPR), may withhold cardiopulmonary resuscitation; or

2.1. In the event of cardiopulmonary distress, the AFCH provider, or relief person designee, shall immediately contact "911." Cardiopulmonary resuscitation may be withheld or withdrawn from a resident by an individual pursuant to Section 401.45, F.S.

2. Cardiopulmonary resuscitation may be withheld or withdrawn from a resident only if a valid DNRO is present and the withholding or withdrawing of cardiopulmonary resuscitation is executed by an individual pursuant to Section 401.45, F.S.

3. Adult Family-Care Home providers shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a Do Not Resuscitate Order and rules adopted by the department agency, pursuant to Section 429.73, F.S. Any AFCH provider, who, in good faith, obeys the directives of an existing DNRO, executed pursuant to Section 401.45, F.S., will not be subject to prosecution or civil liability for his or her performance regarding patient care.

(5) TEMPORARY EMERGENCY SERVICES. Residents placed on an emergency basis by the Department of Children and Families Services pursuant to Section 415.105 or 415.1051, F.S., must meet the admission requirements of this rule. However, only residents whose stay in the home exceeds 30 days, must be examined by a licensed health care provider under subsection (2) of this rule section, and covered by a residency agreement under Rule 58A-14.0062, F.A.C. A temporary emergency placement may not be made if the placement causes the home to exceed licensed capacity.

(6) CONTINUED RESIDENCY.

(a) The criteria for continued residency shall be the same as the criteria for admission, including a face-to-face medical examination conducted by a licensed health care provider pursuant to subsection (2) of this rule, with the following exceptions that:

1. through 3. No change.

(b) through (c) No change.

(7) DISCHARGE.

(a) No change.

(b) Residents shall only be moved or transferred without the required 30 day notice for the following reasons:

1. The resident's health requires an immediate relocation to a facility which provides a more skilled level of care as certified by a licensed health care provider physician;

2. through 3. No change.

Rulemaking Authority 429.73 FS. Law Implemented 429.65, 429.73, 429.85 FS. History—New 2-2-95, Formerly 10A-14.0061, Amended 9-19-96, 6-6-99, 1-1-04, 4-29-08.

58A-14.007 Standards and Practices for Care and Services.

The adult family-care home provider shall ensure the provision of the following in accordance with Part II of Chapter 429, F.S., this rule chapter, and the residency agreement:

(1) No change.

(2) SUPERVISION.

The AFCH provider shall provide general supervision twenty-four (24) hours per day, except as provided in paragraph (a) of the subsection. General supervision means the provider or designee is aware of the resident's whereabouts and well-being while the resident is on the premises of the AFCH. The provider is responsible for determining the level of supervision necessary to ensure the resident's safety and security as well as to remind the resident of any important tasks or activities, including appointments.

(a) A resident may be left without supervision in an AFCH for up to 2 hours in a 24-hour period if his or her licensed health care provider submits written certification that doing so will not compromise the resident's health, safety, security or well-being. This certification is included on AHCA Form 3110-1023, Resident Health Assessment for Adult Family-Care Homes (AFCH), as referenced in Rule 58A-14.0061, F.A.C.

1. The certification is included in Section H of AHCA Form 3110-1023 (AFCH 1110) 01/08, incorporated by reference in subsection 58A-14.0061(2), F.A.C.

2. After the effective date of this rule, the provider shall have up to six (6) months for completing section H on this form for all current residents.

(b) The health care provider's certification must be completed annually from the date of the original assessment, or sooner, if a significant change occurs pursuant to subsection (4) of this rule or when there is a compelling reason why the resident should not be left without supervision in the AFCH.

(c) No change.

(3) through (7) No change.

Rulemaking Authority 429.73 FS. Law Implemented 429.73, 429.85 FS. History—New 5-14-86, Amended 2-2-95, Formerly 10A-14.007, Amended 9-19-96, 6-6-99, 4-29-08.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Health Facility and Agency Licensing

RULE NOS.:	RULE TITLES:
59A-3.066	Licensure Procedure
59A-3.110	Services
59A-3.254	Patient Rights and Care
59A-3.255	Emergency Care

**PURPOSE AND EFFECT:** The agency is proposing to amend rules on hospital licensure to update references and forms incorporated and to refer to forms being created under Section 408.806, F.S., and proposed Chapter 59A-35, F.A.C.

**SUBJECT AREA TO BE ADDRESSED:** Revisions to statutory references and the licensure forms that are incorporated by reference will be addressed. The Agency is adopting a licensure rule under Section 408.806, F.S., and this rule will be amended to align the requirements with those proposed in Chapter 59A-35, F.A.C.

**RULEMAKING AUTHORITY:** 395.1055 FS.

**LAW IMPLEMENTED:** 395.003, 395.004, 395.1031, 395.1041, 395.1055, 408.806 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 13, 2010, 1:30 p.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kaylyn Boles, Health Facility Regulation, 2727 Mahan Drive, MS #28A, Tallahassee, FL 32308 or at (850)412-4339. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bill McCort, Health Facility Regulation, 2727 Mahan Drive, MS 28A, Tallahassee, FL 32308 or at (850)412-4341

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

## DEPARTMENT OF MANAGEMENT SERVICES

### Division of Retirement

RULE NOS.:	RULE TITLES:
60S-1.003	Preservation of Rights
60S-1.004	Participation
60S-1.0045	Renewed Membership in the Regular Class and Senior Management Service Class
60S-1.005	Special Risk Class; Legislative Intent and Procedures
60S-1.0051	Criteria for Special Risk Membership – Law Enforcement
60S-1.0052	Criteria for Special Risk Membership – Firefighters
60S-1.0053	Criteria for Special Risk Membership – Correctional Officers
60S-1.00535	Criteria for Special Risk Membership – Emergency Medical Technicians and Paramedics
60S-1.00537	Criteria for Specific Risk Class Membership – Certain Professional Health Care Workers
60S-1.00539	Criteria for Special Risk Class Membership – Forensic Disciplines
60S-1.0054	Special Risk Administrative Support Class
60S-1.0055	Elected Officers' Class

60S-1.0057 Senior Management Service Class  
 60S-1.007 Admission of Cities and Special  
     Districts to the Florida Retirement  
     System  
 60S-1.0075 Transfer, Merger, or Consolidation of  
     Governmental Units, Services, or  
     Functions  
 60S-1.008 Retirement Membership for Dual  
     Employment

**PURPOSE AND EFFECT:** Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

**SUBJECT AREA TO BE ADDRESSED:** Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

**RULEMAKING AUTHORITY:** 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8)(a), 238.175(2) FS.

**LAW IMPLEMENTED:** 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07, 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** July 20, 2010, 10:00 a.m. ET

**PLACE:** Division of Retirement, Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg. 8, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Richard Clifford at (850)488-5706. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

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

## DEPARTMENT OF MANAGEMENT SERVICES

### Division of Retirement

RULE NOS.:	RULE TITLES:
60S-2.002	Statements of Policy
60S-2.003	Credit for Past Service
60S-2.004	Credit for Prior Service
60S-2.0041	Credit Toward Special Risk Normal Retirement Date
60S-2.005	Credit for Military Service
60S-2.006	Credit for Leaves of Absence Under the Florida Retirement System
60S-2.007	Credit for Out-of-State and In-State Service
60S-2.008	Credit for Service Performed After Retirement
60S-2.009	Credit for Previous Service
60S-2.010	Creditable Service upon the Death of a Member
60S-2.011	Credit for Future Service
60S-2.012	Workers' Compensation Credit
60S-2.013	Credit for Upgraded Previous Service
60S-2.014	Credit for Teaching Service in a Federally Operated School
60S-2.015	Value of Each Year of Creditable Service
60S-2.016	Credit for Periods of Suspension Without Pay or Rescinded Dismissal
60S-2.017	Credit for Terms of Elected Office Shortened by Apportionment, Federal Intervention, or Compulsory Termination Because of Age
60S-2.018	Credit for Periods of Disability
60S-2.019	Credit for Unreported Service

**PURPOSE AND EFFECT:** Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

**SUBJECT AREA TO BE ADDRESSED:** Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

**RULEMAKING AUTHORITY:** 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8)(a), 238.175(2) FS.

**LAW IMPLEMENTED:** 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07, 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

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## DEPARTMENT OF MANAGEMENT SERVICES

### Division of Retirement

RULE NOS.: RULE TITLES:

60S-3.002 Statements of Policy

60S-3.003 Retirement Contributions for Regular, Special Risk, Elected Officer, Special Risk  
Administrative Support and Senior Management Service Classes of the Pension and Investment Plans of the Florida Retirement System; Contributions for the Retiree Health Insurance Subsidy; and Contributions for the Deferred Retirement Option Program

60S-3.004 Retirement Contributions for Past Service Credit

60S-3.005 Retirement Contributions for Prior Service Credit

60S-3.006 Retirement Contributions for Military Service Credit

60S-3.007 Retirement Contributions for Leave of Absence Credit

60S-3.010 Contributions for Social Security

60S-3.011

60S-3.012

60S-3.013

60S-3.015

Payment of Contributions

Retirement Contributions for Creditable Service Upon the Death of a Member

Retirement Contributions for Upgraded Previous Service Credit

Retirement Contributions for Retroactive Special Risk Service

PURPOSE AND EFFECT: Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

SUBJECT AREA TO BE ADDRESSED: Proposed Rule amendments affecting Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

RULEMAKING AUTHORITY: 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8) (a), 238.175(2) FS.

LAW IMPLEMENTED: 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07, 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

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**DEPARTMENT OF MANAGEMENT SERVICES****Division of Retirement**

RULE NOS.:	RULE TITLES:
60S-4.001	Scope and Purpose
60S-4.002	Statements of Policy
60S-4.0025	Minimum Benefits
60S-4.003	Retirement Eligibility
60S-4.0035	Retirement Application and Effective Retirement Date
60S-4.004	Benefits Payable Upon Normal Retirement
60S-4.005	Benefits Payable Upon Early Retirement
60S-4.006	Benefits Based on Dual Retirement Ages
60S-4.007	Benefits Payable for Disability Retirement
60S-4.008	Benefits Payable Upon Death
60S-4.009	Benefits Payable After Termination
60S-4.010	Retirement Benefit Payment Options
60S-4.011	Designation of Beneficiary
60S-4.012	Employment After Retirement
60S-4.015	Deductions from Monthly Benefits
60S-4.016	Survivor Benefits under Chapter 238, Florida Statutes
60S-4.021	Forfeiture of Benefits

**PURPOSE AND EFFECT:** Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

**SUBJECT AREA TO BE ADDRESSED:** Proposed Rule amendments affecting Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

**RULEMAKING AUTHORITY:** 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8)(a), 238.175(2) FS.

**LAW IMPLEMENTED:** 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07 FS. 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

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**DEPARTMENT OF MANAGEMENT SERVICES****Division of Retirement**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
60S-6.001	Definitions

**PURPOSE AND EFFECT:** Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

**SUBJECT AREA TO BE ADDRESSED:** Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

**RULEMAKING AUTHORITY:** 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8)(a), 238.175(2) FS.

**LAW IMPLEMENTED:** 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07, 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

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contacting: Richard Clifford at (850)488-5706. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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## DEPARTMENT OF MANAGEMENT SERVICES

### Division of Retirement

RULE NOS.: RULE TITLE:  
60S-9.001 Approved Forms

PURPOSE AND EFFECT: The purpose of this rule development is to (1) propose the adoption of five new division forms and (2) fifteen revised division forms; (3) the deletion of three division forms from rule; (4) correction to the listing of one division form in rule to reflect under the proper bureau; (5) add the form dates in rule to two previously promulgated division forms; (6) correction of a typographical error in the form listing in rule, (7) the deletion of one obsolete State Board of Administration form adopted by reference in rule and (8) the revision of the listing of all State Board of Administration Enrollment and Election forms that may be utilized by members of the Florida Retirement System to reflect the rule number under which each form is adopted by reference in Division rules rather as opposed to referencing the revision date of the form in this listing.

(1) The five new division forms are as follows:

1. FRS-415 (5/08) – A Bureau of Enrollment and Contributions form, created for members employed by a local government law enforcement agency or medical examiner's office to make application for Special Risk membership in the Florida Retirement System as provided in Section 121.0515(2)(j), F.S.
2. ORP-2a (4/09) – A Bureau of Enrollment and Contributions form, created for actively employed and currently enrolled State University System Optional Retirement Program (SUSORP) participants to transfer the present value of the employee's accumulated benefit obligation under the defined benefit program of the FRS for any service credit accrued from the employee's first eligible transfer date to the (SUSORP) through the actual date of transfer if such service credit was earned between July 1, 1984 through December 31, 1992. Previously this was been an option on the discontinued State Board of Administration form ORP-2.

3. FS-DS-ORP (11/08) – A Bureau of Retirement Calculations form created for active FRS Pension Plan members to purchase service credit for periods of State University System Optional Retirement Program (SUSORP) and/or State Community College Optional Retirement Program (CCORP) participation on which no distribution of employer contributions have been made during a one-year window between January 1, 2009 and December 31, 2009 as provided in Section 121.355, F.S.

4. DP-PAYT-RMD (8/09) – A Bureau of Benefit Payments form. This form is an iteration of the current DP-PAYT form but specific to those who are subject to the Required Minimum Distribution (RMD) upon termination DROP. This form was developed to automate the process for those subject to the RMD.

5. SA-2 (2/10) – A Bureau of Benefit Payments form. This form is an iteration of the spousal acknowledgment form (SA-1) of retiring FRS Pension Plan members, but is applicable to FRS Investment Plan Disability retirees.

(2) The fifteen revised Division forms are:

1. ERQ-1 (Rev. 09/08) – A Bureau of Enrollment and Contributions form; revised the "Note" section on page 1 of the form further clarifying the use of the term "agency" on this form and rewords question 9.(a) on page 3 for greater clarity.
2. FRS-410 (Rev. 05/08) – a Bureau of Enrollment and Contributions form; limited this application for Special Risk Membership to those forensic workers applying for Special Risk coverage based on the criteria effective between October 2005 and June 2008 as provided in Section 121.0515(2)(h), F.S.
3. FR-11 (Rev.07/09) – A Bureau of Retirement Calculations form; deleted the last sentence of item 4 on the instructional page which reads, "Rollovers cannot be made for upgraded service." Upgrades may now be used to purchase upgraded service in accordance with the Pension Protection Act of 2006.
4. FRS-11o (Rev. 01/10) – A Bureau of Retirement Calculations form; deleted the spousal acknowledge section from the form which has been incorporated into the revised SA-1 form contained herein and adds the statement to the FRS-11o, "Please complete Form SA-1"; and deletes the parenthetical in Option 3 and 4 which reads. "spouse or financial dependent" as it is redundant.
5. DP-ELE (Rev. 04/09) – A Bureau of Retirement Calculations form; deleted from the first sentence of the second paragraph "unless I am an elected officer with membership in the EOC" (Statutory authority Section 121.053(3)(b), F.S.).
6. DP-11 (Rev. 04/09) – A Bureau of Retirement Calculations form; deleted from the first sentence of the second paragraph "unless I am an elected officer with membership in the EOC" (Statutory authority Section 121.053(3)(b), F.S.).
7. DP-EXT (Rev. 04/09) – A Bureau of Retirement Calculations form; added to the end of paragraph one, the following sentence:

"Participation in the DROP does not guarantee my employment for the DROP period." (Statutory authority, Section 121.091(13), F.S.); deletes from sentence two of paragraph one, "and be employed on a contractual basis for each year of participation" as employment on a contractual basis is not a requirement of DROP extension (Section 121.090(13)(b), F.S.).

8. SA-1 (Rev. 01/10) – A Bureau of Retirement Calculations form; substantially revised to require member's notarized signature in box 1 acknowledging his or her marital status and requires notarization of the spousal acknowledgement in box 2 if the member selected Option 1 or 2 and is married.

9. FST-11g (Rev. 03/10) – A Bureau of Benefit Payments form; substantially revised to incorporate the DROLL form into the FST-11g form therein making the DROLL form obsolete. The FST-11g is further amended to allow a non-spousal beneficiary of a deceased DROP participant to rollover the decedent's DROP account as the beneficiary into an Inherited Individual Retirement in accordance with s. 402(c)(11), Internal Revenue Code.

10. DIS-1 (Rev 03/07) – A Bureau of Benefit Payments form; revised to amend the instructions to ensure proper completion of the form.

11. DP-TERM (Rev. 04/10) – A Bureau of Benefit Payments form; revised to reflect the changes to the definition of termination from one month to 6 months effective July 1, 2010 in accordance with Section 121.021(39), F.S.

12. DP-PAYT (Rev. 03/10) – A Bureau of Benefit Payments form; revised to consolidate the DP-PAYT-RMD form and the DP-PAYT form onto one form therein eliminating the need for a separate DP-PAYT form for those subject to the Required Minimum Distribution (RMD) when terminating DROP.

13. DIS-2 (Rev. 03/07) – A Bureau of Benefit Payments form; revised the instruction page of the form to ensure proper completion of the form.

14. DIS-3 (Rev. 03/07) – A Bureau of Benefit Payments form; revised the instruction page of the form to ensure proper completion of the form.

15. PR-11o (Rev. 01/10) – A Bureau of Benefit Payments form; deleted the spousal acknowledge section from the form which has now been incorporated into the revised SA-2 form contained herein and adds the statement to the PR-11o, "Please complete Form SA-2.

(3) The three Division forms deleted from rule are:

1. WC-1, a Bureau of Retirement Calculations form; deleted from rule as this form is not used by the public and is not required to be promulgated in rule.

2. FC-1, a Bureau of Retirement Calculations form; deleted from rule as this form is not used by the public and is not required to be promulgated in rule.

3. DROLL, a Bureau of Benefit Payments form, deleted from rule as this form is now obsolete.

(4) The one Division form listed incorrectly under the wrong bureau in rule is:

1. FR-SUSORP (Rev 08/07) – This form was inadvertently and incorrectly listed in Rule as a Bureau of Enrollment and Contributions form and should be listed as a Bureau of Retirement Calculations form.

(5) The two previously promulgated forms wherein the dates of the forms promulgated were inadvertently omitted from rule are:

1. DP-TEOC-2 (10/07) – A bureau of Benefit Payments form

2. DP-TEOC-3 (10/07) – A bureau of Benefit Payments form

(6) The typographical correction is made to the MF-1 form listing (paragraph 60S-9.001(2)(f), F.A.C., adding a closing parenthesis to the revision date.

(7) The one obsolete State Board of Administration Enrollment and Election form deleted from rule is:

1. SMS-4 – Chapter 2005-205, Laws of Florida, provided a one-time only, six-month enrollment window from January 1, 2006 through June 30, 2006 to rejoin the Florida Retirement System (FRS) for any actively employed local government senior manager who withdrew from the FRS completely.

(8) The list of all State Board of Administration Enrollment forms has been revised to reflect the rule under which each form has been adopted by reference wherein such reference in will include the revision date of the form and deletes such revision date of the form from this listing in rule.

**SUBJECT AREA TO BE ADDRESSED:** Forms.

**RULEMAKING AUTHORITY:** 121.031, 121.4501 FS.

**LAW IMPLEMENTED:** 1.01, 112.215, 112.361, 112.363, 120.55, 121.011, 121.015, 122.021, 121.031(2), 121.051, 121.0515, 121.053, 121.081, 121.091, 121.111, 121.115, 121.1122, 121.121, 121.125, 121.35, 121.4501, 121.591, 122.08, 122.09, 215.28, 238.05, 238.06, 238.07, 689.21, 1012.01 FS.

**IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:**

**DATE AND TIME:** July 20, 2010, 10:00 a.m., ET

**PLACE:** Division of Retirement, Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg. 8, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Richard Clifford at (850)488-5706. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

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

## DEPARTMENT OF MANAGEMENT SERVICES

### Division of Retirement

RULE NOS.:	RULE TITLES:
60S-11.001	Definitions
60S-11.002	Participation
60S-11.004	Benefits

PURPOSE AND EFFECT: Amending the rules of the Division of Retirement to correspond with statutory changes up through the 2010 Legislative session and deleting obsolete language.

SUBJECT AREA TO BE ADDRESSED: Proposed Rule amendments affecting Membership, Creditable Service, Contributions, Benefits, Definitions and the Deferred Retirement Option Program of the Florida Retirement System.

RULEMAKING AUTHORITY: 121.031, 121.0515, 121.052(7), (14), 121.091(13), 121.4501(8)(a), 238.175(2) FS.

LAW IMPLEMENTED: 27.701, 61.1301, 112.18, 112.181, 112.215, 112.362, 112.65, 120.045, 121.011, 121.021, 121.031, 121.046(4), 121.051, 121.0511, 121.0512(2)(a)2., 121.0515, 121.052, 121.053, 121.055, 121.70, 121.071, 121.081, 121.091, 121.111, 121.1115, 121.1122, 121.121, 121.122, 121.125, 121.131, 121.23, 121.35, 121.355, 121.4501, 121.591(2), 121.65(2), 122.07, 222.21, 238.06(4), 238.07, 238.175, 238.181, 240.3195, 943.22(2)(e), 1012.01, 1012.875 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 20, 2010, 10:00 a.m. ET

PLACE: Division of Retirement, Department of Management Services, Director's Conference Room, Suite 208, 1317 Winewood Blvd., Bldg. 8, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Richard Clifford at (850)488-5706. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Garry Green, Operations and Management Consultant Manager, Department of Management Services, Division of Retirement, 1317 Winewood Blvd., Bldg. 8, Tallahassee, FL 32399-1560, (850)488-5706

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

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Barbers' Board

RULE NO.:	RULE TITLE:
61G3-16.0010	Examination for Barber Licensure

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete unnecessary language and to modify the precentage weight for categories on the written examination.

SUBJECT AREA TO BE ADDRESSED: Examination for barber licensure.

RULEMAKING AUTHORITY: 455.217(1)(b), (c), 476.064(4), 476.114(2), 476.134 FS.

LAW IMPLEMENTED: 455.217(1)(b), (c), 476.114(2), 476.134 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Robyn Barineau, Executive Director, Barbers' Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

## DEPARTMENT OF HEALTH

### Board of Massage

RULE NO.:	RULE TITLE:
64B7-27.006	Biennial Renewal Fee for Massage Therapist

PURPOSE AND EFFECT: The purpose of this proposed rule development is to reduce the fee charged for licensure and renewal.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal Fee for Massage Therapist.

RULEMAKING AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1), (1)(f) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Christy Robinson, Acting Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.006 Biennial Renewal Fee for Massage Therapist.

The fee for biennial renewal of a massage therapist's license shall be \$100.00 ~~150.00~~.

Rulemaking Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1), (1)(f) FS. History-New 11-27-79, Amended 11-20-84, Formerly 21L-27.06, Amended 12-18-88, Formerly 21L-27.006, 61G11-27.006, 7-30-02,\_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Massage

RULE NO.: RULE TITLE:

64B7-27.007 Biennial Renewal Fee for Massage Establishments

PURPOSE AND EFFECT: The purpose of this proposed rule development is to reduce the fee charged for licensure and renewal.

SUBJECT AREA TO BE ADDRESSED: Biennial Renewal Fee for Massage Establishments.

RULEMAKING AUTHORITY: 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 480.044(1)(e) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Christy Robinson, Acting Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.007 Biennial Renewal Fee for Massage Establishments.

The fee for biennial renewal of a massage establishment license shall be \$100.00 ~~150.00~~.

Rulemaking Specific Authority 480.035(7), 480.044(1) FS. Law Implemented 480.044(1)(e) FS. History-New 11-27-79, Amended 7-9-80, Formerly 21L-27.07, Amended 12-18-88, Formerly 21L-27.007, 61G11-27.007, 7-30-02,\_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Massage

RULE NO.: RULE TITLE:

64B7-27.008 Initial Fee for Licensure

PURPOSE AND EFFECT: The purpose of this proposed rule development is to reduce the fee charged for licensure and renewal.

SUBJECT AREA TO BE ADDRESSED: Initial Fee for Licensure.

RULEMAKING AUTHORITY: 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS.

LAW IMPLEMENTED: 456.013(2), 456.025(1), 480.044(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Christy Robinson, Acting Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.008 Initial Fee for Licensure.

(1) Any person who is initially licensed pursuant to Rule 64B7-25.001, F.A.C., shall pay a fee of \$100.00 ~~150.00~~.

(2) Any person who is initially licensed pursuant to Rule 64B7-25.004, F.A.C., shall pay a fee of \$100.00 ~~150.00~~.

Rulemaking Specific Authority 456.013(2), 456.025(1), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 456.025(1), 480.044(1) FS. History-New 5-13-82, Amended 11-11-82, 1-7-86, Formerly 21L-27.08, Amended 12-18-88, Formerly 21L-27.008, Amended 1-29-97, Formerly 61G11-27.008, Amended 7-30-02,\_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Massage

RULE NO.: RULE TITLE:

64B7-27.010 Renewal Fee for Inactive License

**PURPOSE AND EFFECT:** The purpose of this proposed rule development is to reduce the fee charged for licensure and renewal.

**SUBJECT AREA TO BE ADDRESSED:** Renewal Fee for Inactive License.

**RULEMAKING AUTHORITY:** 480.0425, 480.044(1) FS.

**LAW IMPLEMENTED:** 480.044(1), (1)(l) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Christy Robinson, Acting Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.010 Renewal Fee for Inactive License.

The fee for renewal of an inactive license shall be \$100.00 ~~\$150.00~~.

Rulemaking Specific Authority 480.0425, 480.044(1) FS. Law Implemented 480.044(1), (1)(l) FS. History—New 12-18-84, Formerly 21L-27.10, 21L-27.010, 61G11-27.010, Amended 7-30-02, \_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Massage

**RULE NO.:** 64B7-27.012

**RULE TITLE:** Licensure of Establishment Fee

**PURPOSE AND EFFECT:** The purpose of this proposed rule development is to reduce the fee charged for licensure and renewal.

**SUBJECT AREA TO BE ADDRESSED:** Licensure of Establishment Fee.

**RULEMAKING AUTHORITY:** 456.013(2), 480.035(7), 480.044(1) FS.

**LAW IMPLEMENTED:** 456.013(2), 480.044 (1)(d) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Christy Robinson, Acting Executive Director, Board of Massage Therapy/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B7-27.012 Licensure of Establishment Fee.

The fee for licensure of an establishment shall be \$100.00 ~~\$150.00~~.

Rulemaking Specific Authority 456.013(2), 480.035(7), 480.044(1) FS. Law Implemented 456.013(2), 480.044 (1)(d) FS. History—New 2-6-85, Formerly 21L-27.12, 21L-27.012, 61G11-27.012, Amended 8-16-98, 7-30-02, \_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Medicine

**RULE NO.:** 64B8-9.013

**RULE TITLE:**

Standards for the Use of Controlled Substances for the Treatment of Pain

**PURPOSE AND EFFECT:** The Board proposes the development of rule amendments to address the appropriate standards for the use of controlled substances for the treatment of pain.

**SUBJECT AREA TO BE ADDRESSED:** Appropriate standards for the use of controlled substances for the treatment of pain.

**RULEMAKING AUTHORITY:** 458.309(1), 458.331(1)(v) FS.

**LAW IMPLEMENTED:** 456.326, 458.331(1)(g), (t), (v) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## DEPARTMENT OF HEALTH

### Board of Medicine

**RULE NO.:** 64B8-11.001

**RULE TITLE:**

Advertising

**PURPOSE AND EFFECT:** The Board proposes the development of a rule amendment to address an additional entity recognized by the Board for the purpose of advertising.

**SUBJECT AREA TO BE ADDRESSED:** An additional entity recognized by the Board for the purpose of advertising.

**RULEMAKING AUTHORITY:** 458.309, FS.

**LAW IMPLEMENTED:** 456.072(1)(t), 458.331(1)(d), (l), (n), (o), 458.3312 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## DEPARTMENT OF HEALTH

### Board of Medicine

RULE NO.: RULE TITLE:  
64B8-30.003 Physician Assistant Licensure

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address prescribing physician assistants and dispensing physician assistants.

SUBJECT AREA TO BE ADDRESSED: Rule amendments to address prescribing physician assistants and dispensing physician assistants.

RULEMAKING AUTHORITY: 456.013, 456.031(2), 456.033(6), 458.309, 458.347 FS.

LAW IMPLEMENTED: 456.013, 456.017, 456.031, 456.033, 458.347 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Larry McPherson, Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## DEPARTMENT OF HEALTH

### Board of Osteopathic Medicine

RULE NO.: RULE TITLE:  
64B15-6.003 Physician Assistant Licensure

PURPOSE AND EFFECT: The Board proposes the development of rule amendments to address prescribing physician assistants and dispensing physician assistants.

SUBJECT AREA TO BE ADDRESSED: Rule amendments to address prescribing physician assistants and dispensing physician assistants.

RULEMAKING AUTHORITY: 458.347(7), 459.005, 459.022 FS.

LAW IMPLEMENTED: 456.013, 456.031, 456.033, 459.022 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Christy Robinson, Acting Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

### Economic Self-Sufficiency Program

RULE NO.: RULE TITLE:  
65A-1.716 Income and Resource Criteria

PURPOSE AND EFFECT: The proposed rule amends the monthly poverty income figures used in the Medicaid program for applicants and recipients to the level of the current federal poverty level. The amendment also revises the life expectancy tables as published by the Office of the Chief Actuary of the Social Security Administration.

SUBJECT AREA TO BE ADDRESSED: This proposed amendment updates the federal poverty guidelines used in the Medicaid program and revises life expectancy data.

RULEMAKING AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906, 409.919 FS.

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: July 8, 2010, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Pat Whitford, Economic Self-Sufficiency Services, telephone (850)410-3479

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS NOT AVAILABLE.

## Section II Proposed Rules

### DEPARTMENT OF TRANSPORTATION

#### RULE NOS.:

RULE NOS.:	RULE TITLES:
14-10.0011	General Provisions
14-10.0022	Outdoor Advertising Sign Inventory
14-10.003	Licenses
14-10.004	Permit
14-10.0041	Annual Renewal Billing – Licenses and Permits
14-10.0042	Denial or Revocation of Licenses or Permits
14-10.006	Permitting Criteria

**PURPOSE AND EFFECT:** Rule Chapter 14-10, F.A.C., is being amended to update existing language, and clarify the requirements for obtaining and maintaining outdoor advertising sign permits.

**SUMMARY:** Rule Chapter 14-10, F.A.C., is being amended to incorporate recent statutory changes.

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

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

**RULEMAKING AUTHORITY:** 334.044(2), 479.02 FS.

**LAW IMPLEMENTED:** 215.34, 334.044(28), 339.05, 479.02, 479.04, 479.05, 479.07, 479.08, 479.106, 479.111, 479.24 FS.

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

**DATE AND TIME:** July 10, 2010, 2:00 p.m.

**PLACE:** Florida Department of Transportation, Haydon Burns Building, Room 479, 605 Suwannee Street, Tallahassee, Florida 32399-0458

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Deanna R. Hurt, Assistant General Counsel and Clerk of Agency Proceedings, Florida Department

of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

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

##### 14-10.0011 General Provisions.

(1) **Definitions.** All terms in this rule chapter shall have the same meanings as those defined in Section 479.01, F.S. Additionally, the following terms are defined:

(a) “Applicant” means the person or entity seeking permission for an outdoor advertising sign under this rule chapter. “Address of Record” means the mailing address submitted by the licensee or permittee with the initial application for license, the first permit applied for, the transfer affidavit when a permit is transferred to a new permit holder, or the amended address if amended pursuant to paragraph (2)(e), below.

(b) “Charitable Organizations” means those institutions defined by Section 212.08(7)(e)2.b., F.S.

(b)(e) “Completed Sign,” for purposes of Section 479.07(5)(a), F.S., means an erected sign structure with attached facing and a posted message.

(c)(e) “Crown” means the highest point of elevation on the road pavement of the main traveled way immediately adjacent to the outdoor advertising sign.

(d)(e) “Embellishment” means a temporary extension of a the sign face which contains a portion of the message or informative contents, and which is added, modified, or removed when the message is changed.

(e)(e) “Height Above Ground Level (HAGL)” means the distance between the ground and the bottom of the sign face, excluding any border and trim, as measured from the point on the sign facing closest to the main-traveled way.

(f)(e) “Location or site” means the specific place or position of a proposed or existing sign. Location is generally identified by specifying a milepost on which is fixed reference to the Roadway Characteristics Inventory (RCI) system together with a distance from the edge of the pavement or the right of way line; by specifying reference to the State Plane Coordinates Coordinate system; or by specifying the reference to latitude and longitude.

(g)(e) “Permitted Sign” means a sign, whether erected or not, for which an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, incorporated herein by reference, has been issued, which permit has not been revoked, canceled, expired, or declared void. Form 575-070-030 may be obtained from the State Outdoor Advertising and Permit Office, Florida Department of Transportation, 605 Suwannee Street, Mail Station 22, Tallahassee, Florida 32399-0450.

(h)(4) "Public or Court Officer Official" means as described in Section 112.3173, F.S. for purposes of Section 479.16(4), Florida Statutes, shall mean a person holding a position created by the Constitution or Legislature, or authorized by the Governor.

(i)(4) "Rest Area" means a publicly owned, controlled, and designated place for emergency stops, relaxation, and recreation, including with sanitary and other facilities within or adjacent to the highway right of way, reasonably necessary to accommodate the traveling public.

(j)(4) "Sign Structure Height" means the total vertical distance from the crown of the main-traveled way to the top of the highest sign face, including any border or trim, excluding but not including embellishments.

(l) "Working Day" means each regular period when Department offices are open for official business.

(2) Names and Addresses.

(a) For consideration of a license or sign permit under this rule chapter, completed forms must be sent to:

Outdoor Advertising License and Permit Office

Florida Department of Transportation

605 Suwannee Street, MS 22

Tallahassee, Florida 32399-0450

Forms referenced in this rule may be obtained at the above address or at the website: dot.state.fl.us/rightofway.

(b)(a) Licenses and sign permits may only be issued in the current legal name or registered fictitious name of the applicant licensee or permittee, whether an individual, business, or corporation. Any notice issued by the Department to a fictitious name filed with the Department shall have the same effect as if issued in the legal name of the permittee or licensee.

(c)(b) All The Address of Record shall be considered the official address for correspondence from the Department to the licensee or permittee including. Such correspondence may include billing, notices of violation, or other information provided or issued by the Department will be sent to the address provided on the application, unless the licensee or permittee has updated the information in accordance with paragraph (d) below.

(d)(e) A licensee or permittee shall notify the Department, in writing, within 30 calendar days of any change in address. This notification shall include:

1. The date the change of name or address becomes effective;
2. The account name as listed on the Department billing;
3. The (typed or printed) name of the individual authorized to sign the notice; and
4. The authorized signature.

(e)(4) Notices or any other correspondence issued by the Department to the address addresses on file prior to receipt of such written notification of an address change are valid and shall be considered received by the licensee or permittee.

(f)(e) License Applications, Permit Applications, Replacement Requests, Transfer Requests, and Cancellation Certifications must contain a statement by the signatory that he/she is the authorized representative and has the authority to sign for the applicant.

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 334.044(28), 479.02 FS. History-New 6-28-98, Amended 8-19-01.

#### 14-10.0022 Outdoor Advertising Sign Inventory.

Pursuant to Section 479.02(8), F.S. Florida Statutes, the Department shall update its outdoor advertising database inventory information for all permitted signs no less than every two years. This inventory shall provide, as a minimum, the following current information derived from field review and historical information contained in the Department's files:

- (1) Location of the sign;
- (2) Original sign permit issue date;
- (3) Date the sign was erected;
- (4) Height, width and square footage of each sign facing;
- (5) Number and type of support structures used;
- (6) Height above ground level of the sign facing;
- (7) Sign structure height;
- (8) Whether the sign is lighted or not lighted;
- (9) Whether the sign is in conformance with local land use requirements;
- (10) Whether the sign is in an urban area;
- (11) Whether the sign is in an incorporated area;
- (12) Status of the sign, whether conforming, nonconforming, or illegal;
- (13) Permittee's name and address;
- (14) Sign permit number(s), current and previous, assigned to the sign facing;
- (15) Status of the sign permit, whether active or canceled, revoked, expired, or void; and
- (16) Date the sign was removed, when applicable.

Changes made to the Department's previous inventory records to reflect physical characteristics of a sign or sign facing existing at the time of an inventory update shall not create a waiver or constitute forgiveness of any violation of the provisions of Chapter 479, F.S.

Rulemaking Specific Authority 334.044(2), 479.02(7), (8) FS. Law Implemented 339.05, 479.01, 479.02, 479.03, 479.07(9) FS. History-New 6-28-98, Amended.

#### 14-10.003 Licenses.

- (1) Outdoor Advertising License Required. A person or entity is considered to be in the business of outdoor advertising and is required to have an outdoor advertising license if that person or entity receives compensation from constructing, erecting, operating, using, maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or

outdoor advertisements. Persons or entities solely advertising their own businesses and general contractors who construct signs under contract to outdoor advertising licensees or permittees, are exempt from the licensing requirement.

(2) Application Form. An application for a license to engage in the business of outdoor advertising shall be made on an Outdoor Advertising License Application, Form 575-070-02, Rev. 10/06, incorporated herein by reference. ~~Form 575-070-02 may be obtained from the State Outdoor Advertising License and Permit Office, Florida Department of Transportation, 605 Suwannee Street, Mail Station 22, Tallahassee, Florida 32399-0450.~~

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 120.60, 215.34(2), 334.044(28), 339.05, 479.02, 479.04, 479.05, 479.07 FS. History—New 3-28-76, Amended 4-21-77, 12-10-77, 1-1-86, Formerly 14-10.03, Amended 6-28-98, 8-19-01, 1-25-04, 12-31-06.

#### 14-10.004 Permits.

(1) Applications. An application for a new sign permit is made by completing and submitting an Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, incorporated herein by reference, to the address listed in paragraph subsection 14-10.0011(2)(a) 14-10.003(2), F.A.C. ~~Applications may be obtained from the State Outdoor Advertising License and Permit Office.~~

(a) A separate application is required for each sign permit requested (i.e. a back to back sign will require two applications). ~~The applicant shall submit \$separate payment instruments of for each application is recommended for a new permit, in order to avoid denial of multiple applications should for one application be being denied.~~

(b) Prior to issuing a sign any permit, the Department will inspect the proposed sign site for to assure compliance with Chapter 479, F.S., and this rule chapter. To ensure that the site being inspected is the same site specified in the application, the applicant shall mark the proposed sign site in such a manner that the markings are visible from the main-traveled way. The markings shall be displayed upon from the time of submission of the application and shall be maintained by the applicant until the Department has approved or denied the application.

(c) The Department will act on sign permit applications in order of the date and time of receipt of complete applications.

1. An application will be considered complete when all items on the application form have been filled in, all required attachments have been received, and the correct permit fees have fee has been submitted. All information provided on the application by the applicant must be certified as being true and correct. Information required on the application from the local zoning official providing allowable land use and local government approval, must be current as of the date the complete application is received by the Department and the applicant must demonstrate that the conditions are still in effect.

2. Applications containing incorrect information will be denied.

3. Incomplete sign permit applications will be returned to the applicant along with any sign permit fees ~~which were~~ submitted with the application.

4. Completion of, or corrections to, the original submitted document must be initialed by the applicant on the original application.

5. Pursuant to Section 479.07(3)(b), F.S., ~~t~~he written statement from the landowner ~~required by~~ Section 479.07(3)(b), F.S., must have been issued to the applicant, or on behalf of the applicant. If a lease document is submitted as the statement from the landowner, the applicant must be the named lessee, or the document must be accompanied by a properly executed transfer of the leasehold rights to the applicant. The written statement must:

- a. Identify the property on which the sign is to be located;
- b. Indicate that the person authorizing placement of the sign on the property is the owner or the person in lawful control of the property. If the person authorizing placement of the sign is not the owner of the property, the legal status which gives him or her lawful control of the property must be indicated;
- c. Grant the permission to or on behalf of the applicant; and

d. Authorize placement of the sign on the subject property.

(2) ~~(e)~~ Application status. Complete applications will be either approved or denied within 30 calendar days of receipt by the Department, unless an earlier application for that site or a competing site is under review, ~~or the applicant is seeking a vegetation management permit, or removal of a conflicting sign is pending~~ application falls within paragraph (g) or (h), below.

(a) A ~~If~~ denied, the application will remain in a pending status until the time to request an administrative hearing pursuant to Sections 120.569 and 120.57, F.S. below Rule 14-10.002, F.A.C., has elapsed. If a hearing is requested, the application shall remain in a pending status until a final order has been issued and the time to request an appeal of the of a final order has elapsed. If an appeal is taken, the application will remain in a pending status until the mandate is issued by the appellate court. Subsequent applications for conflicting competing sites shall be held without action until the pending status of the earlier application is resolved.

(b) ~~(e)~~ If an application is approved, all subsequently received applications for conflicting competing sites shall be denied.

(f) ~~For purposes of paragraph (e), above, when a valid permit is being conditionally canceled pursuant to subsection 14-10.004(9), F.A.C., the Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 10/06, incorporated herein by reference, and Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, must be~~

submitted simultaneously to the Department. Form 575-070-12 may be obtained from the address listed in subsection 14-10.003(2), F.A.C. The date the Department receives the cancellation and complete application documents shall be considered the date the application is received.

(c)(g) When a permit application is received for a new sign site where requiring vegetation management is required pursuant to Section 479.106, F.S., the permit application will not be issued considered complete until the applicant has been issued a vegetation management permit by the Department in accordance with Rule 14-40.030, F.A.C., and has removed two nonconforming signs, which the Department has approved as meeting the requirements of Section 479.106(5), F.S. A permit shall not be issued to an applicant for a location at which unpermitted cutting, removal, or trimming of vegetation has occurred until such time as payment of the administrative penalty and mitigation as required by Rule 14-40.030, F.A.C., and Section 479.106(7), F.S., respectively, have been accomplished and the applicant has surrendered two nonconforming signs for surrender in accordance with Section 479.106(5), F.S. If a permit is granted where the applicant has stated that no cutting, removal, or trimming of vegetation is required to create a view zone for the sign, the permittee may only maintain the view existing at the time the sign permit is issued.

(d)(4) Applications for sign permits at for locations which conflict with spacing requirements relating to the location of an expired or canceled sign permit will not be processed until the sign for which the expired or canceled permit was issued is removed, except for unless a sign permit is being canceled as a condition for issuance of a new sign permit.

(i) A permit shall not be issued to an applicant for a location at which unpermitted cutting, removal, or trimming of vegetation has occurred until such time as payment of the administrative penalty and mitigation required by Rule 14-40.030, F.A.C., and Section 479.106(7), F.S., have been accomplished and the applicant has identified two nonconforming signs for surrender in accordance with Section 479.106(5), F.S.

(3)(2) Changeable messages – A permit shall be granted for an automatic changeable facing provided:

(a) The static display time for each message is at least a minimum of six seconds;

(b) The time to completely change from one message to the next is a maximum of two seconds;

(c) The change of message occurs simultaneously for the entire sign face; and

(d) The application meets all other permitting requirements.

(e) All signs with changeable messages Any such sign shall contain a default design that will ensure no flashing, intermittent message, or any other apparent movement is displayed should hold the face of the sign in one position if a malfunction occurs.

(4)(3) Changes to Roadway Designations.

(a) A notwithstanding any other provisions of this rule chapter, an outdoor advertising sign existing at a location which was previously not previously subject to the permitting requirements of this rule chapter, but has subsequently which become subject to the requirements of this chapter due to changes in the jurisdictional designation of highways, shall be granted a state permit in accordance with the process outlined below:

1.(a) The Department shall conduct an inventory of outdoor advertising signs on the highway section subject to jurisdictional change and, within 60 calendar days of the effective date of the proposed change, advise all affected sign owners and local governments that the change is being considered, the regulatory effect of the change, and when the change may become effective.

2.(b) Upon approval of the jurisdictional change, the Department will provide a second notice to sign owners and local governments advising that the change in jurisdiction has become effective and that sign owners have 30 calendar days from receipt of the second notice to submit an application for a sign permit.

3.(e) When the Department is unable to provide the advance notice referenced in paragraph (a), above, the Department will advise the affected sign owners that they have 90 calendar days, from receipt of the notice, that the change in jurisdiction has become effective and to submit an application for a sign permit.

4.(d) The Department shall issue an Outdoor Advertising Permit, Form 575-070-30, Rev. 07/01, to the sign owner upon receipt of a complete Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, together with all items required pursuant to by Section 479.07(3)(b), F.S. For existing signs, the written statement required by Section 479.07(3)(b), F.S., shall be any written document from the appropriate local governmental official indicating compliance with local requirements as of the date of the permit application. A previously issued building permit shall be accepted as the statement from an appropriate local governmental official, except in cases where the local government has provided notice to the sign owner that the sign is illegal or has undertaken action to cause the sign to be removed. When a building permit is submitted as the statement of the local government, the applicant shall certify in writing that the local government has not provided notice that the sign is illegal, and that the local government has taken no action to cause the sign to be removed.

(b)(4) When a change in the designation of a highway removes that highway from the Department's regulatory jurisdiction, a notice will be provided to all permittees owners of outdoor advertising permits on the affected roadway informing them their sign is no longer subject to the Department's jurisdiction and their permit will not be renewed is cancelled. The notice will advise permit holders of the Department's intent to revoke the permits, and will include a statement of the recipient's right to appeal the Department's action.

(c)(5) When a controlled road, or any portion of a controlled road, is designated as a scenic highway or scenic byway pursuant to Section 335.093, F.S., new permits will not be issued for outdoor advertising signs visible from the portion of the highway designated as a scenic highway or byway.

(5)(6) Posting of Tags. The permanent metal permit tag issued by the Department must be posted by the permittee at the sign site within 30 calendar days of issuing the sign permit issuance, and must remain in place at all times, whether or not a sign has been erected, or a previously erected sign has been removed. If a permit tag is lost, stolen, or destroyed, the permittee must apply to the Department for a replacement tag on Outdoor Advertising Permit Tag Replacement Request, Form 575-070-01, Rev. 06/09 10/06, incorporated herein by reference, and shall include a replacement fee of \$12.00 3.00 per tag. Alternatively, the permittee may provide its own replacement tags pursuant to Section 479.07(5)(b), F.S. provided all of the fabrication specifications listed below are met. Form 575-070-01 may be obtained from the address listed in subsection 14-10.003(2), F.A.C.

(a) 6 inch x 12 inch constructed of durable material and four-hole placement according to State of Florida regular license tag standard:

(b) Coated with 5-year white reflective sheeting:

(c) Embossed black text as follows:

1. The left vertical edge of the tag shall read FLA SIGN PERMIT in 5/8 inch characters:

2. The top horizontal alpha characters shall be embossed toward the FLA text and will be in 2 and 15/16 inch characters:

3. The vertical legend of three numbers located under the alpha characters shall be 2 and 15/16 inch characters.

(d) The letters and numbers of the replacement tag must be identical to the tag being replaced.

(e) When a permittee elects to provide its own tag, the permittee shall notify the Department that they will replace the tag within 30 days of notification that the tag is not properly displayed. The new tag shall be posted at the permitted location within 60 days of the department's notification.

(6)(7) Transfer of Permits. Requests Authorization to transfer a permit pursuant to in accordance with Section 479.07(6), F.S., shall be submitted on an Outdoor Advertising Permit Transfer Request, Form 575-070-25, Rev. 10/06, incorporated herein by reference, to the State Outdoor

Advertising License and Permit Office at the address listed in subsection 14-10.003(2), F.A.C. The request shall be made in accordance with Section 479.07(6), F.S. Form 575-070-25 may be obtained from the address listed in subsection 14-10.003(2), F.A.C.

(a) The recipient of the transferred permit transferee shall certify that written permission from the landowner, or other person in lawful control of the sign site, to maintain the sign on the site pursuant to in accordance with Section 479.07(2), F.S., has been secured.

(b) If the transferee and transferor are on different billing cycles, Transfer requests will not be processed without payment of permit fees in the amount necessary to prevent permit expiration, if the transferee and transferor are on different billing cycles.

(b)(e) If a transfer of permit is made when the permit has been determined to be is in violation of Chapter 479, F.S., or in violation of this rule chapter, or if a revocation proceeding is pending, the permit is subject to conditions existing at the time of transfer. The Department's approval of a permit transfer shall not constitute a waiver of rights on the part of the Department, nor shall a permit transfer in any way prohibit the issuance of notices of violation, or preclude the Department from revoking the transferee's permit pursuant to in accordance with Section 479.08, F.S., or this rule chapter.

(c)(4) If a transfer of sign permit is made during the initial 270 days from the date of permit issuance, the permit transferee receives the sign permit subject to all conditions which were applicable to the original applicant.

(7)(8) Cancellation of Permits. Permit cancellation notification must be submitted to the State Outdoor Advertising License and Permit Office at the address listed in subsection 14-10.003(2), F.A.C., on Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev. 10/06, incorporated herein by reference. All canceled tags must be returned to the Department with the certification, or otherwise be accounted for in writing. Pursuant to Section 479.07(8)(b), F.S., if the sign has not been removed by the former permittee, it shall be removed by the Department and the cost assessed against the former permittee.

(8)(9) Conditional Permit Cancellation. When in instances where an applicant requests cancellation of one permit in order to obtain a new permit, the existing permit shall be canceled simultaneously with the issuance of the new permit. Outdoor Advertising Permit Cancellation Certification, Form 575-070-12, Rev 10/06, incorporated herein by reference, and Application for Outdoor Advertising Permit, Form 575-070-04, Rev. 02/09, shall must be submitted simultaneously to the Department. If a new permit does not meet current permitting requirements and cannot be issued, the existing permit will not be canceled.

(9)(10) Permits Canceled, or Not Renewed, in Error – Petition for Reinstatement. Pursuant to Section 479.07(8)(b), F.S., a petition for reinstatement of permits canceled, or not renewed, in error by the permittee shall be submitted to the State Outdoor Advertising License and Permit Office at the address listed in subsection 14-10.003(2), F.A.C. The petition must be in writing, must list the affected permit(s), and shall must certify that:

- (a) The permit was canceled, or not renewed, in error by the permittee;
- (b) The permit tag for the canceled or expired permit was returned to the Department or otherwise accounted for;
- (c) The sign has not been disassembled; and
- (d) The local government has not declared the sign illegal or taken any other action to have it removed.

If the Reinstatement Petition is denied by the Department, a new permit may be issued for a sign only if the sign meets all current permitting requirements. The reinstatement fee is \$200.00 for a sign facing of 200 square feet or less, and \$300.00 for a sign facing greater than 200 square feet.

~~(11) Pursuant to the criteria set forth in Section 479.105(1)(e), F.S., the Department may issue a permit for an unpermitted sign, which has been structurally unchanged and continuously maintained for a period of seven or more years.~~

(10)(12) Reestablishment. Where the expansion or relocation of a transportation facility causes a sign to be located in the right of way, or within fifteen feet of the right of way, and the permittee permit holder desires to reestablish relocate the sign at to a conforming location perpendicular to the roadway from the site of the existing sign, the Department shall allow the reestablishment relocation of the permitted sign in conformance with the following:

(a) The permittee permit holder must submit a completed application for the reestablished relocate sign site pursuant to in accordance with Section 479.07(3), F.S.

(b) The reestablished sign site shall meet must determine that the relocated sign site is in conformance with all current requirements for permitting.

(11) Relocation. Where a Department project causes a nonconforming sign to be located in the right of way, the Department shall allow the relocation of the sign provided all the requirements of Sections 479.15(3), (4), (5), (6), F.S., are met. The relocated sign must be of the same materials, size and configuration as the original.

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 215.34, 334.044(28), 339.05, 479.01(14), 479.02, 479.04, 479.07, 479.106(5), 479.24 FS. History—Formerly part of Rule 14-10.04, Permits; 14-15.05, Right of Way Bureau Operating Procedures, New 3-28-76, Amended 4-21-77, 12-10-77, 6-26-78, 12-31-78, 1-1-86, Formerly 14-10.04, Amended 7-7-92, 6-28-98, 8-10-99, 8-19-01, 1-25-04, 3-15-05, 12-31-06, 4-2-09.

14-10.0041 Annual Renewal Billing – Licenses and Permits.

(1) All licenses and sign permits expire annually and shall be renewed pursuant to in accordance with Section 479.07(8), F.S. Florida Statutes.

(2) Annual renewal of a license shall must include the annual license fee, and the fees for all sign permits being renewed by the that licensee. Acceptance by the Department of renewal fees for a sign permit against which a violation notice has been issued, or which may be issued, shall not constitute waiver by the Department of any right to pursue remedies for the violation.

(a) Any of the following shall result in the return of submitted fees to the applicant, and shall constitute nonpayment:

1. Payment of renewal fees for any amount less than the amount shown as due on the Department's billing statement (or its adjusted billing statement prepared in response to a timely notice from the permittee of corrections, additions, or deletions). When an overpayment of renewal fees is submitted, the Department shall accept the fees due amount as shown on the billing statement (or the adjusted billing statement), and provide for the issuance of a refund to the payor in the amount of the overpayment. Acceptance of payment in an amount greater than the amount due shall not constitute acceptance of renewal fees for sign permits which have been declared invalid.

2. Failure to return or provide an accounting for the nonrenewed sign permit tags on the Cancellation Certification.

3. Failure to submit affidavits and transfer fees for any sign permits being transferred.

(b) Payment for sign permits being transferred at the time of permit renewal shall be submitted with the sign permit renewal payment, but must be in a separate payment instrument.

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 479.02, 479.07 FS. History—New 6-28-98, Amended 8-19-01.

14-10.0042 Denial or Revocation of Licenses or Permits.

(1) If the Department intends to deny an application for a license or sign permit, deny reinstatement of a sign permit cancelled or not renewed in error, or intends to revoke a license or sign permit, the Department shall provide, by certified mail, return receipt requested, or by personal delivery with receipt, notice of the facts which warrant the such action. The written notice shall contain:

(a) The particular facts or bases for the Department's action;

(b) The statute or rule relied upon;

(c) A statement that the applicant, licensee, or permittee has the right to an administrative hearing pursuant to Section 120.57, F.S. Florida Statutes.

(d) A statement that the Department's action shall become conclusive and the final agency action and that the sign permit or license shall will be denied or revoked if no request for a hearing is filed within 30 calendar days of receipt of the notice of the Department's intended action.

(2) If a licensee fails to renew its license, or its license is revoked, any sign permits owned by the licensee shall become subject to revocation, pursuant to Section 479.08, FS Florida Statutes.

**(3) Requests for Administrative Hearings.**

~~(a) All requests for administrative hearings shall be made in writing and shall be filed with the Clerk of Agency Proceedings, Florida Department of Transportation, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458. Requests for hearing filed in response to notices issued pursuant to Sections 479.08 479.07(8)(a), 479.105(1), or 479.107(1), Florida Statutes, must be filed within 30 calendar days of receipt of the notice of the Department's action. Any request for hearing filed in response to a notice issued pursuant to Sections 479.07(8)(a), 479.105(1), or 479.107(1), F.S., must be filed within 30 calendar days of the date of the notice of the Department's action. A request for hearing is filed when it is received by the Clerk of Agency Proceedings. A request for hearing is not timely filed unless it is received by the Clerk of Agency Proceedings within the specified time.~~

~~(b) A request for hearing shall conform to the requirements of Rule 28-106.201 or 28-106.301, F.A.C. If the sign owner, applicant, licensee, or permittee fails to file a timely request for a hearing, the Department's action shall become conclusive and final agency action.~~

Rulemaking Specific Authority 334.044(2), 479.02, F.S. Law Implemented 120.60, 479.05, 479.08 F.S. History-New 6-28-98, Amended \_\_\_\_\_.

**14-10.006 Additional Permitting Criteria.**

Each application for a ~~an outdoor advertising~~ sign permit shall meet the requirements of Sections 479.07(9) and 479.11, F.S. In addition, ~~each~~ an application must comply with the requirements of the agreement between the State of Florida state and the United States Department of Transportation pursuant to referenced in Section 479.02(1), F.S., which have not been duplicated in Sections 479.07(9) and 479.11, F.S., or superseded by stricter provisions in those statutes. The requirements are:

**(1) Size.**

(a) The area of a sign facing shall be measured by the smallest square, rectangle, triangle, circle, or combination thereof, which will encompass the entire sign facing including all embellishments.

(b) The maximum allowable height of for a sign facing is 30 feet.

(c) The maximum allowable length of a sign facing is 60 feet.

(d) The maximum area size limitations shall apply to each sign facing.

(e) Embellishments shall may not extend more than five feet beyond the permanent sign face, and are included in any measurement of the height, width, or area of the sign facing.

(f) Signs containing both on-premise and off-premise advertising shall may not exceed 950 square feet, including all sign faces.

(2) Number of Sign Faces. There shall be no more than two faces showing at one time for to each sign facing showing at one time.

(3) Location. Signs shall may not be located in such a manner as to obscure or otherwise physically interfere with the effectiveness of an official traffic sign, signal, or device.

(4) Spacing. The minimum required distance between the location for which a permit is sought and the nearest permitted sign shall be measured along the edge of pavement of the main-traveled way from the location marked by the applicant in accordance with Rule 14-10.004, F.A.C., to the location of the permitted sign. In the case of a permitted sign that has not been constructed, the milepost location reflected on the application shall be used as the location of the permitted sign. Measurement along the edge of pavement shall be based on the point perpendicular to a tangent to the edge of the main-traveled way nearest the location of the sign.

(a) For V-type, or back-to-back signs, to be counted as one sign for spacing purposes, the sign facings on such signs shall must be connected by the same sign structure or cross-bracing, or the sign structures shall not be must be located more than 15 feet apart, their nearest point.

(b) Official signs, signs exempt under Section 479.16, F.S., and structures that are not permitted signs shall not be considered for purposes of determining compliance with spacing requirements.

(c) When an intersection is encountered in determining measurements for spacing compliance, the width of such intersection is included in the measured distance. This distance is measured in a direct line from the points of intersection of the edges of the main-traveled ways.

(d) No sign permit shall be issued for a sign located on any portion of the interstate highway system, which is outside the boundaries of an incorporated municipality, and which is within 500 feet of an interchange, intersection at grade, or rest area. The 500 feet shall be measured along the interstate in the direction leading away from the interchange, intersection at grade, or rest area, from the beginning at the pavement of payment widening of at the exit from the main-traveled way, or the end of pavement widening of at the entrance to the main-traveled way on an interstate highway. For the purposes of this subsection, all portions of the entrance and exit ramps ramp shall be considered part of an interchange.

(e) When a sign or a proposed sign is, or would be located within the controlled area and visible from any portion of the main-traveled way of more than one highway subject to the jurisdiction of the Department, pursuant to Section 479.07(1), F.S., the sign shall must meet the permitting requirements of, and be permitted to, the roadway with the stricter controls both highways. If the sign is visible to more than one roadway with the same level of control, the location must meet the permitting requirements of each roadway.

(5) Sign Structure Height. The height of a sign structure shall be measured from a point on the sign structure which is at the same elevation as the crown of the main-traveled way to the top of the highest sign face, excluding embellishments.

(6) Lighting. Signs may be illuminated except those which contain, include, or are illuminated in any way by any flashing, intermittent, or moving light. Flashing, intermittent, or moving light or lights embodied in a sign may be used to provide public service information. Further, No sign shall be so illuminated so that it interferes with the effectiveness of, or obscures, an official traffic sign, device, or signal.

(7) For purposes of compliance with Section 479.11(4), F.S., the 100 feet shall be measured from the property line. When, except in cases where a school or church is the applicant for a permit, or has given written permission for the placement of a sign. In such cases the 100 foot required distance shall be measured from the outer edges of the primary building, or primary building complex when the individual units of the complex are connected by covered walkways.

(8) For applications to be considered under the pilot program defined in Section 479.07(9)(c), F.S., the applicant must submit the following information in addition to the requirements of above Rule 14-10.004, F.A.C.:

(a) A copy of the local government adopted policy, ordinance, or other official document authorizing the placement of a new outdoor advertising sign on an interstate highway, in exchange for the removal of an existing sign from areas specifically designated by the local government; and

(b) A copy of the agreement between the local government and the affected sign owner allowing such removal and replacement.

(9)(8) Copies of the agreement between the State of Florida state and the United States Department of Transportation, referenced in Section 479.02(1), F.S., may be obtained from the address listed in subsection 14-10.003(2), F.A.C.

Rulemaking Specific Authority 334.044(2), 479.02(7) FS. Law Implemented 339.05, 479.02, 479.07(9), 479.08, 479.11 FS. History—New 3-28-77, Amended 12-10-77, 1-1-86. Formerly 14-10.06, Amended 12-26-95, 6-28-98, 8-19-01, 12-31-06.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John L. Garner, Director, Office of Right of Way

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Stephanie C. Kopelousos, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2010  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 25, 2010

## BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

## STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-7.010	Pooled Investment Accounts
19-7.011	Rate of Return Calculation
19-7.012	Pool Participation
19-7.013	Reporting Procedures
19-7.015	Allocation of Earnings
19-7.016	Close of Business
19-7.017	Pooled Investment Account Reserve Fund

PURPOSE AND EFFECT: To amend the rate of return calculation rule to reflect that the calculation will be in accordance with the yield methodology of SEC Rule 2a-7 for money market funds; to amend the reporting procedures rule to eliminate investment service charges; to amend the allocation of earnings rule to allow the closing of an account if the balance is less than \$1,000; to amend the close of business rule to indicate 1:00 p.m. EST as the close of business; to delete Rules 19-7.012 and 19-7.017, F.A.C.; to update references.

SUMMARY: Revised Local Government Surplus Trust Funds account procedures; revised rate of return calculation; updated references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that these rules will not have an impact on small business. A SERC has been prepared in an abundance of caution.

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

RULEMAKING AUTHORITY: 218.405, 218.412 FS.

LAW IMPLEMENTED: 218.405, 218.409, 215.515 FS.

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

DATE AND TIME: Monday, July 12, 2010, 9:00 a.m. – 11:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tina Joanos, Agency Clerk, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308; (850)413-1197; [tina.janoos@sbafl.com](mailto:tina.janoos@sbafl.com). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Ruth A. Smith, Assistant General Counsel, Office of the General Counsel, State Board of Administration, 1801 Hermitage Blvd., Tallahassee, FL 32308; (850)413-1182; ruth.smith@sbafla.com

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 19-7.010 Pooled Investment Accounts.

Rules 19-7.001 19-7.010 through 19-7.016, F.A.C., are developed for the Local Government Surplus Funds Trust Fund Pooled Investment Account pursuant to Section 218.409, Florida Statutes.

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented Ch. 218, Part IV FS. History—New 8-24-82, Formerly 19-7.10, Amended 3-26-02, .

### 19-7.011 Rate of Return Calculation.

The Rate of Return for the Local Government Surplus Funds Trust Fund shall be calculated in accordance with the yield methodology set forth by the Securities and Exchange Commission (SEC) Rule 2a-7 (17 CFR §270.2a-7) under the Investment Company Act of 1940 for money market funds. Rule 2a-7 can be obtained by accessing the SEC website at sec.gov and clicking on the Laws & Regulations section. For the purposes of comparing the yield of the Local Government Surplus Funds Trust Fund to that of a performance benchmark for participant reporting, a net-of-fees methodology will be utilized for all reporting periods for both the Local Government Surplus Funds Trust Fund and the performance benchmark.

The Rate of Return Calculation for the Pooled Investment Account shall be as follows:

### (1) Daily Rate of Return:

<b>DRR</b>	=	$DAE \times 360 / IB$
<b>DRR</b>	=	Daily Rate of Return
		(stated as a decimal fraction)
<b>DAE</b>	=	Daily Accrued Earnings
<b>IB</b>	=	Investment Balance at Cost (End of Day)

## (2) Moving 30 Day Average Rate of Return:

**MRR** = MAE x (360/30) AIB  
**MRR** = Monthly Average Rate of Return (stated as a decimal fraction)  
**MAE** = 30 Previous Day's Cumulative DAE  
**AIB** = Average Daily Investment Balance at Cost of the 30 previous days

### ~~(3) Definitions:~~

(a) Daily Accrued Earnings:

1. Accrued coupon income;
2. Accretion/Amortization on securities; and
3. Realized gains/losses on security sales.

All computations for the components of Daily Accrued Earnings are in conformance with the "Standard Securities Calculation Methods" published by the Securities Industry Association.

(b) Investment Balance at Cost (end of day) is the total of all investments held in inventory for the Pooled Investment Account totaled on a cost basis.

(e) Average Daily Investments Balance at Cost is the average of the daily investment balance at cost for each day of the time period cited.

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 218.409(4) FS. History—New 8-24-82, Formerly 19-7-11. Amended 4-8-92, 3-26-02.

### 19-7.012 Pool Participation.

All units of Local Government that qualify to be participants in the Local Government Surplus Funds Trust Fund after January 1, 1982, will normally have surplus funds deposited into the Pooled Investment Account. During the pendency of a major market disruption which causes a suspension of trading or liquidity is impaired, the Executive Director shall limit contributions to the fund or withdrawals from the fund to ensure that the Board can invest the monies entrusted to it exercising its fiduciary responsibility as trustee. Funds designated by a unit of Local Government for the purpose of investment management by a private investment asset manager shall not be deposited into the Pooled Investment Account nor into any separate account established within the Local Government Surplus Funds Trust Fund.

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 218.407(2), 218.409(1), (3) FS. History—New 8-24-82, Formerly 19-7.12, Amended 12-20-87, 2-16-92, 3-26-02, Repealed \_\_\_\_\_.

### 19-7.013 Reporting Procedures.

The State Board of Administration shall generate for forward to each Pool participant a monthly statement containing each account's activity including deposits, withdrawals, balances, and earnings and investment services charges. If no errors are

reported to the Board within 14 days, the statement will be considered correct. ~~A semi annual portfolio activity statement will be forwarded to each participant.~~

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 218.409(6) FS. History-New 8-24-82, Formerly 19-7.13, Amended 12-18-88, 11-7-99, 3-26-02.

#### 19-7.015 Allocation of Earnings.

The Local Government Surplus Funds Trust Fund System is used to keep current account balance information for individual accounts participating in the ~~Pooled Investment Account~~ and to apportion the pooled investment earnings back to each account. At the end of each month, pool month-to-date accrued earnings minus accrued expenses are apportioned to the participants directly proportionate to the respective net amounts deposited in the Fund and the length of time such amounts remain therein. The resulting proportionate amount is credited to each account at that time. ~~An investment service charge is then deducted from the account. If the investment service charge is less than one dollar, a minimum charge of one dollar or the account ending balance, whichever is less, will be deducted as satisfaction of the investment service charge for that month. If the end of the month account balance falls below \$1,000.00 is less than \$1.00, the State Board of Administration may choose to close the account may be closed upon satisfaction of the investment service charge and return the residual balance to the participant.~~

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 215.515, 218.409(4)-(5) FS. History-New 8-24-82, Formerly 19-7.15, Amended 6-26-95, 3-26-02.

#### 19-7.016 Close of Business.

Any requests for funds to be returned or notification of funds to be wired for investment after 1:00 p.m. EST 11:00 a.m. may be included in the following day's business. In the event that the Board is informed by 1:00 p.m. EST 11:00 a.m. of a deposit for investment that day, and the funds are not transmitted to the Board's bank account by the close of business that day, which results in a shortfall, a fee shall be charged to the participant for each day until the shortfall is corrected. The fee will be based on the current overdraft fee charged by the bank on the amount of the shortfall.

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 215.515 218.409(2) FS. History-New 8-24-82, Formerly 19-7.16, Amended 6-26-95, 3-26-02.

#### 19-7.017 Pooled Investment Account Reserve Fund.

~~A Pooled Investment Account Reserve Fund shall be established in order to protect the Pooled Investment Account in accordance with Section 218.409(3), F.S. The funds required to establish said Reserve Fund shall be deducted from "pooled investment earnings" as the term is used in Rule 19-7.015, F.A.C. If the size of the Reserve Fund is reduced, then the excess moneys in the Reserve Fund shall be distributed in~~

~~accordance with the formula set forth in Rule 19-7.015, F.A.C., at the end of the month during which the Reserve Fund was reduced.~~

Rulemaking Specific Authority 218.405, 218.412 FS. Law Implemented 218.409(3) FS. History-New 8-17-92, Amended 3-26-02, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michael McCauley

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Trustees of the SBA

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

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

#### STATE BOARD OF ADMINISTRATION

RULE NOS.:	RULE TITLES:
19-8.010	Reimbursement Contract
19-8.012	Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund due to Limited Exposure
19-8.013	Revenue Bonds Issued Pursuant to Section 215.555(6), F.S.
19-8.029	Insurer Reporting Requirements
19-8.030	Insurer Responsibilities

PURPOSE AND EFFECT: The State Board of Administration, Florida Hurricane Catastrophe Fund, seeks to amend the rules listed above to implement Section 215.555, Florida Statutes, including the changes made to the law during the 2010 legislative session.

SUMMARY: The rules and certain incorporated forms are being amended to reflect legislative changes to the governing act made during the 2010 legislative session, including a change in the Reimbursement Contract year date.

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

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

RULEMAKING AUTHORITY: 215.555(3) FS.

LAW IMPLEMENTED: 215.555(2), (3), (4), (5), (6), (7), (10), (16), (17) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tracy Allen, Senior FHCF Attorney, State Board of Administration, P. O. Box 13300, Tallahassee, Florida 32317-3300; telephone (850)413-1341; email tracy.allen@sbafla.com

THE FULL TEXT OF THE PROPOSED RULES IS:

19-8.010 Reimbursement Contract.

(1) through (15) No change.

(16) The reimbursement contract for the 2010-2011 contract year, including all Addenda, required by Section 215.555(4), F.S., which is called Form FHCF-2010K-“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #( ) and The State Board of Administration of the State of Florida (“SBA”) which administers the Florida Hurricane Catastrophe Fund (“FHCF”), rev. 05/10, as amended, is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2010 through May 31, 2011 December 31, 2010.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 11-13-05, 5-10-06, 9-5-06, 5-8-07, 8-13-07, 6-8-08, 9-2-08, 3-30-09, 8-23-09, 3-30-10.

19-8.012 Procedures to Determine Ineligibility for Participation in the Florida Hurricane Catastrophe Fund and to Determine Exemption from Participation in the Florida Hurricane Catastrophe Fund due to Limited Exposure.

(1) through (3)(d)1. No change.

2. If the Board determines that the insurer has an aggregate exposure of less than \$10 million for covered policies, as defined in Section 215.555(2)(c), F.S., and in Article V of the reimbursement contract, as adopted and incorporated by reference in Rule 19-8.010, F.A.C., and that granting the exemption will not adversely affect the actuarial soundness of the Fund, the Board will notify the insurer that its request has been approved and note that the insurer must immediately notify the Board if its exposure becomes \$10 million or more in the aggregate. If this occurs, the insurer will be treated as a “new participant” and will be subject to the provisions of subparagraph 19-8.028(4)(c)3., F.A.C., if its exposure becomes \$10 million or more during the period from June 1 through November 30 or will be subject to the provisions of subparagraph 19-8.028(4)(c)4., F.A.C., if its exposure becomes \$10 million or more during the period from December 1 through May 31 for the contract year for contract years prior to the 2010 contract year, or if its exposure becomes \$10 million or more during the period from December 1 through December 31 beginning with the 2010 contract year.

(e) through (g) No change.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2)(c), (3), (4), (5) FS. History—New 2-17-97, Amended 6-2-02, 5-13-03, 5-19-04, 5-29-05, 5-10-06, 6-8-08, 3-30-09, 3-30-10.

19-8.013 Revenue Bonds Issued Pursuant to Section 215.555(6), F.S.

(1) through (2)(f) No change.

(g) Contract Year, prior to June 1, 2010, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. The period of time which begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 Eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year.

(h) through (5)(a) No change.

(b) Pursuant to the Order issued by the Office of Insurance Regulation levying the Emergency Assessment, each Assessable Insurer shall remit to the entity identified in the Order, an amount equal to the required percentage of its direct written premium for the preceding calendar quarter from all Assessable Lines, except those lines specifically exempted in Section 215.555, F.S. Medical malpractice is an Assessable Line of business but only as to covered events occurring on or after June 1, 2010. In addition, policies issued as part of the National Flood Insurance Program are not subject to the Emergency Assessment. The required percentage will be determined in accordance with Section 215.555(6)(b), F.S., and the procedures set out in subsection (4) of this rule.

(c) through (d)1. No change.

(d)2. Assessable Lines. Note that the numbers below preceding the names of the lines of business do not correspond to the line numbers of the property and casualty annual statement referenced in subparagraph 1., immediately above.

- a. Fire.
- b. Allied Lines.
- c. Multiple Peril Crop.
- d. Farmowners Multiple Peril.
- e. Homeowners Multiple Peril.
- f. Commercial Multiple Peril (non-liability).
- g. Commercial Multiple Peril (liability).
- h. Mortgage Guaranty.
- i. Ocean Marine.
- j. Inland Marine.
- k. Financial Guaranty.

1. Medical Malpractice (Medical Malpractice insurance premiums are subject to certain time limited exemptions, refer to Section 215.555, F.S., for those limitations) are not subject

~~to Emergency Assessments attributable to covered events occurring prior to the Contract Year that begins on June 1, 2010.~~

- m. Earthquake.
- n. Other Liability.
- o. Products Liability.
- p. Private Passenger Auto No-Fault.
- q. Other Private Passenger Auto Liability.
- r. Commercial Auto No-Fault.
- s. Other Commercial Auto Liability.
- t. Private Passenger Auto Physical Damage.
- u. Commercial Auto Physical Damage.
- v. Aircraft (all perils).
- w. Fidelity.
- x. Surety.
- y. Burglary and Theft.
- z. Boiler and Machinery.
- aa. Credit.
- bb. Warranty.
- cc. Aggregate Write Ins for Other Lines of Business.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7) FS. History—New 9-18-97, Amended 12-3-98, 9-12-00, 6-1-03, 5-19-04, 5-29-05, 5-10-06, 9-5-06, 6-8-08, 3-30-09, 3-30-10, \_\_\_\_\_.

#### 19-8.029 Insurer Reporting Requirements.

(1) through (2)(b) No change.

(c) Contract Year, ~~prior to June 1, 2010~~, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. ~~The period of time which begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 Eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year.~~

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

(l) For the 2010/2011 Contract Year, the reporting shall be in accordance with Form FHCF-D1A, “Florida Hurricane Catastrophe Fund 2010 Data Call,” rev. 05/10, hereby adopted and incorporated by reference into this rule. The form may be obtained from the Fund’s Administrator at the address stated in subsection (6) below. A new participant writing covered policies on or after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the ~~Contract Year following calendar year~~, to the Administrator.

(5) through (7)(e) No change.

(f) For the 2010/2011 Contract Year, the applicable Interim Loss Report is the “Contract Year 2010 Interim Loss Report, Florida Hurricane Catastrophe Fund (FHCF),”

FHCF-L1A, rev. 05/10, which is hereby adopted and incorporated by reference into this rule. The applicable Proof of Loss Report is the “Contract Year 2010 Proof of Loss Report, Florida Hurricane Catastrophe Fund (FHCF),” FHCF-L1B, rev. 05/10, which is hereby adopted and incorporated by reference into this rule. The forms may be obtained from the Fund’s Administrator at the address stated in subsection (6) above.

(8) No change.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7), (15) FS. History—New 5-17-99, Amended 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 5-10-06, 5-8-07, 6-8-08, 3-30-09, 8-2-09, 3-30-10, \_\_\_\_\_.

#### 19-8.030 Insurer Responsibilities.

(1) through (3)(d) No change.

(e) Contract Year, ~~prior to June 1, 2010~~, means the time period which begins at 12:00:01 Eastern Time on June 1 of each calendar year and ends at 12:00 p.m. midnight on May 31 of the following calendar year. ~~The period of time which begins at 12:00:01 Eastern Time on June 1, 2010 and ends at 12:00 p.m. midnight on December 31, 2010 shall be considered the 2010 Contract Year. All Contract Years beginning after December 31, 2010 shall begin at 12:00:01 eastern Time on January 1 of each calendar year and end at 12:00 p.m. midnight on December 31 of that calendar year.~~

(f) through (4)(b) No change.

(c) ~~For Contract Years prior to the 2010 Contract Year, New Participants during the period of December 1 through May 31: Those Insurers that first begin writing Covered Policies from December 1 through May 31 of a Contract Year, along with the Insurers described in paragraph (b) immediately above, are New Participants. However, these Insurers shall not complete and submit the Data Call (Form FHCF-D1A) but shall meet all other requirements for New Participants.~~

~~2. For Contract Years 2010 and later, New Participants during the period of December 1 through December 31: Those Insurers that first begin writing Covered Policies from December 1 through December 31 of a Contract Year, along with the Insurers described in paragraph (b) above, are New Participants. However, these Insurers shall not complete and submit the Data Call (Form FHCF-D1A) but shall meet all other requirements for New Participants.~~

(d) through (5)(a) No change.

(b) Current Participants: Each Insurer, with Covered Policies as of June 1 of a Contract Year must participate in the FHCF and must complete and submit the Data Call. The Data Call is incorporated into Rule 19-8.029, F.A.C., and is due, correctly completed, no later than September 1 ~~of the Contract Year~~.

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

(b) New Participants during the period of June 1 through November 30: Those Insurers that first begin writing Covered Policies from June 1 through November 30 of a Contract Year must submit a payment of \$1,000 on or before the date indicated on the invoice. Once a New Participant's Data Call, which is filed on or before March 1 of the Contract Year, has been reviewed by the Administrator and the company's actual Reimbursement Premium has been determined on its actual exposure, an invoice with the amount due, if any, will be sent to the Company by the Administrator. Payment, if any amounts are shown as due on the invoice, is due within 30 days from the date on the invoice. In no event will the Premium be less than the \$1,000.

~~1. For Contract Years prior to the 2010 Contract Year, the New Participant's Data Call is due on or before March 1 of the Contract Year.~~

~~2. For Contract Years 2010 and later, the New Participant's Data Call is due on or before March 1 of the following calendar year.~~

(c) New Participants during the period of December 1 through May 31:

~~Those 1. For Contract Years prior to the 2010 Contract Year, those Insurers that first begin writing Covered Policies from December 1 through May 31 of a Contract Year shall pay a \$1,000 Premium within 30 days from the date on the invoice sent to the Insurer by the FHCF.~~

~~2. For Contract Years 2010 and later, those Insurers that first begin writing Covered Policies from December 1 through December 31 of a Contract Year shall pay a \$1,000 Premium within 30 days from the date on the invoice sent to the Insurer by the FHCF.~~

(d) through (7)(a)7. No change.

8. For the 2010/2011 Contract Year, the applicable exposure examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Exposure Examination – Contract Year 2010 Advance Preparation Instructions," FHCF-EAP1, rev. 05/10. The applicable loss examination instructions form is the "Florida Hurricane Catastrophe Fund (FHCF) Loss Reimbursement Examination – Contract Year 2010 Advance Preparation Instructions," FHCF-LAP1, rev. 05/10. These forms are hereby adopted and incorporated by reference into this rule. Copies of these forms may be obtained from the FHCF website, [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf) or by contacting the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, Florida 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308.

(b) through (8)(d) No change.

(e) For the Contract Year 2010-2011, the applicable "Florida Hurricane Catastrophe Fund Interim Loss Report," is the FHCF-L1A rev. 05/10 and the applicable "Florida Hurricane Catastrophe Fund Proof of Loss Report," is the FHCF-L1B rev. 05/10. These forms are hereby adopted and incorporated by reference into this rule.

These forms are hereby adopted and incorporated by reference into this rule and may be obtained from the Fund's Administrator, Paragon Strategic Solutions Inc., 8200 Tower, 5600 West 83rd Street, Suite 1100, Minneapolis, Minnesota 55437. Companies must submit a detailed claims listing (in a delimited ASCII format) to support the losses reported in the FHCF-L1B, Proof of Loss Report, at the same time it submits its first Proof of Loss Report for a specific Covered Event that qualifies the company for reimbursement under that Covered Event, and should be prepared to supply a detailed claims listing for any subsequent Proof of Loss Report upon request. Refer to Form FHCF-LAP1 for the required file layout. The Proof of Loss Report and the detailed claims listing are required to be sent to the FHCF Administrator, Paragon Strategic Solutions Inc., at the address listed above. If your company submits its Proof of Loss Reports electronically through the FHCF's Online Claims System at [www.sbafla.com/fhcf](http://www.sbafla.com/fhcf), the detailed claims listing may be attached to the Company's submission.

(9) through (12) No change.

Rulemaking Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-13-03, Amended 5-19-04, 5-29-05, 5-10-06, 5-8-07, 8-13-07, 6-8-08, 3-30-09, 3-30-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jack E. Nicholson, FHCF Chief Operating Officer, State Board of Administration

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 28, 2010

## DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-601.501 Discharge of an Inmate

PURPOSE AND EFFECT: The purpose and effect is to repeal the rule.

SUMMARY: Rule 33-601.501, F.A.C., is being repealed, as the provisions of the rule are obsolete and no longer in accordance with applicable statutory authority.

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

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

RULEMAKING AUTHORITY: 20.315 FS.

LAW IMPLEMENTED: 20.315, 944.293 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

33-601.501 Discharge of an Inmate.

Rulemaking Specific Authority 20.315 FS. Law Implemented 20.315, 944.293 FS. History—New 10-8-76, Formerly 33-7.05, Amended 1-26-86, 11-4-92, 11-16-97, Formerly 33-7.005, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Deputy Secretary of Institutions

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 3, 2010

## COMMISSION ON ETHICS

RULE NO.: 34-7.010      RULE TITLE: List of Forms and Instructions

PURPOSE AND EFFECT: The purpose of the proposed amendment is to transfer the forms used in the Executive Branch Lobbying program to Chapter 34-12, Florida Administrative Code – the substantive rule chapter implementing the Executive Branch Lobbying statute – Section 112.3215, Florida Statutes.

SUMMARY: CE Form 20, (Executive Branch Lobbyist Registration), CE Form 20-R (Executive Branch Lobbyist Renewal), and CE Form 24 (Executive Branch Quarterly Compensation Report) are affected by this rulemaking.

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

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

RULEMAKING AUTHORITY: Art. II, Sec. 8(i), Fla. Const., 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS., Ch. 2009-85, LOF.

LAW IMPLEMENTED: 112.313(9), (12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS., Art. II, Sec. 8(a), (f), (h), Fla. Const., Ch. 2009-85, LOF.

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

DATE AND TIME: July 16, 2010, 9:00 a.m.

PLACE: Senate Office Building, Room 37S, 404 South Monroe Street, Tallahassee, FL

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Julia Cobb Costas, Assistant General Counsel, Florida Commission on Ethics, telephone: (850)488-7864

THE FULL TEXT OF THE PROPOSED RULE IS:

34-7.010 List of Forms and Instructions.

(1) The following forms and instructions are adopted by reference and are used by the Commission in its dealings with the public:

(a) through (h) No change.

(i) ~~Form 20, Executive Branch Lobbyist Registration. To be utilized by lobbyists for compliance with Section 112.3215(3), F.S. Effective 1/2010.~~

(j) ~~Form 20-R, Executive Branch Lobbyist Renewal. To be utilized by lobbyists for compliance with Section 112.3215(3), F.S. Effective 6/2006.~~

(k) ~~Form 24, Executive Branch Quarterly Compensation Report. To be utilized by executive branch lobbying firms for compliance with Section 112.3215(5), F.S. Effective 6/2006.~~

(l) through (r) renumbered (i) through (o) No change.

(2) No change.

Rulemaking Authority Art. II, Sec. 8(i), Fla. Const., 112.3144, 112.3145, 112.3147, 112.3215(14), 112.322(9) FS., Chapter 2009-85, Laws of Florida. Law Implemented Art. II, Sec. 8(a), (f), (h), Fla. Const., 112.313(9), (12), 112.3143, 112.3144, 112.3145, 112.3148, 112.3149, 112.3215 FS., Chapter 2009-85, Laws of Florida. History—New 4-11-76, Formerly 34-7.10 through 7.22, 8.10, Amended 2-23-77, 4-7-77, 5-17-77, 10-20-77, 2-25-79, 1-29-80, 4-29-81, 1-12-82, 3-25-82, 2-21-83, Formerly 34-7.10, Amended 7-10-88, 3-4-91, 10-6-91, 10-29-91, 12-22-91, 7-5-92, 10-15-92, 12-6-92, 11-10-93, 12-27-93, 11-21-94, 2-16-95, 12-26-95, 1-27-97, 1-1-98, 1-1-99, 1-1-00, 1-1-00, 12-4-00, 12-21-00, 10-14-01, 11-22-01, 1-1-02, 1-1-03, 1-1-04, 1-1-05, 1-1-06, 6-15-06, 1-1-07, 1-1-10, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Julia Cobb Costas, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Philip C. Claypool, Executive Director and General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2010

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

## COMMISSION ON ETHICS

RULE NOS.:	RULE TITLES:
34-12.200	Registration Requirements
34-12.330	Annual Renewals
34-12.400	Compensation Reporting Requirements

**PURPOSE AND EFFECT:** The proposed amendments to Chapter 34-12, F.A.C., are intended to adopt the forms used by Executive Branch lobbyists and lobbying firms in Chapter 34-12, F.A.C., rather than in Chapter 34-7, F.A.C., where other Commission forms are listed.

**SUMMARY:** Chapter 34-12, F.A.C., is being amended to adopt by reference the forms used to register as an Executive Branch lobbyist (CE Form 20), to renew the annual registration as an Executive Branch lobbyist (CE Form 20-R), and for lobbying firms to file the quarterly compensation report (CE Form 24). The requirement on the instructions for the CE Form 20 that the original signature of the principal or the principal's representative is required, is being deleted to make registration similar to that of the Legislature's lobbyist registration process. The amendments also update the reference to the *North American Industry Classification System – United States, 2007*, as the appropriate version of the 6-digit NAICS that principals should use to identify and designate their main business, and notes that Section 112.32155, Florida Statutes, requires lobbying firms to create and submit their quarterly compensation reports (CE Form 24) through the Lobbyist Registration Office's Electronic Filing System.

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

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

**RULEMAKING AUTHORITY:** 112.3215, 112.32155, 112.322(9) FS., Section 5, Chapter 2005-359, LOF.

**LAW IMPLEMENTED:** 112.3215, 112.32155 FS., Section 5, Chapter 2005-359, LOF.

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

**DATE AND TIME:** July 16, 2010, 9:00 a.m.

**PLACE:** Senate Office Building, Room 37S, 404 South Monroe Street, Tallahassee, FL

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Julia Cobb Costas, Assistant General Counsel, Florida Commission on Ethics, telephone: (850)488-7864

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

#### 34-12.200 Lobbyist Registration Requirements.

(1) through (2) No change.

(3) The registrant shall include a separate statement signed by the principal or the principal's representative that the registrant is authorized to represent the principal. On this statement, the principal will also identify and designate its main business using the 6-digit NAICS code published in the

*North American Industry Classification System – United States, 2007*, which is hereby incorporated by reference. Classification system information can be obtained by contacting the NAICS Association, 129 Lakeshore Drive, Rockaway, NJ 07866, or by visiting its website: [www.naics.com](http://www.naics.com).

(4) through (6) No change.

**(7) CE Form 20, Executive Branch Lobbyist Registration.** Effective 9/2010. To be utilized by lobbyists to register as an Executive Branch lobbyist. This form and instructions may be obtained without cost from the Lobbyist Registration Office, 111 West Madison Street, Room G-68, Tallahassee, Florida 32399, telephone (850)922-4990, or downloaded at: [www.leg.state.fl.us/Lobbyist](http://www.leg.state.fl.us/Lobbyist).

**Rulemaking Specific Authority** 112.3215, 112.322(9) FS., Section 5, Chapter 2005-359, LOF. **Law Implemented** 112.3215 FS., Section 5, Chapter 2005-359, LOF. **History**—New 10-12-89, Amended 12-6-92, 6-15-06.

#### 34-12.330 Annual Renewals.

(1) Each lobbyist must renew his or her registration to lobby an agency on behalf of a principal on a calendar year basis by filing a CE Form 20-R, Lobbyist Renewal Form and the annual registration fee of \$25.00 for each principal represented. Prior to January 1 of each year, the Commission will mail to each currently registered lobbyist CE Form 20-R, together with a notice which states that the lobbyist must renew his or her registration of those principals the lobbyist continues to represent before agencies of the executive branch by filing the form and paying the annual registration fee.

**(2) CE Form 20-R, Executive Branch Lobbyist Renewal.** Effective 6/2006. To be utilized by lobbyists to renew their annual registration as an Executive Branch lobbyist. The form is generated by the Lobbyist Registration Office and mailed to registered lobbyists prior to January 1 of each year. Examples of the form may be obtained without cost from the Lobbyist Registration Office, 111 West Madison Street, Room G-68, Tallahassee, Florida 32399, Telephone (850)922-4990.

**Rulemaking Specific Authority** 112.3215, 112.322(9) FS., Section 5, Chapter 2005-359, LOF. **Law Implemented** 112.3215 FS., Section 5, Chapter 2005-359, LOF. **History**—New 10-12-89, Amended 10-6-91, 7-5-92, 12-6-92, 1-1-97, 11-24-97, 1-1-02, 6-15-06.

#### 34-12.400 Compensation Reporting Requirements.

(1) Each lobbying firm shall file a CE Form 24, Executive Branch Quarterly Compensation Report, with the Commission on Ethics for each calendar quarter during any portion of which one or more of the firm's lobbyists were registered to represent a principal. **Pursuant to Section 112.32155, Florida Statutes, compensation reports must be filed electronically.** The Quarterly Compensation Report shall include:

(a) Full name, business address, and telephone number of the lobbying firm;

(b) Name of each of the firm's lobbyists; and

(c) Total compensation provided or owed to the lobbying firm from all principals for the reporting period, reported in one of the following categories:

1. - 0 -
2. \$1 to \$49,999
3. \$50,000 to \$99,999
4. \$100,000 to \$249,999
5. \$250,000 to \$499,999
6. \$500,000 to \$999,999
7. \$1 million or more

(2) through (6) No change.

(7) CE Form 24, Executive Branch Quarterly Compensation Report. Effective 6/2006. CE Form 24 must be created and submitted through the Lobbyist Registration Office's Electronic Filing System, not later than 11:59 p.m. Eastern on the date of the filing deadline. Proof of electronic filing will be by electronic receipt indicating the date and time that the report was submitted. The Lobbyist Registration Office's Electronic Filing System may be accessed at <http://olcr.leg.state.fl.us>. Examples of the form may be obtained without cost from the Lobbyist Registration Office, 111 West Madison Street, Room G-68, Tallahassee, Florida 32399, telephone (850)922-4990. A Quarterly Compensation Report must be filed no later than 5:00 p.m. of the report due date. However, any report that is postmarked by the United States Postal Service no later than midnight of the due date shall be deemed to have been filed in a timely manner. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company which bears a date on or before the due date, shall also be proof of mailing in a timely manner.

(8) When it becomes feasible for the Commission, Quarterly Compensation Reports may be filed by electronic means.

Rulemaking Specific Authority 112.3215, 112.32155, 112.322(9) FS., Section 5, Chapter 2005-359, L.O.F. Law Implemented 112.3215, 112.32155 FS., Section 5, Chapter 2005-359, LOF. History—New 10-12-89, Amended 7-5-92, 12-6-92, 1-4-94, 1-1-97, 12-21-00, 6-15-06.

NAME OF PERSON ORIGINATING PROPOSED RULE: Julia Cobb Costas, Assistant General Counsel

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Philip C. Claypool, Executive Director and General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 9, 2010

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

## LAND AND WATER ADJUDICATORY COMMISSION

### Huntington Hammocks Community Development District

RULE NOS.:	RULE TITLES:
42LLL-1.001	Establishment
42LLL-1.002	Boundary
42LLL-1.003	Supervisors

**PURPOSE AND EFFECT:** In 2008, the Florida Land and Water Adjudicatory Commission adopted Rule Chapter 42LLL-1, F.A.C., setting forth the establishment, boundaries, and initial board of supervisors of the Huntington Hammocks Community Development District (District). On February 24, 2010, the District's Board of Supervisors filed a petition requesting the Commission dissolve the District through the repeal of Rule Chapter 42LLL-1, F.A.C. Section 190.046(9), F.S., allows for the dissolution of a community development district which has no outstanding financial obligations and no operating or maintenance responsibilities by the repeal of the rule that established the district. The District has received consent to dissolve from 100% of the landowners within the District; has not issued any bonds, notes or other debt instruments; and has not levied any special assessments against the lands located within the District for the purpose of funding ongoing operating costs or planned community development services.

**SUMMARY:** In 2008, the Florida Land and Water Adjudicatory Commission adopted Rule Chapter 42LLL-1, F.A.C., setting forth the establishment, boundaries, and initial board of supervisors of the Huntington Hammocks Community Development District (District). On February 24, 2010, the District's Board of Supervisors filed a petition requesting the Commission dissolve the District through the repeal of Rule Chapter 42LLL-1, F.A.C. Section 190.046(9), F.S., allows for the dissolution of a community development district which has no outstanding financial obligations and no operating or maintenance responsibilities by the repeal of the rule that established the district. The District has received consent to dissolve from 100% of the landowners within the District; has not issued any bonds, notes or other debt instruments; and has not levied any special assessments against the lands located within the District for the purpose of funding ongoing operating costs or planned community development services.

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

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

**RULEMAKING AUTHORITY:** 190.005 FS.

**LAW IMPLEMENTED:** 190.004, 190.005 FS.

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

DATE AND TIME: Thursday, July 15, 2010, 10:00 a.m. – 12:00 Noon

PLACE: Room 2103, The Capitol, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Senior Policy Analyst, Florida Land and Water Adjudicatory Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

42LLL-1.001 Establishment.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-9-08, Repealed

42LLL-1.002 Boundary.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-9-08, Repealed

42LLL-1.003 Supervisors.

Rulemaking Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New 3-9-08, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Lisa Saliba, Director, Florida Land and Water Adjudicatory Commission

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Florida Land and Water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

## DEPARTMENT OF MANAGEMENT SERVICES

### State Technology Office

RULE NOS.: RULE TITLES:

60DD-2.001 Purpose; Definitions; Policy; Applicability; Agency Security Programs; Roles and Responsibilities; Risk Management

60DD-2.002	Control of Computers and Information Resources
60DD-2.003	Physical Security and Access to Data Processing Facilities
60DD-2.004	Logical and Data Access Controls
60DD-2.005	Data and System Integrity
60DD-2.006	Network Security
60DD-2.007	Backup and Disaster Recovery
60DD-2.008	Personnel Security and Security Awareness
60DD-2.009	Systems Acquisition, Disposal, Auditing, and Reporting
60DD-2.010	Standards Adopted

PURPOSE AND EFFECT: The purpose of the notice is to repeal the rules under Rule Chapter 60DD-2, F.A.C. Rule Chapter 60DD-2, F.A.C., contains the “Florida Information Resource Security Policies and Standards”, which were promulgated by the former State Technology Office of the Department of Management Services. The Office of Information Technology of the Agency for Enterprise Information Technology is proposing new rules under Rule Chapter 71A-1, F.A.C., which are intended to replace the policies and standards set forth in Rule 60DD-2.002, F.A.C. The Notice of Proposed Rulemaking for the proposed rules under Rule Chapter 71A-1, F.A.C., is contained in this edition of the Florida Administrative Weekly and intended to take effect when the rules under Chapter 60DD-2, F.A.C., are repealed.

SUMMARY: Rule Chapter 60DD-2, F.A.C., relating to “Florida Information Resource Security Policies and Standards”, is repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A statement of estimated regulatory cost has not been prepared by the agency. The agency has determined that small businesses will not be impacted by the rule chapter repeal.

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

RULEMAKING AUTHORITY: 282.102(2), (6), (16) FS.

LAW IMPLEMENTED: 120.54(8), 252.365, 282.0041, 282.101, 282.301, 282.318 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Renee Harkins, Project Analyst, Agency for Enterprise Information Technology, 4030 Esplanade Way, Suite 135, Tallahassee, Florida 32399, telephone (850)414-6771

THE FULL TEXT OF THE PROPOSED RULES IS:

60DD-2.001 Purpose; Definitions; Policy; Applicability; Agency Security Programs; Roles and Responsibilities; Risk Management.

**(1) Purpose.**

(a) ~~Rules 60DD 2.001 .010, F.A.C.~~, shall be known as the Florida Information Resource Security Policies and Standards.

(b) ~~The purpose of the Florida Information Resource Security Policies and Standards is to:~~

~~1. Promulgate state policies regarding the security of data and information technology resources. Policies are broad principles underlying the state's information resource security program.~~

~~2. Define minimum security standards for the protection of state information resources. Standards are required administrative procedures or management controls, utilizing current, open, non-proprietary or non-vendor specific technologies.~~

~~(c) Nothing in this rule chapter shall be construed to impair the public's access rights under Chapter 119, F.S., and Article I, Section 24 of the Florida Constitution.~~

~~(d) The policies and standards set forth in this rule chapter shall not affect the supervision, control, management or coordination of information technology and information technology personnel that any cabinet officer listed in s. 4, Art. IV, Florida Constitution, deems necessary for the exercise of his or her statutory or constitutional duties.~~

**(2) Definitions.**

**(a) The following terms are defined:**

1. ~~Access~~ — To approach, view, instruct, communicate with, store data in, retrieve data from, or otherwise make use of computers or information resources.

2. ~~Access Control~~ — The enforcement of specified authorization rules based on positive identification of users and the systems or data they are permitted to access.

3. ~~Access password~~ — A password used to authorize access to data and distributed to all those who are authorized similar access.

4. ~~Access Point~~ — A station that transmits and receives data.

5. ~~Advanced Encryption Standard or "AES"~~ — A Federal Information Processing Standard (FIPS 197) developed by NIST to succeed DES. Intended to specify an unclassified, publicly disclosed, symmetric encryption algorithm, available royalty-free worldwide, to protect electronic data.

6. ~~Agency~~ — Those entities described in Section 216.011(1)(eq), F.S.

7. ~~Asymmetric Encryption~~ — A modern branch of cryptography (sometimes called "public key cryptography") in which the algorithms employ a pair of keys (a public key and a private key) and use a different component of the pair for different steps of the algorithm.

8. ~~Attack~~ — An assault on system security that derives from an intelligent threat, i.e., an intelligent act that is a deliberate attempt (especially in the sense of a method or technique) to violate the security of a system.

9. ~~Audit~~ — See: Security Audit.

10. ~~Authentication~~ — The process that verifies the claimed identity or access eligibility of a station, originator, or individual as established by an identification process.

11. ~~Authorization~~ — A positive determination by the information resource/data owner or delegated custodian that a specific individual may access that information resource, or validation that a positively identified user has the need and the resource/data owner's permission to access the resource.

12. ~~Availability~~ — The security goal that generates the requirement for protection against intentional or accidental attempts to perform unauthorized deletion of data or otherwise causes a denial of service of system resources.

13. ~~Back Door~~ — A hardware or software mechanism that provides access to a system and its resources by other than the usual procedure, was deliberately left in place by the system's designers or maintainers, and usually is not publicly known.

14. ~~Business Continuity Plan~~ — See: Disaster Preparedness Plan.

15. ~~Best Practice~~ — A technique or methodology that, through experience and research, has proven to reliably lead to a desired result. A commitment to using the best practices in any field is a commitment to using all the knowledge and technology at one's disposal to ensure success.

16. ~~Block Cipher~~ — An encryption algorithm that breaks plaintext into fixed-size segments and uses the same key to transform each plaintext segment into a fixed-size segment of cipher text.

17. ~~Central Computer Room~~ — A facility dedicated to housing significant computing resources, such as mainframe computers and libraries; commonly referred to as a data center.

18. ~~Client~~ — A system entity that requests and uses the service provided by another system entity called a "server".

19. ~~Comprehensive Risk Analysis~~ — A process that systematically identifies valuable system resources and threats to those resources, quantifies loss exposures (i.e., loss potential) based on estimated frequencies and costs of occurrence, and recommends how to allocate resources to countermeasures so as to minimize total exposure. The analysis lists risks in order of cost and criticality, thereby determining where countermeasures should be applied first.

20. ~~Computer Security~~ — measures that implement and assure security in a computer system, particularly those that assure access control; usually understood to include functions, features and technical characteristics of computer hardware and software, especially operating systems.

21. Confidential Information — Information that is excepted from disclosure requirements under the provisions of applicable state or federal law, e.g., the Florida Public Records Act.

22. Confidentiality — The state that exists when confidential information is held in confidence and available only to a limited set of authorized individuals pursuant to applicable law. Confidentiality is the security goal that generates the requirement for protection from intentional or accidental attempts to perform unauthorized data reads.

23. Contingency Plan — A plan for emergency response, backup operations, and post disaster recovery in a system as part of a security program to ensure availability of critical system resources and facilitate continuity of operations in a crisis. See: Disaster Preparedness Plan.

24. Continuity of Operations Plan (COOP) — See: Disaster Preparedness Plan.

25. Control — Any action, device, policy, procedure, technique, or other measure that improves security.

26. Critical Information Resource — That resource determined by agency management to be essential to the agency's critical mission and functions, the loss of which would have an unacceptable impact.

27. Current — Most recent; not more than one year old.

28. Custodian of an Information Resource — Guardian or caretaker; the holder of data; the agent charged with the resource owner's requirements for processing, communications, protection controls, access controls, and output distribution for the resource; a person responsible for implementing owner defined controls and access to an information source. The custodian is normally a provider of services.

29. Data — A representation of facts or concepts in an organized manner that may be stored, communicated, interpreted, or processed by people or automated means.

30. "Data Encryption Algorithm" or "DEA" — A symmetric block cipher, defined as part of the United States Government's Data Encryption Standard. DEA uses a 64 bit key, of which 56 bits are independently chosen and 8 are parity bits, and maps a 64 bit block into another 64 bit block.

31. "Data Encryption Standard" or "DES" — A United States Government standard (Federal Information Processing Standard 46-3) that specifies the data encryption algorithm and states policy for using the algorithm to protect data.

32. Data Integrity — The condition existing when the data is unchanged from its source and has not been accidentally or maliciously modified, altered or destroyed.

33. Data Security — The protection of data from disclosure, alteration, destruction, or loss that either is accidental or is intentional but unauthorized.

34. Data Security Administrator — The person charged with monitoring and implementing security controls and procedures for a system. Whereas each agency will have one Information Security Manager, agency management may designate a number of data security administrators.

35. Denial of Service — The prevention of authorized access to a system resource or the delaying of system operations and functions.

36. "Disaster Preparedness Plan" or "Continuity of Operations Plan" — An effort within individual departments and agencies pursuant to Section 252.365, F.S., to ensure the continued performance of minimum essential functions during a wide range of potential emergencies. An operational and tested information technology continuity plan should be in line with the overall agency disaster preparedness plan and its related requirements and take into account such items as criticality classification, alternative procedures, back up and recovery, systematic and regular testing and training, monitoring and escalation processes, internal and external organizational responsibilities, business continuity activation, fallback and resumption plans, risk management activities, assessment of single points of failure, and problem management. Provisions should be documented in the plan and reviewed to establish back up and off site rotation of non-critical application software and job execution language libraries, data files, and systems software to facilitate restoration following recovery of critical applications.

37. Encryption — Cryptographic transformation of data (called "plaintext") into a form (called "cipher text") that conceals the data's original meaning to prevent it from being known or used. If the transformation is reversible, the corresponding reversal process is called "decryption", which is a transformation that restores encrypted data to its original state. Encryption and decryption involve a mathematical algorithm for transforming data. In addition to the data to be transformed, the algorithm has one or more inputs that are control parameters: a key value that varies the transformation and, in some cases, an initialization value that establishes the starting state of the algorithm.

38. End User — A system entity, usually a human individual, that makes use of system resources, primarily for application purposes as opposed to system management purposes. This includes State employees, contractors, vendors, third parties and volunteers in a part time or fulltime capacity.

39. Environment — The aggregate of physical, organizational, and cultural circumstances, objects, or conditions surrounding an information resource.

40. Exposure — Vulnerability to loss resulting from accidental or intentional unauthorized acquisition, use, disclosure, modification, or destruction of information resources.

41. **FIPS PUB (NR.)** Federal Information Processing Standard Publication (Nr.), a federal standard issued by the National Institute of Science and Technology (formerly the National Bureau of Standards).

42. **Information Custodians** Agency employees responsible for assisting Information Owners in classifying data and specifying and implementing the technical mechanisms required to enforce policy to a degree of certainty required, based on a comprehensive risk analysis that considers the probability of compromise and its potential operational impact.

43. **Information Owners or “Owner of an Information Resource”** Agency managers who are responsible for specifying the security properties associated with the information their organization possesses and are responsible for the integrity and accuracy of that information. This includes what categories of users are allowed to read and write various items and what the operational impact of violations of policy would be.

44. **Information Resources** Data, automated applications, and information technology resources as defined in subparagraph 60DD-2.001(2)(a)47., F.A.C. and Sections 282.0041(7) and 282.101, F.S.

45. **Information Security Alert** A notice sent by state agencies pursuant to paragraph 60DD-2.006(6)(b), F.A.C., regarding potential information security abnormalities or threats.

46. **Information Security Manager (ISM)** The person designated to administer the agency’s information resource security program and plans in accordance with Section 282.318(2)(a)1., F.S., and the agency’s internal and external point of contact for all information security matters.

47. **“Information Technology,” “information technology resources” “information resources” or “information technology system”** include any transmission, emission, and reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment owned, leased, or used by all agencies and political subdivisions of state government, and a full service information processing facility offering hardware, software, operations, integration, networking, and consulting services.

48. **Information Technology Security Plan or Information Resource Security Plan** A written plan periodically reviewed that provides an overview of the security requirements of the information systems and describes the controls in place or planned for meeting those requirements. It covers critical data policies, backup, disaster recovery, and user policies. Its purpose is to protect the integrity, availability, and confidentiality of IT resources (i.e., data, information, applications, and systems) and to support the missions of the State of Florida. The Information Technology Security Plan also encompasses policies, procedures and guidelines together

with methodology employed for protection, e.g., firewalls, user authentication, data encryption, key management, digital certificates, intrusion detection systems (IDS), virus detection, and virtual private networks (VPN).

49. **Information Technology Security Program or Information Resource Security Program** A coherent assembly of plans, project activities, and supporting resources contained within an administrative framework, whose purpose is to support the agency’s mission and establish controls to assure adequate security for all information processed, transmitted or stored in agency automated information systems, e.g., Information Technology Security Plans, contingency plans, security awareness and training and systems acquisition, disposal and auditing.

50. **Integrity** The security goal that generates the requirement for protection against either intentional or accidental attempts to violate data integrity (the property that data has when it has not been altered in an unauthorized manner) or system integrity (the quality that a system has when it performs its intended function in an unimpaired manner, free from unauthorized manipulation).

51. **Networks or Networking** Networks provide design, programming, development and operational support for local area networks (“LANs”), wide area networks (“WANs”) and other networks. Networks support client/server applications, telephony support, high-speed or real-time audio and video support and may develop and/or utilize bridges, routers, gateways, and transport media.

52. **NIST** National Institute of Standards and Technology.

53. **Password** A protected word or string of characters which serves as authentication of a person’s identity (“personal password”), or which may be used to grant or deny access to private or shared data (“access password”).

54. **Personal Identifier or User Identification Code** A data item associated with a specific individual, that represents the identity of that individual and may be known by other individuals.

55. **Personal Password** A password that is known by only one person and is used to authenticate that person’s identity.

56. **Platform** The foundation technology of a computer system. The hardware and systems software that together provide support for an application program and the services they support.

57. **Provider** Third party such as contractor, vendor, or private organization providing products, services or support.

58. **Public Records Act** Section 119.01, et seq., F.S.

59. **Remote Access** The ability to connect to a computer from a remote location and exchange information or remotely operate the system.

~~60. Review~~ A formal or official examination of system records and activities that may be a separate agency prerogative or a part of a security audit.

~~62. Risk Analysis~~ See: Comprehensive Risk Analysis.

~~61. Risk~~ The likelihood or probability that a loss of information resources or breach of security will occur.

~~63. Risk Assessment~~ See: Comprehensive Risk Analysis.

~~64. Risk Management~~ Decisions and subsequent actions designed to accept exposure or to reduce vulnerabilities by either mitigating the risks or applying cost effective controls.

~~65. Router Transport Service~~ The State wide multi protocol fully routed data communications service.

~~66. Security Audit~~ An independent formal review and examination of system records and activities to determine the adequacy of system controls, ensure compliance with established security policy and operational procedures, detect breaches in security, and recommend any indicated changes in any of the foregoing.

~~67. SSID~~ A Service Set Identifier A sequence of characters that uniquely names a wireless local area network.

~~68. Security Controls~~ Hardware, software, programs, procedures, policies, and physical safeguards that are put in place to assure the availability, integrity and protection of information and the means of processing it.

~~69. Security incident or breach~~ An event which results in loss, unauthorized disclosure, unauthorized acquisition, unauthorized use, unauthorized modification, or unauthorized destruction of information resources whether accidental or deliberate.

~~70. Security Officer~~ See Data Security Administrator.

~~71. Security Risk Analysis~~ The process of identifying and documenting vulnerabilities and applicable threats to information resources.

~~72. Security Risk Management~~ See Risk Management.

~~73. Security Standard~~ A set of practices and rules that specify or regulate how a system or organization provides security services to protect critical system resources.

~~74. Security Vulnerability Assessment~~ An examination of the ability of a system or application, including current security procedures and controls, to withstand assault. A vulnerability assessment may be used to: identify weaknesses that could be exploited and predict the effectiveness of additional security measures in protecting information resources from attack. Systematic examination of a critical infrastructure, the interconnected systems on which it relies, its information, or product to determine the adequacy of security measures, identify security deficiencies, evaluate security alternatives, and verify the adequacy of such measures after implementation.

~~75. Sensitive Locations~~ Physical locations such as a data center, financial institution, network operations center or any location where critical, confidential or exempt information resources can be accessed, processed, stored, managed or maintained.

~~76. Sensitive Software~~ Software exempt under Section 119.07(3)(o), F.S.; those portions of data processing software, including the specifications and documentation, used to collect, process, store and retrieve information which is exempt from the Public Records Act under Section 119.07, F.S.; collect, process, store and retrieve financial management information of the agency, such as payroll and accounting records; or control and direct access authorizations and security measures for automated systems.

~~77. Server~~ A system entity that provides a service in response to requests from other system entities called "clients".

~~78. Session~~ The time during which two computers maintain a connection and are usually engaged in transferring data or information.

~~79. Site Survey~~ A report on the physical, architectural, geographical and electrical limitations of the site and their effect on a wireless solution.

~~80. Special Trust or Position of Trust~~ A position in which an individual can view or alter confidential information, or is depended upon for continuity of information resource imperative to the operations of the agency and its mission.

~~81. Standard~~ See: Security Standard.

~~82. Storage or Computer Storage~~ The holding of data in an electromagnetic form for access by a computer processor; the process of storing information in computer memory or on a magnetic tape or disk.

~~83. Symmetric Cryptography~~ A branch of cryptography involving algorithms that use the same key for two different steps of the algorithm (such as encryption and decryption, or signature creation and signature verification). Symmetric cryptography is sometimes called "secret key cryptography" (versus public key cryptography) because the entities that share the key, such as the originator and the recipient of the message, need to keep the key secret.

~~84. System Control Data~~ Data files such as programs, password files, security tables, authorization tables, etc., which, if not adequately protected, could permit unauthorized access to information resources.

~~85. Third Party~~ See Provider.

~~86. Triple Data Encryption Standard or "Triple DES" or "3DES"~~ A block cipher, based on DES, that transforms each 64 bit plaintext block by applying a data encryption algorithm three successive times, using either two or three different keys, for an effective key length of 112 or 168 bits.

~~87. Unauthorized disclosure~~ A circumstance or event whereby an entity gains access to data for which the entity is not authorized.

88. Universal Access Service—State sanctioned secure, single point of access to enterprise applications and information.

89. User—See: End User.

90. Virtual Private Network or “VPN”—A restricted use, logical (i.e., artificial or simulated) computer network that is constructed from the system resources of a relatively public, physical (i.e., real) network (such as the Internet), often by using encryption (located at hosts or gateways), and often by tunneling links of the virtual network across the real network.

91. Vulnerability—A flaw or weakness in a system's design, implementation, or operation and management that could be exploited to violate the system's security.

92. Wi-Fi or Wireless Fidelity—The Wi-Fi Alliance certification standard signifying interoperability among 802.11b products.

93. Wireless—Wireless includes any data communication device (e.g., personal computers, cellular phones, PDAs, laptops, etc.) that is connected to any network of the State of Florida. This includes any form of Wireless communications device capable of transmitting packet data.

(b) Other terms shall have their commonly understood meaning.

(3) Policy. Information technology resources residing in the various agencies are strategic and vital assets held in trust and belonging to the people of Florida. It is the policy of the State of Florida that information system security ensure the confidentiality, integrity and availability of information. A loss of confidentiality is the unauthorized disclosure of information. A loss of integrity is the unauthorized modification or destruction of information. A loss of availability is the disruption of access to or use of information or an information system. Each agency shall develop, implement, and maintain an information technology security program to be reviewed by the State Technology Office as set forth in this rule. All documents regarding the development, implementation and maintenance of such programs shall be maintained by the agency's Information Security Manager (ISM). Each agency shall develop, implement, and maintain an information resource security program that produces the following end products:

(a) Documented and distributed security policies that incorporate the following issues:

1. State information resources are valuable assets of the State of Florida and its citizens and must be protected from unauthorized modification, destruction, disclosure, whether accidental or intentional, or use. The acquisition and protection of such assets is a management responsibility.

2. Access requirements for state information resources must be documented and strictly enforced.

3. Responsibilities and roles of Information Security Managers and data security administrators must be clearly defined.

4. Information that, by law, is confidential or exempt must be protected from unauthorized disclosure, replication, use, destruction, acquisition, or modification.

5. Information resources that are essential to critical state functions must be protected from unauthorized disclosure, replication, use, destruction, acquisition, or modification.

6. All information resource custodians, users, providers, and his/her management must be informed of their respective responsibilities for information resource protection and recovery. These responsibilities must be clearly defined and documented.

7. All information resource custodians, users, providers, and his/her management must be informed of the consequences of non-compliance with his/her security responsibilities. These consequences must be clearly stated in writing.

8. Risks to information resources must be managed. The expense of implementing security prevention and recovery measures must be appropriate to the value and criticality of the assets being protected, considering value to both the state and potential intruders. Procedures for recording and responding to security breaches should be developed and disseminated to appropriate information resource custodians, users, providers, and their management, pursuant to each agency's internal security procedures.

9. The integrity of data, its source, its destination, and processes applied to it must be assured. Data must change only in authorized, predictable, auditable, and acceptable ways.

10. Information resource custodians, users, providers and their management must be made aware of their responsibilities in disaster preparedness plans required to continue critical governmental services, to insure that information resources are available.

11. Security needs must be considered and addressed in all phases of development or acquisition of new information processing systems.

12. The Information Resource Security Program or Information Technology Security Program must be responsive and adaptable to changing environments, vulnerabilities and technologies affecting state information resources.

13. The state should support and uphold the legitimate proprietary interests of intellectual property owners in accordance with applicable federal and state law.

14. Providers shall comply with the Florida Information Resource Security Policies and Standards.

(b) Implementation and maintenance of a documented ongoing training program for information resource security awareness. The training program will include initial security awareness training for all new information resource users, custodians, providers, and their management and ongoing reinforcement covering agency security program components and applicable security related job responsibilities. Each individual must be held accountable for his or her actions relating to information resources.

(e) A set of defined roles and responsibilities of Information Security Managers and data security administrators.

(d) Documentation of employees and providers acknowledgment and acceptance of agency's security policies, procedures, and responsibilities. An individual acknowledgment of accountability shall be included in such documentation.

(e) Clearly defined and current security responsibilities for each information resource user, custodian, provider, and his/her management.

(f) Documentation for managing access criteria for information resources.

(g) Current lists of information resource owners approved and maintained by the agency or secretary of the agency.

(h) Current lists of information resource users approved and maintained by the agency or secretary of the agency. Except as permitted under paragraph 60DD 2.004(1)(a), F.A.C., information resource users shall be individually identified.

(i) Current lists of information resource custodians approved and maintained by the agency or secretary of the agency.

(j) Current documented procedures for conducting background checks for positions of special trust and responsibility or positions in sensitive locations approved and maintained by the agency or secretary of the agency.

(k) An ongoing documented program of risk management, including risk analysis for all critical information resources, and periodic comprehensive risk analyses of all information resources. Comprehensive risk analyses shall be conducted after major changes in the software, procedures, environment, organization, or hardware.

(l) Current identification of all agency critical information resources approved and maintained by the agency's Information Security Manager (ISM). Agencies shall categorize all information and information systems in accordance with Federal Information Processing Standard 199, incorporated by reference at subsection 60DD 2.010(6), F.A.C., and Sections 119.07(3)(o) and 282.318, F.S.

(m) For all critical information resources, current documentation for implementing and maintaining auditable disaster preparedness plans including: procedures for cross training of critical or unique skills; responsibilities and procedures for information resource custodians, owners, and users; procedures for maintaining current data on critical information resources (including hardware, software, data, communications, configurations, staff, special forms, and supplies); and interdependences between and among resources (both internal and external).

(n) Current documentation for executing and maintaining test scenarios for disaster preparedness plans.

(4) Applicability.

(a) The information security policies and standards of this rule chapter apply to those entities described in Section 216.011(1)(qq), F.S. They apply to state automated information systems that access, process, or have custody of data. They apply to mainframe, minicomputer, distributed processing, and networking environments of the state. They apply equally to all levels of management and to all supervised personnel.

(b) State information security policies and standards of this rule chapter apply to information resources owned by others, such as political subdivisions of the state or agencies of the federal government, in those cases where the state has a contractual or fiduciary duty to protect the resources while in the custody of the state. In the event of a conflict, the more restrictive security measures apply.

(c) Exceptions:

1. Heads of executive agencies are authorized to exempt from the application of paragraph 60DD 2.004(2)(b), subsection 60DD 2.004(4), paragraph 60DD 2.005(3)(a), 60DD 2.005(3)(b), or 60DD 2.005(4)(b), F.A.C., of this rule, information resources used for classroom or instructional purposes, provided the head of the agency has documented his or her acceptance of the risk of excluding these resources, and further provided that the information resources used for classroom or instructional purposes are not critical.

2. The head of an executive agency is authorized to exempt from the application of paragraph 60DD 2.004(2)(b), subsection 60DD 2.004(4), paragraph 60DD 2.005(3)(a), 60DD 2.005(3)(b), or 60DD 2.005(4)(b), F.A.C., of this rule, stand alone end user workstations, provided these workstations are not used to process, store, or transmit critical information resources.

(5)(a) Agency Security Program. The purpose of agency security program is to ensure that the security of the information resources of the agency is sufficient to reduce the risk of loss, modification or disclosure of those assets to an acceptable level. As identified in the agency's comprehensive risk analysis, the expense of security safeguards must be commensurate with the value of the assets being protected.

(b) Standard. Each agency shall develop an Information Resource Security Program that includes a documented and maintained current internal Information Resource Security Plan(s) approved by the agency Chief Information Office (CIO), and maintained by the agency's Information Security Manager (ISM). The agency security program and plan(s) shall include written internal policies and procedures for the protection of information resources, be an instrument implementing the Florida Information Resource Security Policies and Standards, be applicable to all elements of the agency, and be signed by the agency head.

(6)(a) Responsibility; Security Audits. The State Technology Office, in consultation with each agency head, is responsible for the security of each agency's information resources and for establishing information security

requirements on an agency wide basis. To assist the State Technology Office in carrying out security responsibilities, the duties and functions which management has determined to be appropriate for each agency need to be explicitly assigned. When necessary, based on the outcome of risk analysis, to ensure integrity, confidentiality and availability of state information and resources or to investigate possible security incidents to ensure conformance this rule chapter and Florida law, the State Technology Office shall conduct or contract with a third party to conduct a security audit on any system within the State of Florida networks to determine compliance with the Florida Information Resource Security Policies and Standards. Pursuant to Section 282.318(2)(a)5., F.S., the State Technology Office shall also ensure that each agency conducts periodic internal audits and evaluations of its Information Technology Security Plan.

(b) Standard. Pursuant to Section 282.318(2)(a)1., F.S., the State Technology Office shall, in consultation with each agency head, appoint in writing an Information Security Manager (ISM) to administer the agency information resource security program and shall prescribe the duties and responsibilities of the function for each agency.

(7)(a) Owner, Custodian, and User Responsibilities. The major objective of information resource security is to provide cost effective controls to ensure that information is not subject to unauthorized acquisition, use, modification, disclosure, or destruction. To achieve this objective, procedures that govern access to information resources must be in place. The effectiveness of access rules depends to a large extent on the correct identification of the owners, custodians, and users of information. Owners, custodians, and users of information resources shall be identified, documented, and their responsibilities defined.

(b) Standard. Owner responsibilities. All information resources shall be assigned an owner. In cases where information resources are aggregated for purposes of ownership, the aggregation shall be at a level that assures individual accountability. The owner or his or her designated representative(s) are responsible for and authorized to:

1. Approve, access and formally assign custody of an information resources asset;
2. Determine the asset's value;
3. Specify data control requirements and convey them to users and custodians;
4. Specify appropriate controls, based on risk assessment, to protect the state's information resources from unauthorized modification, deletion, or disclosure. Controls shall extend to information resources outsourced by the agency;
5. Confirm that controls are in place to ensure the accuracy, authenticity, and integrity of data;
6. Ensure compliance with applicable controls;

7. Assign custody of information resource assets and provide appropriate authority to implement security control and procedures; and

8. Review access lists based on documented agency security risk management decisions.

(e) Standard. Custodian responsibilities. Custodians of information resources, including entities providing outsourced information resources services to state agencies or other providers, must:

1. Implement the controls specified by the owner(s);
2. Provide physical and procedural safeguards for the information resources;
3. Assist owners in evaluating the cost effectiveness of controls and monitoring; and
4. Implement the monitoring techniques and procedures for detecting, reporting and investigating incidents.

(d) Standard. User responsibilities. Users of information resources shall comply with established controls.

(8) Risk Management. Risk analysis is a systematic process of evaluating vulnerabilities and threats to information resources. Risk analysis provides the basis for risk management; i.e., assumption of risks and potential losses, or selection of cost effective controls and safeguards to reduce risks to an acceptable level. The goal of risk analysis is to determine the probability of potential risks, in order to integrate financial objectives with security objectives.

(a) Standard. Agencies shall perform or update a comprehensive risk analysis of all critical information processing systems when major changes occur and as specified in subsection 60DD-2.001(3), F.A.C. Comprehensive risk analysis results shall be presented to the State Technology Office and to the owner of the information resource for subsequent risk management.

(b) Standard. Agencies shall implement appropriate security controls determined through comprehensive risk analysis to be cost effective in the reduction or elimination of identified risks to information resources. Any delegation by the agency head of authority for risk management decisions shall be documented.

(c) Standard. The State Technology Office shall evaluate potentially useful risk analysis programs and methodologies. Only those programs and methodologies approved by the State Technology Office shall be accepted as meeting the requirements for comprehensive risk analysis as specified in paragraph 60DD-2.001(8)(a), F.A.C.

(d) Standard. Agencies shall perform a risk analysis consistent with NIST Risk Management Guide for Information Technology Systems, Special Publication 800-30, incorporated by reference at subsection 60DD-2.010(7), F.A.C.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.0041, 282.101, 282.318 FS. History-New 8-10-04, Repealed

60DD-2.002 Control of Computers and Information Resources.

(1)(a) Use of State Information Resources.

(b) Standard. Access to data files and programs shall be limited to those individuals authorized to view, process, or maintain particular systems.

(2) Access to and Handling of Confidential or Exempt Information.

(a) Standard. Confidential or exempt information shall be accessible only to personnel who are authorized by the agency on the basis of the performance of responsibilities or as authorized by law. Data containing any confidential or exempt information shall be readily identifiable.

(b) Standard. An auditable, continuous chain of custody shall record the transfer of confidential or exempt information. When confidential or exempt information from an agency is received by another agency in connection with the transaction of official business, the receiving agency shall maintain the confidentiality of the information in accordance with the applicable law.

(3)(a) Audit Trails.

(b) Standard. Audit trails shall be maintained to provide accountability for all accesses to confidential and exempt information and software, for all modifications to records that control movement of funds or fixed assets, and for all changes to automated security or access.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.318 FS. History—New 8-10-04, Repealed.

60DD-2.003 Physical Security and Access to Data Processing Facilities.

(1)(a) Central Computer Rooms. All state information processing areas must be protected by physical controls appropriate for the size and complexity of the operations and the criticality of the systems operated at those locations.

(b) Standard. Physical access to central information resources facilities shall be managed and documented by the agency head or his or her designated representative. Physical access to central information resources facilities shall be restricted to only authorized personnel. Authorized visitors shall be recorded and supervised.

(c) Standard. Reviews of physical security measures for information resources shall be conducted annually by the agency head or designated representative(s). Written emergency procedures shall be developed, updated, and tested at least annually in accordance with Rule 60DD-2.007, F.A.C.

(2)(a) Outside Central Computer Rooms.

(b) Standard. While handled or processed by terminals, communications switches, and network components outside the central computer room, confidential or exempt information shall receive the level of protection necessary to ensure its integrity and confidentiality. Physical or logical controls, or a mix thereof may achieve the required protection.

(c) Standard: Workstation use. Agencies shall implement policies and procedures that specify the proper functions to be performed, the manner in which those functions are to be performed, and the physical attributes of the surroundings of a specific workstation or class of workstation.

(d) Standard: Workstation security. Agencies shall implement physical safeguards for all workstations that access confidential or exempt information, to restrict access to authorized users.

(3)(a) Environmental Controls. One of the major causes of computer downtime is the failure to maintain proper controls over temperature, humidity, air movement, cleanliness, and power. Information resources shall be protected from environmental hazards. Environmental controls must also provide for safety of personnel.

(b) Standard. Employees and information resources shall be protected from environmental hazards. Designated employees shall be trained to monitor environmental control procedures and equipment and shall be trained in desired response in case of emergencies or equipment problems.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.318 FS. History—New 8-10-04, Repealed.

60DD-2.004 Logical and Data Access Controls.

(1) Personal Identification, Authentication, and Access.

(a) Standard. Except for public web page information resources, each user of a multiple user information resource shall be assigned a unique personal identifier or user identification. User identification shall be authenticated before access is granted.

(b) Standard. When a unique personal identifier or user identification has been assigned, that user's access authorization shall be removed when the user's employment is terminated or the user transfers to a position where access to the information resource is no longer required.

(2)(a) Password Controls. Personal passwords are used to authenticate a user's identity and to establish accountability. Access passwords are used to grant access to data and may be used where individual accountability is not required. Federal Information Processing Standards Publication 112 (FIPS PUB 112) (incorporated by reference at subsection 60DD-2.010(2), F.A.C.) specifies basic security criteria in the use of passwords to authenticate personal identity and data access authorization.

(b) Standard. Systems that use passwords shall conform to the federal standard contained in FIPS PUB 112. A current Password Standard Compliance Document that specifies the criteria to be met for the ten factors contained in the standard shall be maintained for all systems which use passwords.

(c) Standard. Agency Heads and Agency Chief Information Officers shall ensure that all personnel (including providers and end users who utilize State of Florida information technology resources) that have a user account on the State of Florida internal network have read and

acknowledged a written password policy (or other authentication policy, if applicable) by signing through a physical or electronic process a Statement of Understanding. The Statement of Understanding shall indicate that the employee has read the policy and agrees to abide by it as consideration for continued employment with the State of Florida and that violation of password or other authentication policies may result in dismissal. Agency Heads and Chief Information Officers shall also ensure that information technology professionals enforce the parts of the policy within the scope of their capability, and that periodic compliance audits are performed.

(3) Standard. Authentication Controls. All agency authentication controls shall ensure that information is not accessed by unauthorized persons and that information is not altered by unauthorized persons in a way that is not detectable by authorized users.

(4) Standard. Access to Software and Data. Controls shall ensure that users of information resources cannot access stored software or system control data unless they have been authorized to do so.

(5) Encryption.

(a) Standard. Activities storing or transmitting confidential or exempt information shall require encryption processes approved by the State Technology Office if necessary to ensure that the information remains confidential. Individual users must use State Technology Office approved encryption products and processes for sending an encrypted e-mail, encrypting a desktop work file, protecting a personal private key or digital certificate, or encrypting a saved e-mail. Key escrow and Key recovery processes must be in place, and verified prior to encryption of any confidential or exempt agency data. Federal Information Processing Standard (FIPS) Pub 140-2, May 25, 2001 (<http://csrc.nist.gov/encryption/140-2.htm>) incorporated by reference at subsection 60DD-2.010(3), F.A.C.

(b) Standard. Encryption keys should not be stored on the same electronic storage device as the information that has been encrypted using the keys. Access to encryption keys should be restricted to authorized users and authorized processes using an access control mechanism.

(c) Standard. Remote administration of hardware, software, or applications should be performed over an encrypted communications session consistent with the Florida Information Resource Security Policies and Standards.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.318 FS. History-New 8-10-04, Repealed.

60DD-2.005 Data and System Integrity.

No end user of a state information resource, even if authorized, shall be permitted to make modifications to information resources in such a way that state data is lost or corrupted. It is the policy of the State of Florida that electronic data must be

protected in all of its forms, on all media or devices, during all phases of its life cycle, from unauthorized or inappropriate access, use, modification, disclosure, or destruction. This policy applies to all data assets that exist in any State processing environments.

(1)(a) Standard. Controls shall be established to ensure the accuracy and completeness of data.

(2)(a) Separation of Functions. The purpose of separation of functions is to minimize the opportunity for any one person to subvert or damage information resources.

(b) Standard. For tasks that are susceptible to fraudulent or other unauthorized activity, departments shall ensure adequate separation of functions for controlled execution.

(3) Testing Controls and Program Maintenance.

(a) Standard. The test functions shall be kept either physically or logically separate from the production functions.

(b) Standard. After a new system has been placed in operation, all program changes shall be approved before implementation to determine whether they have been authorized, tested, and documented. Change management will be practiced for modifications to existing systems and applications to include the introduction of new systems and applications.

(4)(a) Transaction History. Automated chronological or systematic records of changes to data are important in the reconstruction of previous versions of the data in the event of corruption. Such records, sometimes referred to as journals, are useful in establishing normal activity, in identifying unusual activity, and in the assignment of responsibility for corrupted data.

(b) Standard. A sufficiently complete history of transactions shall be maintained for each session involving access to critical information to permit an audit of the system by tracing the activities of individuals through the system. Individuals accessing critical information will be uniquely identified through appropriate authentication and/or account and password controls.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.318 FS. History-New 8-10-04, Repealed.

60DD-2.006 Network Security.

Networking, including distributed processing, concerns the transfer of information among users, hosts, servers, applications, voice, video and intermediate facilities. During transfer, data is particularly vulnerable to unintended access or alteration.

(1) Network Controls, General.

(a) Standard. Network resources used in the access of confidential or exempt information shall assume the sensitivity level of that information for the duration of the session. Controls shall be implemented commensurate with the highest risk.

(b) Standard. All network components under state control must be identifiable and restricted to their intended use.

(2)(a) Security at Network Entry and Host Entry. State owned or leased network facilities and host systems are state assets. Their use must be restricted to authorized users and purposes. State employees who have not been assigned a user identification code and means of authenticating their identity to the system are not distinguishable from public users and must not be afforded broader access.

(b) Standard. Owners of information resources served by networks shall prescribe sufficient controls to ensure that access to network services and host services and subsystems are restricted to authorized users and uses only. These controls shall selectively limit services based upon:

1. User identification and authentication (e.g., password); or

2. Designation of other users, including the public where authorized, as a class (e.g., public access through dial up or public switched networks), for the duration of a session.

(c) Third Party Connections.

1. Agency third party connection agreements shall determine the responsibilities of the third party, including approval authority levels and all terms and conditions of the agreement.

2. All agency third party network connections must meet the requirements of the Florida Information Resource Security Policies and Standards. Blanket access is prohibited. Service provided over third party network connections is limited to services, devices and equipment needed.

(d) Internet connectivity. Internet connectivity is allowable only if the applicable service agreement permits.

(e) Any external individual or entity needing access to the state's secure network inside state firewalls shall do so through Universal Access Service, Route Transport Service Extranet, Virtual Private Network or Frame Relay Network Extranet.

(f) Audits. Each agency shall audit third party network connections by conducting Security Vulnerability Assessments.

(3)(a) Application level Security.

(b) Standard. Network access to an application containing confidential or exempt data, and data sharing between applications, shall be as authorized by the application owners and shall require authentication.

(4) Data and File Encryption.

(a) Security through encryption depends upon both of the following:

1. Proper use of an approved encryption methodology; and  
2. Only the intended recipients holding the encryption key variable (key) for that data set or transmission.

(b) Standard. While in transit, information which is confidential, exempt or information which in and of itself is sufficient to authorize disbursement of state funds shall be

encrypted if sending stations, receiving stations, terminals, and relay points are not all under positive state control, or if any are operated by or accessible to personnel who have not been authorized access to the information, except under the following conditions:

1. The requirement to transfer such information has been validated and cannot be satisfied with information which has been sanitized; and

2. The agency head, or the designated official if the agency head has delegated authority for risk management decisions, has documented acceptance of the risks of not encrypting the information based on evaluation of the costs of encryption against exposures to all relevant risks.

(c) Standard. For systems employing encryption as required by paragraph 60DD-2.006(4)(b), F.A.C., procedures shall be prescribed for secure handling, distribution, storage, and construction of Data Encryption Standard (DES) key variables used for encryption and decryption. Protection of the key shall be at least as stringent as the protection required for the information encrypted with the key.

(d) Standard. Confidential or exempt data or information shall be encrypted pursuant to the Advanced Encryption Standard or "AES" defined in Federal Information Processing Standard Publication 197, incorporated by reference at subsection 60DD-2.010(5), F.A.C., or the Triple Data Encryption Standard known as "Triple DES" or "3DES". Legacy systems not supporting the "AES" or "3DES" shall not store confidential or exempt data or information, but may use the federal Data Encryption Standard or "DES" defined in Federal Information Processing Standard Publication, (FIPS PUB 46-3), incorporated by reference at subsection 60DD-2.010(1), F.A.C., for other data or information as necessary.

(e) Standard. A minimum requirement for digital signature verification shall be in accordance with the Federal Information Processing Digital Signature Standard, (FIPS PUB 186-2), incorporated by reference at subsection 60DD-2.010(4), F.A.C.

(5)(a) Remote Access.

(b) Standard. For services other than public access, users of state dial up services shall be positively and uniquely identifiable and their identity authenticated (e.g., by password) to the network accessed and to the systems being accessed.

(6)(a) Security Alerts.

(b) Standard. The State Technology Office will maintain the capability to monitor the Internet and appropriate global information security resources for any abnormalities or threats present on the Internet, including the detection of backdoors or hardware or software that is intentionally included or inserted in a system for a harmful purpose. Such abnormalities or threats will then be translated into Information Security Alerts and provided to state agencies. In response to each Information Security Alert, agencies shall log corrective actions and to

implement the recommended remediation actions contained in the Information Security Alerts within the alert's recommended time frame. Agencies shall notify the State Technology Office in writing when remediation is complete. The State Technology Office shall verify that agencies are implementing the requisite Information Security Alert remediation actions.

(e) Standard. The State Technology Office shall keep a log of all Information Security Alerts sent. The log shall contain tracking information on all formats of alerts issued, and the associated actions taken as reported by each agency. The State Technology Office shall report any non-compliance with Information Security Alerts to applicable agency heads.

(7)(a) **Virus Detection and Prevention.**

(b) Standard. All State computers and systems must have anti-virus software that provides protection to computer systems and media from computer virus intrusion, provides detection of computer viruses on an infected computer system or media, and provides for recovery from computer virus infection. Anti-virus software shall be installed and scheduled to run at regular intervals. Real-time scanning shall be enabled. The anti-virus software and the virus pattern files must be kept current. Virus infected computers or systems must be removed from the network until they are verified as virus free. This rule applies to State of Florida computers that are personal computer ("PC") based or utilize PC file directory sharing, including desktop computers, laptop computers, servers (including domain controllers, proxy, ftp, file and print, etc.), and any PC based equipment such as firewalls, intrusion detection systems (IDS), gateways, routers, and wireless devices.

(c) Standard. Each State agency is responsible for creating procedures that ensure anti-virus software is run at regular intervals and that computers and systems are verified as virus free.

(8) **Mobile Device Security.**

(a) Standard. State agencies shall prepare written policies and procedures for mobile device use incorporating core security measures consistent with the Florida Information Resource Security Policies and Standards. Agencies shall, consistent with the capability of the device and its software, utilize a secure operating system offering secure logon, file level security, and data encryption. Agencies shall enable a strong password for mobile device use consistent with paragraphs 60DD 2.004(2)(a)-(e), F.A.C. Agencies mobile devices shall utilize anti-virus software consistent with paragraph 60DD 2.006(7)(b), F.A.C.

(b) Standard. Agencies shall asset tag or engrave laptops, permanently marking (or engraving) the outer case of the laptop with the agency name, address, and phone number or utilizing a metal tamper resistant commercial asset tag.

(c) Standard. Agencies shall register mobile devices with the manufacturer and retain the registration correspondence and any applicable serial numbers in the agency's records.

(9) **Wireless Connectivity.**

(a) Wireless security is essential to:

1. Safeguard security of the State's network systems and data.

2. Prevent interference between different agency implementations and other uses of the Wireless spectrum.

3. Ensure that a baseline level of connection service quality is provided to a diverse user community.

(b) Standard. A site survey shall be conducted prior to wireless implementation that includes identification of security risks and threats.

(c) Standard. If VPN services are used, split tunnel mode shall be disabled when connected to any wireless network.

(d) Standard. Strong mutual user authentication shall be utilized.

(e) Standard. When passing wireless traffic over public networks use of strong encryption or utilization of State of Florida sanctioned VPNs shall be used.

(f) Standard. The SSID name shall be changed from the default and administrative passwords shall be changed every 180 days.

(g) Standard. Security features of the Access Point vendors shall be enabled.

(h) Standard. Access points shall be Wi-Fi compliant pursuant to IEEE Standard 802.11, incorporated by reference at subsection 60DD 2.010(17), F.A.C. Standard 802.11 specifies medium access and physical layer specifications for 1 Mbps and 2 Mbps wireless connectivity between fixed, portable, and moving stations within a local area.

(i) Standard. IP forwarding shall be disabled on all wireless clients.

(j) Standard. Master keys shall be changed annually, and key rotation schemes shall be changed at least once every 15 minutes.

(k) Standard. Theft or loss of a wireless-enabled device shall be reported to the agency Information Security Manager in order to retire the device's credentials.

(l) Standard. Wireless devices shall not be connected simultaneously to another wired or wireless network other than standard utilization of a commercial carrier signal.

(m) Standard. Wireless devices shall be password protected and must automatically time out in 15 minutes or less.

(n) Standard. Wireless devices having the features of personal firewalls and anti-virus capability shall be enabled.

(10) **Web Servers and Network Servers.**

(a) Security of Web Servers providing Public Internet access is essential to address:

1. Proper configuration and operation of the host servers to prevent inadvertent disclosure or alteration of confidential or exempt information.

2. Preventing compromise of the host server.

3. Users unable to access the Web site due to a denial of service.

(b) Standard. Agencies shall secure network and public web servers consistent with the Carnegie Mellon Software Engineering Institute's Security Improvement Module, "Securing Network Servers" incorporated by reference at subsection 60DD-2.010(19), F.A.C., and NIST Guidelines on Securing Public Web Servers, Special Publication 800-44, incorporated by reference at subsection 60DD-2.010(10), F.A.C.

(c) Standard. Network Servers housed in the State Technology Office, Shared Resource Center shall be subject to a Security Vulnerability Assessment prior to connection to the State Technology Internal Network.

(11) Electronic Mail Security. Standard. Agencies shall utilize NIST Guidelines on Electronic Mail Security, Special Publication 800-45, incorporated by reference at subsection 60DD-2.006(11), F.A.C., as a standard for electronic mail security.

(12) Firewalls. Standard. Agencies shall utilize NIST Guidelines on Firewalls and Firewall Policy, Special Publication 800-41, incorporated by reference at subsection 60DD-2.010(9), F.A.C., as a standard for firewalls.

(13) Patching of Network Servers, Workstations and Mobile Devices. Standard. Agencies shall utilize NIST Procedures for Handling Security Patches, Special Publication 800-40, incorporated by reference at subsection 60DD-2.010(8), F.A.C., as a standard for patching of network servers, workstations and mobile devices.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 282.318 FS. History-New 8-10-04, Repealed.

#### 60DD-2.007 Backup and Disaster Recovery.

(1)(a) Backing up of Data. On-site backup is employed to have readily available current data in machine readable form in the production area in the event operating data is lost, damaged, or corrupted, without having to resort to reentry from data sources, i.e., other electronic or hard copy records. Off site backup or storage embodies the same principle but is designed for longer term protection in a more sterile environment, requires less frequent updating, and is provided additional protection against threats potentially damaging to the primary site and data.

(b) Standard. Data and software essential to the continued operation of critical agency functions shall be backed up. The security controls over the backup resources shall be as stringent as the protection required of the primary resources.

(2) Contingency Planning. Disaster Preparedness Plans, as described in subparagraph 60DD-2.001(2)(a)36, F.A.C., specify actions management has approved in advance to achieve each of three objectives. The emergency component assists management in identifying and responding to disasters so as to protect personnel and systems and limit damage. The backup and disaster recovery plan specifies how to accomplish critical portions of the mission in the absence of a critical resource such as a computer. The overall Disaster Preparedness Plan directs recovery of full mission capability.

(a) Standard. All information resource owner, custodian, and user functions identified as critical to the continuity of governmental operations shall have written and cost effective disaster preparedness plans to provide for the prompt and effective continuation of critical state missions in the event of a disaster.

(b) Standard. Disaster preparedness plans as required by paragraph 60DD-2.007(2)(a), F.A.C., shall be tested at least annually.

Rulemaking Specific Authority 282.102(2), (6), (16) FS. Law Implemented 252.365, 282.318 FS. History-New 8-10-04, Repealed.

#### 60DD-2.008 Personnel Security and Security Awareness.

(1)(a) End User Requirements, General.

(b) Standard. Every employee shall be held responsible for information resources security to the degree that his or her job requires the use of information resources.

(2)(a) Positions of Special Trust or Responsibility or in Sensitive Locations. Individual positions must be analyzed to determine the potential vulnerabilities associated with work in those positions. Agencies shall prepare written procedures for personnel in positions of special trust or having access to sensitive locations. Agencies shall utilize ISO/IEC 17799-2000(E), 8.6.3, Information Handling Procedures, incorporated by reference at subsection 60DD-2.010(15), F.A.C., as a guide for development of procedures.

(b) Standard. Agencies shall establish procedures for reviewing data processing positions that are designated as special trust or are in sensitive locations.

(c) Standard. Agencies shall conduct background investigations for personnel in positions of special trust or having access to sensitive locations as set forth in Sections 110.1127 and 435.04, F.S.

(3) Security Awareness and Training. An effective level of awareness and training is essential to a viable information resource security program.

(a) Standard. Agencies shall provide an ongoing awareness and training program in information security and in the protection of state information resources for all personnel whose duties bring them into contact with critical state information resources. Security training sessions for these

personnel shall be ongoing. Agencies shall utilize NIST Building an Information Security Technology Awareness and Training Program, Special Publication 800-50, incorporated by reference at subsection 60DD 2.010(12), F.A.C., as a guide for development of such programs.

(b) Standard. Awareness and training in security shall not be limited to formal training sessions, but shall include ongoing briefings and continual reinforcement of the value of security consciousness in all employees whose duties bring them into contact with critical state information resources.

(c) Standard. Departments shall apply appropriate sanctions against any employee who fails to comply with its security policies and procedures.

Rulemaking Specific Authority 282.102(2), (16) FS. Law Implemented 282.318 FS. History-New 8-10-04, Repealed.

60DD-2.009 Systems Acquisition, Disposal, Auditing, and Reporting.

(1)(a) ~~Systems Acquisition~~. Major system development decisions must be based on consideration of security and audit requirements during each phase of life cycle development.

(b) Standard. Appropriate information security and audit controls shall be incorporated into new systems. Each phase of systems acquisition shall incorporate corresponding development or assurances of security and auditability controls.

(2)(a) ~~Systems Disposal~~. Device and media controls. Agencies shall implement policies and procedures that govern the receipt and removal of hardware and electronic media/devices that contain confidential or exempt information into and out of a facility, and the movement of these items within the facility.

(b) ~~Implementation specifications~~: Agencies shall implement policies and procedures to address the final disposition of confidential or exempt information, and the hardware or electronic media on which it is stored.

(c) ~~Media and Devices re use or disposal~~. Agencies shall implement procedures for removal of confidential or exempt information from electronic media before the media are made available for re-use or disposal in accordance with ISO 17799-2000(E), 7.2.6, Secure disposal or re-use of equipment, and 8.6.2, Disposal of Media, incorporated by reference at subsection 60DD 2.010(15), F.A.C., and NIST Security Considerations in the Information System Development Life Cycle, Special Publication 800-64, incorporated by reference at subsection 60DD 2.010(13), F.A.C.

(3) ~~Audits~~. The establishment and maintenance of a system of internal control is an important management function. Internal audits of information resource management functions, including security of data and information technology resources in accordance with paragraph 60DD 2.001(6)(a), F.A.C., are an integral part of an overall security program. The frequency, scope, and assignment of

internal audits for security of data and information technology resources should be established to ensure that agency management has timely and accurate information concerning functions management is responsible to perform.

(a) Standard. An internal audit of the agency information security function shall be performed annually or when there are major system changes, or as directed by the head of the department.

(b) Standard. Automated systems which process confidential or exempt information must provide the means whereby authorized personnel have the ability to audit and establish individual accountability for any action that can potentially cause access to, generation of, or effect the release of the information.

(4) Incident Reporting.

(a) Continuous analysis of trends and types of security incidents and breaches is important to the integrity of agency and state information resource security programs. Security incident reporting provides a basis for a continuing evaluation of agency and state information security postures. The objective of such analysis is to refine security rules, policies, standards, procedures, guidelines, and training programs to assure their continued effectiveness and applicability.

(b) Standard. Security incidents and breaches shall be promptly investigated and reported to the appropriate authorities.

(c) Standard. The State Technology Office shall provide analysis and centralized reporting of trends and incidents to agencies, and shall initiate appropriate changes to state policies, rules, standards, guidelines, training programs, or statutes.

(d) Standard. Response teams. Each agency shall create an organized team to address cyber alerts and responses. Each team shall include at least one individual with expertise from the agency's legal, human resources, inspector general and information technology areas, as well as the Chief Information Officer and the Information Security Manager of the agency. The team shall report computer security incidents to the State Technology Office's Office of Information Security, convene as required upon notification of a reported computer security incident, respond to activities that may interrupt the information technology services of the area for which the team is responsible during duty and non-duty hours, classify, document and investigate agency security incidents, and maintain an awareness of and implement procedures for effective response to computer security incidents. The team shall provide regular reports to the agency's Chief Information Officer and shall follow the direction of the Chief Information Officer during incident response activities.

Rulemaking Specific Authority 282.102(2), (16) FS. Law Implemented 281.301, 282.318 FS. History-New 8-10-04, Repealed.

60DD-2.010 Standards Adopted.

(1) Federal Information Processing Standard Publication Number 46-3—Data Encryption Standard, October 25, 1999, is hereby incorporated by reference.

(2) Federal Information Processing Standard Publication Number 112—Password Usage, May 30, 1985, is hereby incorporated by reference.

(3) Federal Information Processing Standard Publication Number 140-2, Security Requirements for Cryptographic Modules, is hereby incorporated by reference.

(4) Federal Information Processing Standard Publication Number 186-2, Digital Signature Standard, is hereby incorporated by reference.

(5) Federal Information Processing Standard Publication Number 197, Advanced Encryption Standard, is hereby incorporated by reference.

(6) Federal Information Processing Standard Publication Number 199—Standards for Security Categorization of Federal Information and Information Systems, December 5, 2003, is hereby incorporated by reference.

(7) NIST Risk Management Guide for Information Technology Systems, Special Publication 800-30, is hereby incorporated by reference.

(8) NIST Procedures for Handling Security Patches, Special Publication 800-40, is hereby incorporated by reference.

(9) NIST Guidelines on Firewalls and Firewall Policy, Special Publication 800-41, is hereby incorporated by reference.

(10) NIST Guidelines on Securing Public Web Servers, Special Publication 800-44, is hereby incorporated by reference.

(11) NIST Guidelines on Electronic Mail Security, Special Publication 800-45, is hereby incorporated, is hereby incorporated by reference.

(12) NIST Building an Information Security Technology Awareness and Training Program, Special Publication 800-50, is hereby incorporated by reference.

(13) NIST Security Considerations in Information System Development Life Cycle, Special Publication 800-64, is hereby incorporated by reference.

(14) Copies of these standards are available for downloading from the National Institute of Standards and Technology at [www.nist.gov](http://www.nist.gov) or by writing [orders@nist.gov](mailto:orders@nist.gov) or:

United States Department of Commerce  
National Technical Information Service  
5285 Port Royal Road  
Springfield, Virginia 22161

(15) Section 7.2.6 (“Secure Disposal or Re-Use of Equipment”), Section 8.6.2 (“Disposal of Media”), and Section 8.6.3 (“Information Handling Procedures”) of International Organization for Standardization ISO/IEC Standard 17799 are hereby incorporated by reference.

(16) Copies of these sections of the standard are available from the American National Standards Institute at [www.ansi.org](http://www.ansi.org) or at [info@ansi.org](mailto:info@ansi.org) or by writing:

American National Standards Institute  
25 West 43rd Street, 4th Floor  
New York, New York 10036

(17) Institute of Electrical and Electronics Engineers Standard 802.11 is hereby incorporated by reference.

(18) Copies of this standard are available from the Institute of Electrical and Electronics Engineers, at [www.ieee.org](http://www.ieee.org) or at [ieeusa@ieee.org](mailto:ieeusa@ieee.org) or by writing:

Institute of Electrical and Electronic Engineers  
1828 L Street, N.W., Suite 1202  
Washington, D.C. 20036-5104

(19) The Carnegie Mellon Software Engineering Institute’s Security Improvement Module, “Securing Network Servers,” is hereby incorporated by reference.

(20) Copies of this security improvement module are available from the Carnegie Mellon Software Engineering Institute at [www.cert.org](http://www.cert.org) or at [webmaster@cert.org](mailto:webmaster@cert.org) or by writing:

Software Engineering Institute  
Carnegie Mellon University  
Pittsburgh, Pennsylvania 15213-3890

Rulemaking Specific Authority 282.102(2) FS. Law Implemented 120.54(8), 282.318 FS. History—New 8-10-04, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Russo, State Chief Information Officer, Office of Information Security, Agency for Enterprise Information Technology, 4030 Esplanade Way, Suite 135, Tallahassee, Florida 32399, telephone (850)922-7502

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Pilot Commissioners

RULE NO.: 61G14-17.005 RULE TITLE: Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to add new language to clarify what violations with fines may be disposed of by citations and to update the rule to meet changes in the statute.

**SUMMARY:** The rule amendment will add new language to clarify what violations with fines may be disposed of by citations and to update the rule to meet changes in the statute.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

**RULEMAKING AUTHORITY:** 455.224, 455.225 FS., Chapter 94-119, Laws of Florida.

**LAW IMPLEMENTED:** 455.224 FS., Chapter 94-119, Laws of Florida.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

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

61G14-17.005 Citations.

(1) through (2) No change.

(3) The following violations with accompanying fine may be disposed of by citation:

(a) Unintentional failure to timely file a marine incident report. The fine shall be \$100. (See Section 310.111, F.S.)

(b) Failure to report in writing to the Board within 30 days after the licensee is convicted or found guilty of, or entered a plead of nolo contendere or guilty to, regardless of adjudication a crime in any jurisdiction. The fine shall be \$100. (See Section 455.227(1)(t), F.S.)

(4) through (7) No change.

**Rulemaking Specific Authority** 455.224, 455.225 FS., Chapter 94-119, Laws of Florida. Law Implemented 455.224 FS., Chapter 94-119, Laws of Florida. History—New 2-16-92, Amended 8-24-92, Formerly 21SS-7.006, 21SS-17.005, Amended 9-27-94, 10-19-97.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Board of Pilot Commissioners

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Board of Pilot Commissioners

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** April 29, 2010

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

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Veterinary Medicine

**RULE NO.:** 61G18-11.002 **RULE TITLE:**

Examination and Licensure

**PURPOSE AND EFFECT:** The Board proposes to the rule amendment to add a passing score for national examination.

**SUMMARY:** A passing score for the national examination will be added to the rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared. The Board determined the proposed rule will not have an impact on small business.

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

**RULEMAKING AUTHORITY:** 455.217, 474.206, 474.2065, 474.207 FS.

**LAW IMPLEMENTED:** 455.217, 474.2065, 474.207 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Juanita Chastain, Executive Director, Board of Veterinary Medicine, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

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

61G18-11.002 Examination and Licensure.

(1) through (3) No change.

(4) In order to obtain licensure, the candidate must receive a passing score on each portion of the examination based on the laws and rules in effect at the time the application is being acted upon. The candidate must receive a score of 425 on the NAVLE. A candidate who fails to achieve a passing score on any part of the examination will only be required to retake the parts failed so long as those scores remain valid.

(5) through (6) No change.

**Rulemaking Specific Authority** 455.217, 474.206, 474.2065, 474.207 FS. Law Implemented 455.217, 474.2065, 474.207 FS. History—New 11-14-79, Amended 5-11-80, 7-9-80, 5-4-81, 12-10-81, 12-5-82, 5-15-83, 11-5-84, 5-7-85, 11-5-85, Formerly 21X-11.02, Amended 3-1-88, 11-24-88, 4-3-89, 4-13-92, 3-30-93, 7-13-93, Formerly 21X-11.002, Amended 7-4-94, 3-20-95, 3-29-95, 5-1-95, 5-27-99, 12-25-05, 6-28-07.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Board of Veterinary Medicine

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Board of Veterinary Medicine

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** June 8, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: March 12, 2010

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

## DEPARTMENT OF HEALTH

### Board of Respiratory Care

RULE NO.: RULE TITLE:  
64B32-2.001 License by Endorsement

PURPOSE AND EFFECT: The Board proposes the rule amendment to modify the application form DH-MQA 1145.

SUMMARY: The rule amendment will modify the application form DH-MQA 1145.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below. However, the Board determined that small business would not be affected by this rule. The following is a summary of the SERC:

- The number of applications received each year will vary so the precise number impacted in future years is not available.
- The only costs incurred by the Division of Medical Quality Assurance are rule-making costs as well as costs associated with enforcing the proposed changes.
- The proposed change is not expected to impact small business, small counties or small cities.

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

RULEMAKING AUTHORITY: 465.353(1), 4868.358(3) FS.

LAW IMPLEMENTED: 468.358(2), (3), 468.365 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-2.001 License by Endorsement.

(1) Applicants for licensure as a Registered Respiratory Therapist or Certified Respiratory Therapist in the state of Florida shall apply on Form DH-MQA 1145, Application by

Endorsement, Revised 04/10 10/09, incorporated herein as this Board's application form and available on the web at <http://www.doh.state.fl.us/mqa/respiratory/index.html>.

(2) through (3) No change.

Rulemaking Authority 468.353(1), 468.358(3) FS. Law Implemented 468.358(2), (3), 468.365 FS. History-New 4-29-85, Formerly 21M-34.02, 21M-34.002, 61F6-34.002, 59R-71.002, 64B8-71.002, Amended 7-22-02, 8-28-05, 6-12-07, 5-15-08, 5-25-09, 5-10-10.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Respiratory Care Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 14, 2010

## DEPARTMENT OF HEALTH

### Board of Respiratory Care

RULE NO.: RULE TITLE:  
64B32-5.007 Citations

PURPOSE AND EFFECT: The Board proposes the rule amendment to eliminate the requirement of legal review of citations prior to issuance by removing section (3) from Rule 64B32-5.007, F.A.C., and renumbering the rule accordingly.

SUMMARY: The rule amendment will eliminate the requirement of legal review of citations prior to issuance by removing section (3) from Rule 64B32-5.007, F.A.C., and renumbering the rule accordingly.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Board determined that small businesses would not be affected by this rule.

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

RULEMAKING AUTHORITY: 456.077 FS.

LAW IMPLEMENTED: 456.072(3), 456.077 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Allen Hall, Executive Director, Board of Respiratory Care Specialists/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B32-5.007 Citations.

(1) through (2) No change.

(3) Citations shall be issued to licensee by the Bureau of Investigative Services only after review by the legal staff of the Department of Health, Division of Regulation. Such review may be by telephone, in writing, or by facsimile.

(4) through (6) renumbered (3) through (5) No change.

Rulemaking Authority 456.077 FS. Law Implemented 456.072(3), 456.077 FS. History—New 5-19-96, Formerly 59R-74.006, 64B8-74.006, Amended 1-6-02, 5-31-04, 2-23-06, 3-28-10.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Respiratory Care Specialists

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Respiratory Care Specialists

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 9, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 14, 2010

## DEPARTMENT OF FINANCIAL SERVICES

### Division of Accounting and Auditing

RULE NOS.: RULE TITLES:

69I-69.001 Definitions

69I-69.002 Statement of County Funded Court-Related Functions

69I-69.003 Additional Auditing Procedures

69I-69.004 Priority for Allocation of Funds

PURPOSE AND EFFECT: Section 29.0085, F.S., requires counties to annually submit to the Chief Financial Officer (CFO) a statement of revenues and expenditures that identifies the total county expenditures on each service outlined in Sections 29.008 and 29.0085, F.S., authorizes the CFO to prescribe the form and manner of the statement. Counties are also required to submit a statement of compliance from their independent certified public accountant certifying that the statement of expenditures is in compliance with Sections 29.008 and 29.0085, F.S. The proposed rule amendments implement the CFO's duties under Sections 29.008 and 29.0085, F.S.

SUMMARY: The proposed changes to Rule 69I-69.001, F.A.C., update the definitions. The proposed changes to Rule 69I-69.002, F.A.C., adopt the Statement of County Funded Court-Related Functions Form (Report) that each county is required to annually file with the Department; provides that the Report may be filed with the Department either electronically or by U.S. Mail; and requires that the Report be accompanied by a Statement of Compliance from the county's independent certified public accountant that the Report is in compliance with Sections 29.008 and 29.0085, F.S. The proposed changes to Rule 69I-69.003, F.A.C., update the additional auditing procedures that can be used by the CFO. Rule 69I-69.004, F.A.C., is repealed since the underlying statute was repealed in 2005.

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

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

RULEMAKING AUTHORITY: 17.29, 29.0085(3) FS.

LAW IMPLEMENTED: 29.008, 29.0085 FS.

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

DATE AND TIME: July 14, 2010, 10:00 a.m.

PLACE: Room 430, Fletcher Building, 101 E. Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Justin Young (850)413-5712 or Justin.Young@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Justin Young, Financial Administrator, Bureau of Local Government, 200 East Gaines Street, Tallahassee, FL 32399-0354, (850)413-5712 or Justin.Young@myfloridacfo.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69I-69.001 Definitions.

For the purpose of this chapter, the following terms shall have the meanings indicated:

(1) “Department of Financial Services Chief Financial Officer” means the Bureau of Local Government Accounting, Division of Accounting and Auditing, Department of Financial Services, which is the organizational unit delegated responsibility responsible for receiving Reports by the State’s Chief Financial Officer the Statement of Revenues, Expenditures and Allocation of Funds (DFS-AA-691).

(2) “Annually” or “within 6 months” means filed with the Chief Financial Officer on or before March 31 of each year for the preceding fiscal year.

(2)(3) “Report” means the Statement of County Funded Court-Related Functions Report. “Statement” means the Statement of Revenues, Expenditures and Allocation of Funds.

(3)(4) “Statement” means the Statement of Compliance prepared by the county's independent certified public accountant attesting that the Report is in compliance with Sections 29.008 and 29.0085, F.S. “Net rentable square feet”

means the actual square footage occupied by the State Attorney or Public Defender and shall not include common areas such as hallways and restrooms.

Rulemaking Specific Authority 17.29, 29.0085(3) 27.3455(8) FS. Law Implemented 29.008, 29.0085 27.3455 FS. History-New 4-25-90, Amended 11-30-94, 5-12-97, Formerly 3A-69.001, Amended \_\_\_\_\_.

**69I-69.002 Statement of County Funded Court-Related Functions Revenues, Expenditures and Allocation of Funds.**

(1) Each county must submit a Report signed by the county's finance officer to the Department of Financial Services by January 31, on an annual basis. The Clerk of the Court shall deposit the additional court costs collected pursuant to Section 27.3455(1), Florida Statutes, net of any service charges retained, into a special trust fund of the county. A new and separate fund shall be established, and the accounting shall not be commingled with any existing fund.

(2) Each Report must also be accompanied by a Statement of Compliance from the county's independent certified public accountant that the Report is in compliance with Sections 29.008 and 29.0085, F.S. county shall submit annually to the Chief Financial Officer and the Auditor General the statement as set forth in Section 27.3455(4), Florida Statutes.

(3) Each county must report revenue collected by the county that is restricted to fund local requirements which are approved by the chief judge of the county's circuit. The statement shall be completed in full by each county and certified by the appropriate official. The Statement of Revenues, Expenditures and Allocation of Funds, Form DFS-AA-691 and instructions, revised September 1996, is incorporated herein by reference and is available from:

Bureau of Accounting  
Division of Accounting and Auditing  
Department of Financial Services  
200 East Gaines Street  
Tallahassee, Florida 32399-0354

(4) Each Report must include the county's expenditures for each of the court-related functions identified in Section 29.008, F.S., for the most recent county fiscal year. It is the responsibility of each county to maintain its accounting records in sufficient detail to allow its independent certified public accountant to perform the certification function pursuant to this chapter.

(5) The Report, Form DFS-A6-693 (Rev. 11/2009) and instructions for submitting the Report, both of which are hereby incorporated by reference, are available at the Bureau of Local Government's website: <http://www.myfloridacfo.com/aadir/localgov/>. Within six (6) months of the close of the local government fiscal year, each county shall submit to the Chief Financial Officer a statement of compliance from its independent certified public accountant that the certified statement was in accordance, in all material respects, with

Sections 27.34(2), 27.54(3) and 27.3455, Florida Statutes. All discrepancies noted by the independent certified public accountant shall be included in the statement furnished by the county to the Chief Financial Officer.

(6) The Report and Statement may be submitted electronically as an attachment to an e-mail to [localgov@myfloridacfo.com](mailto:localgov@myfloridacfo.com) or by U.S. mail to:

Bureau of Local Government  
200 East Gaines Street  
Tallahassee, FL 32399-0354

(7) Each county must maintain its accounting records in sufficient detail to allow its independent certified public accountant to prepare a Statement that complies with applicable law.

Rulemaking Specific Authority 17.29, 29.0085(3) 27.3455(8) FS. Law Implemented 29.008, 29.0085 27.3455 FS. History-New 4-25-90, Amended 11-30-94, 1-7-98, Formerly 3A-69.002, Amended \_\_\_\_\_.

**69I-69.003 Additional Auditing Procedures.**

(1) If Should the Chief Financial Officer determines that additional auditing procedures are necessary appropriate because (a) the county failed to submit timely its annual Report statement; (b) discrepancies were noted by the independent certified public accountant; or (c) the county failed to file before March 31 of each year the certified public accountant Statement of Compliance before January 31; the Chief Financial Officer shall, upon thirty (30) days prior written notice and in the absence of any correction by the county of any such failure within thirty (30) days subsequent to such notice, shall assign his or her personnel or contract for any and all necessary services to bring the county into compliance. The costs incurred by the Chief Financial Officer must shall be paid within ninety (90) days by the county upon certification by the Chief Financial Officer.

(2) If Where the Chief Financial Officer elects to utilize the services of an independent contractor to perform auditing procedures under this rule, such certification by the Chief Financial Officer may require the county to make direct payments to the a contractor.

Rulemaking Specific Authority 17.29, 29.0085(3) 27.3455(8) FS. Law Implemented 29.008, 29.0085 27.3455 FS. History-New 4-25-90, Formerly 3A-69.003, Amended \_\_\_\_\_.

**69I-69.004 Priority for Allocation of Funds.**

Rulemaking Specific Authority 17.29, 27.3455(8) FS. Law Implemented 27.3455 FS. History-New 4-25-90, Amended 11-30-94, 5-12-97, Formerly 3A-69.004, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Justin Young, Division of Accounting and Auditing, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief Financial Officer

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: June 2, 2010

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

## DEPARTMENT OF FINANCIAL SERVICES

### Division of Worker's Compensation

RULE NO.: **69L-6.026** RULE TITLE:  
Periodic Reports

**PURPOSE AND EFFECT:** The purpose of the proposed rule is to establish procedures for filing periodic reports by employers issued Stop-Work Orders for failing to comply with the coverage requirements of Chapter 440, F.S., where assessed penalties exceed \$50,000.00. As a condition of release from a Stop-Work Order, subject employers must submit quarterly reports to the Department using new form DFS-F4-2018, "Bureau of Compliance Quarterly Report Form," to document their continuing compliance with the coverage requirements of Chapter 440, F.S.

**SUMMARY:** The proposed rule provides guidance to employers regarding quarterly reports that must be submitted to the Department following an employer's conditional release from a Stop-Work Order for violation of the coverage requirements of Chapter 440, F.S., where an assessed penalty exceeds \$50,000.00. Following the conditional release from Stop-Work Order, subject employers are to utilize new form DFS-F4-2018 to file quarterly reports which document their ongoing compliance with the coverage requirements of Chapter 440, F.S.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** There will be certain minimal costs associated with the time and effort required by those entities and individuals required to comply with the proposed rule to prepare and submit a quarterly form to the Department. Based on recent historical data, less than 10% of all employers issued Stop-Work Orders will be required to comply with this proposed rule on an annual basis. There is no increase in projected costs to the Department as a result of this proposed rule.

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

**RULEMAKING AUTHORITY:** 440.107(7)(a), 440.591 FS.

**LAW IMPLEMENTED:** 440.107 FS.

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

**DATE AND TIME:** Thursday, July 15, 2010, 10:00 a.m.

**PLACE:** 104J Hartman Building, 2012 Capital Circle Southeast, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Tasha carter, (850)413-1878 or Tasha.Carter@myfloridacfo.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Tasha Carter, Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 E. Gaines Street, Tallahassee, Florida 32399-4228, (850)413-1878 or Tasha.Carter@myfloridacfo.com

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

#### 69L-6.026 Periodic Reports.

(1) Pursuant to Section 440.107(7)(a), F.S., as a condition of release from a Stop-Work Order, the Department shall require an employer that was issued a Stop-Work Order for failure to comply with the coverage requirements of Section 440.38, F.S., and was assessed a penalty in excess of \$50,000, to submit periodic reports to the Department demonstrating the employer's continued compliance with Chapter 440, F.S.

(2) If the Department determines that an employer meets the criteria in subsection (1), the employer must submit information to the Department for eight consecutive quarters that demonstrates the employer's continued compliance with Chapter 440, F.S. Such information shall be submitted on the Bureau of Compliance Quarterly Report Form (DFS-F4-2018) or in an electronic format, via the Division's website at <http://www.myfloridacfo.com/WC/>.

(a) The Department must receive the Bureau of Compliance Quarterly Report Form (DFS-F4-2018) no later than thirty days after the last day of each quarter. If the Bureau of Compliance Quarterly Report Form (DFS-F4-2018) is sent in an electronic format, the received date is the date the Bureau of Compliance Quarterly Report Form (DFS-F4-2018) is submitted to the Bureau and a confirmation is sent to the employer.

(b) The quarterly reporting periods are:

1. January 1 – March 31

2. April 1 – June 30

3. July 1 – September 30

4. October 1 – December 31

(3) An employer is required to submit its first Bureau of Compliance Quarterly Report Form (DFS-F4-2018) for the quarter in which the release or conditional release from the Stop-Work Order has been issued.

(4) If an employer fails to timely submit a complete Bureau of Compliance Quarterly Report Form (DFS-F4-2018), the Department is authorized to initiate an investigation upon the employer pursuant to Section 440.107, F.S.

(5) The Department hereby adopts and incorporates the following form by reference. Copies of the form can be obtained by writing to the Division of Workers' Compensation, Bureau of Compliance, 200 East Gaines Street, Tallahassee, Florida 32399-4228.

(a) DFS-F4-2018 – Bureau of Compliance Quarterly Report Form.

Rulemaking Authority 440.107(7)(a), 440.591 FS. Law Implemented 440.107 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Tasha Carter, Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Alex Sink, Chief of Financial Officer, Department of Financial Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 5, 2010

## **FINANCIAL SERVICES COMMISSION**

### **Office of Insurance Regulation**

RULE NO.: RULE TITLE:

69O-167.024 Rate Filings for Inland Marine Insurance

PURPOSE AND EFFECT: To make the rule comply with statutory changes to Section 627.021, F.A.C.

SUMMARY: The rule, like the statutory change, makes no substantive change.

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

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

RULEMAKING AUTHORITY: 624.308(1) FS.

LAW IMPLEMENTED: 627.607, 627.062, 627.0651 FS.

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

DATE AND TIME: July 13, 2010, 9:30 a.m.

PLACE: 142 Larson Building, 200 East Gaines Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Richard Koon, Office of Insurance Regulation, E-mail: Richard.Koon@flioir.com. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Koon, Office of Insurance Regulation, E-mail: Richard.Koon@flioir.com

## THE FULL TEXT OF THE PROPOSED RULE IS:

69O-167.024 Rate Filings for Inland Marine Insurance.

(1) This rule applies to marine insurance that is subject to Chapter 627, Florida Statutes.

(2) Section 627.021(2)(c), Florida Statutes, states that Chapter 627, Florida Statutes, does not apply to ocean marine insurance as distinguished from inland marine insurance.

(a) Section 627.021(2)(d) 627.0651(13)(e), Florida Statutes, states that rates and rules are not required to be filed for commercial inland marine risks.

(b) The specific exclusion of commercial inland marine risks indicates that rates and rules for personal inland marine risks must continue to be filed with the Office.

(c) For purposes of this rule, personal inland marine is defined as insurance covering non-business property of a portable or movable nature that would typically be included in or with a homeowner's policy or a separate policy insuring one or more articles of property, including, but not limited to, jewelry, furs, art objects, silverware, glassware, small boats, sports equipment.

(d) For purposes of this rule, commercial inland marine is defined as commercial or industrial property, often but not always of a portable or movable nature or instrumentalities of transportation or communication, that would typically be included in or with a commercial lines policy or written in a separate policy insuring one or more such items of property, including, but not limited to, commercial goods in transit, traffic signals, bridges, tunnels.

Rulemaking Specific Authority 624.308(1) FS. Law Implemented 624.607, 627.021, 627.062, 627.0651 FS. History-New 1-27-92, Formerly 4-167.024, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Koon, Office of Insurance Regulation, E-mail Richard.Koon@flioir.com

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

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

**FINANCIAL SERVICES COMMISSION****Financial Institution Regulation**

RULE NO.: RULE TITLE  
69U-100.045 Examination Manuals and  
Referenced Standards

**PURPOSE AND EFFECT:** The rule is being amended to reflect the manuals that the Division of Banking uses to examine state-chartered financial institutions.

**SUMMARY:** The rule is being amended to reflect the manuals that the Division of Banking uses to examine state-chartered financial institutions. The manuals include: a) Federal Financial Institutions Examination Council, Bank Secrecy Act/Anti-Money Laundering Examination Manual (2010); b) Federal Deposit Insurance Corporation, DSC Risk Management Manual of Examination Policies (12/2004); c) Federal Deposit Insurance Corporation, Trust Examination Manual (2008); d) National Credit Union Administration Examiner's Guide (06/2002); e) State Credit Union Examination Manual (03/25/09); and f) The Federal Reserve Board's Examination Manual for U.S. Branches and Agencies of Foreign Banking organizations (07/1997).

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No Statement of Estimated Regulatory Cost was prepared. The Office determined the proposed rule will not have an adverse impact on small business.

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

**RULEMAKING AUTHORITY:** 655.012(2) FS.

**LAW IMPLEMENTED:** 655.045 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Linda Charity, Director, Division of Financial Institutions, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399, linda.charity@flofr.com, (850)410-9800

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

69U-100.045 Examination Manuals and Referenced Standards.

(1) ~~Examination manuals used by OFR which contain referenced standards are available for inspection at OFR's Office in Tallahassee and at the following location:~~

Federal Deposit Insurance Corporation  
10 Tenth Street N. E.  
Suite 800  
Atlanta, Georgia 30309-3906

(2) The OFR uses the following examination manuals are used by OFR in the implementation of its examination responsibilities; which and are hereby adopted and incorporated by reference into the body of printed materials that the which OFR uses for the purposes of conducting examinations of financial institutions to assess the performance and condition of such institutions. The OFR examiners use the manuals are used by the examiners as reference guidelines when conducting safety and soundness examinations of such financial institutions:

(a) Federal Financial Institutions Examination Council, Bank Secrecy Act/Anti-Money Laundering Examination Manual (2010), which may be obtained electronically through the following website: [http://www.ffiec.gov/bsa\\_aml\\_infobase/documents/BSA\\_AML\\_Man\\_2010.pdf](http://www.ffiec.gov/bsa_aml_infobase/documents/BSA_AML_Man_2010.pdf). OFR Examination Procedures Manual (7/89).

(b) Federal Deposit Insurance Corporation, DSC Risk Management Revised DOS Manual of Examination Policies (12/2004 Revised 6/95), which may be obtained electronically through the following website: [http://www.fdic.gov/regulations/safety/manual/manual\\_examinations\\_full.pdf](http://www.fdic.gov/regulations/safety/manual/manual_examinations_full.pdf).

(c) Federal Deposit Insurance Corporation, Trust Examination Manual (2008), which may be obtained electronically through the following website: <http://www.fdic.gov/regulations/examinations/trustmanual/>. Management Evaluation Guidelines (5/93).

(d) National Credit Union Administration, Examiner's Guide (06/2002), which may be obtained electronically through the following website: [http://www.ncua.gov/GenInfo/GuidesManuals/examiners\\_guide/examguide.aspx](http://www.ncua.gov/GenInfo/GuidesManuals/examiners_guide/examguide.aspx). Examiner's Guide for the Core Examination Program (2/87).

(e) Office of Financial Regulation, State Credit Union Examination Manual Section Examiner's Guide (03/25/09 Revised 7/99), which may be obtained from the Florida Office of Financial Regulation, Division of Banking, 200 E. Gaines Street, Tallahassee, FL 32399.

(f) The Federal Reserve Board's Examination Manual for U.S. Branches and Agencies of Foreign Banking organizations (07/1997), which may be obtained electronically through the following website: [http://www.federalreserve.gov/boarddocs/supmanual/us\\_branches/usbranch.pdf](http://www.federalreserve.gov/boarddocs/supmanual/us_branches/usbranch.pdf). Bureau of International Banking Examination Procedures Manual (3/90).

Rulemaking Specific Authority 420.53(1), 655.012(2)(3) FS. Law Implemented 655.045 FS. History-New 10-24-93, Formerly 3C-1.015, Amended 1-2-95, 6-4-95, 5-22-96, Formerly 3C-100.045, Amended \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Linda Charity, Director, Division of Financial Institutions, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399, linda.charity@flofr.com, (850)410-9800

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Financial Services Commission	69V-40.033	Disciplinary Guidelines for Mortgage Business Schools
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010	69V-40.0331	Declaration of Intent to Engage Solely in Loan Processing
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 31, 2009	69V-40.036	Application Procedure for a Mortgage Broker Branch Office License
<b>FINANCIAL SERVICES COMMISSION</b>	69V-40.043	Mortgage Broker License Renewal and Reactivation
<b>Financial Institution Regulation</b>		Application Procedure for Mortgage Brokerage Business License
RULE NOS.:	RULE TITLES:	Effect of Law Enforcement Records on Applications for Mortgage Brokerage Business Licensure
69V-40.001	Definitions	69V-40.051
69V-40.00112	Effect of Law Enforcement Records on Applications for Loan Originator, Mortgage Broker, and Mortgage Lender Licensure.	69V-40.0511
69V-40.002	Adoption of Forms	69V-40.053
69V-40.003	Electronic Filing of Forms and Fees	69V-40.058
69V-40.008	Fees and Commissions	
69V-40.0113	Demonstrating Character, General Fitness, and Financial Responsibility	69V-40.060
69V-40.021	Fictitious Name Registration	69V-40.0611
69V-40.022	Quarterly Report Filing Requirements	
69V-40.025	Mortgage Broker Examination	69V-40.0612
69V-40.026	Curriculum for Mortgage Broker Pre-licensing Classroom Education	69V-40.066
69V-40.027	Mortgage Broker Pre-licensing Education Requirement	69V-40.088
69V-40.0271	Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives	69V-40.099
69V-40.028	Permit for Mortgage Business School	69V-40.100
69V-40.0281	Mortgage Business Schools Prohibited Practices and Advertising/Publicity	69V-40.105
69V-40.029	Mortgage Business School Permit Renewal	69V-40.155
69V-40.030	Accreditation Process for a Mortgage Business School	69V-40.156
69V-40.031	Application Procedure for Mortgage Broker License	69V-40.160
69V-40.0311	Effect of Law Enforcement Records on Applications for Mortgage Broker Licensure	69V-40.165
69V-40.0312	Application Procedure for Loan Originator License	69V-40.170
69V-40.0313	Loan Originator License Renewal	69V-40.175
69V-40.0321	Application Procedure for a Mortgage Broker License	69V-40.200
69V-40.0322	Mortgage Broker License Renewal	69V-40.201
		Effect of Law Enforcement Records on Applications for Mortgage Lender and Correspondent Lender Licensure
		69V-40.205
		Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation

69V-40.220	Application Procedure for Correspondent Mortgage Lender License
69V-40.225	Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation
69V-40.240	Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License
69V-40.242	Principal Representative
69V-40.245	Independent Contractors
69V-40.250	Documentation of Net Worth and Surety Bond
69V-40.260	Mortgage Lender Files
69V-40.265	Mortgage Brokerage and Lending Transaction Journal
69V-40.285	Noninstitutional Investor Funds Account
69V-40.290	Acts Requiring Licensure as a Mortgage Broker, Mortgage Brokerage Business, Mortgage Lender or Correspondent Mortgage Lender

**PURPOSE AND EFFECT:** In 2009, the Florida Legislature passed Senate Bill 2226 to bring Florida law into compliance with the federal S.A.F.E. Mortgage Licensing Act of 2008, Title V of P.L. 110-289. (See Chapter 2009-241, Laws of Florida.) In addition, during the 2010 legislation session, the Florida Legislature passed additional changes to Chapter 494, F.S. (See HB 1281, Chapter 2010-67, Laws of Florida.) These changes will take effect on October 1, 2010, which coincides with when the new licensure requirements to implement SB 2226 will take effect. The proposed changes to Rule Chapter 69V-40, F.A.C., reflect and implement the new statutory licensure requirements for mortgage loan originators, mortgage brokers and mortgage lenders; conform terminology to statutory changes; repeal rules that have been superseded by state or federal statutes; and make other changes to clarify and simplify regulations relating to mortgage brokering and lending.

**SUMMARY:** The proposed rule changes include: 1) requiring license applications for mortgage loan originators, mortgage brokers, and mortgage lenders to be submitted through the National Mortgage Licensing System and Registry on forms approved by the Registry; 2) requiring statutory fees to be submitted through the Registry; 3) requiring loan originator license applicants to meet national pre-licensure testing requirements; 4) requiring loan originator applicants and licensees to meet national education requirements; 5) requiring fingerprints to be submitted via live scan technology; 6) requiring authorization to obtain credit reports; 7) establishing criteria for evaluating the character, general fitness, and financial responsibility of license applicants; 8) conforming licensure disqualification periods to statutory requirements for

persons with criminal events; 9) requiring annual renewal of licenses; and 10) requiring licensees to be re-evaluated upon renewal to ensure they continue to meet initial licensure requirements.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:** No statement of estimated regulatory cost has been prepared. The Office has determined that the proposed rules will not impact small businesses.

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

**RULEMAKING AUTHORITY:** 494.0011, 494.0016, 494.00312, 494.00313, 494.00321, 494.00322, 494.00331, 494.0036, 494.0032, 494.004, 494.00612, 494.0066, 494.0677, 494.0069 FS.

**LAW IMPLEMENTED:** 120.695, 494.0011, 494.00115, 494.0016, 494.0023, 494.00255, 494.00312, 494.00313, 494.00321, 494.00322, 494.00331, 494.0036, 494.0038, 494.0042, 494.0043, 494.00612, 494.0063, 494.0066, 494.0067, 494.0068, 494.0069, 494.007, 494.0073, 494.0075 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Gregory C. Oaks, Chief, Bureau of Regulatory Review, Finance, Division of Finance, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0376, phone (850)410-9805, Facsimile (850)410-9914, E-mail: Greg.Oaks@flofr.com

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

**69V-40.001 Definitions.**

The definitions provided in Section 494.001, F.S., and the following defined terms, shall apply to this rule chapter and shall serve as the Office of Financial Regulation's interpretation unless the language of the rule indicates to the contrary:

(1) ~~"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 without detailed enumeration of 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;

(e) Statement 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, 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.

(2) "Financial Statements and Reports" shall be defined as those reports, schedules and statements, which contain at least a Statement of Financial Condition or Balance Sheet.

(3) "Unaudited Financial Statements" shall be defined as those financial statements not accompanied by the statements and representations as set forth in paragraphs (1)(b), (c) and (d) of this rule.

(4) Net worth shall be defined as total assets minus total liabilities, except that total assets shall not include the following:

(a) Any amount in excess of the lower of the cost or market value of mortgages in foreclosure, construction loans, or foreclosed property acquired through foreclosures;

(b) Any leasehold improvements not being amortized over the lesser of the expected life of the asset or the remaining term of the lease;

(c) Commitment fees paid which are not recoverable through the closing or selling of loans; and

(d) The value of any servicing contracts not determined in accordance with Financial Accounting Standards Board, Statement of Accounting Standards No. 65, dated September 1982.

(5) For the purposes of subsection 494.001(26), F.S., "receive" means obtaining possession of money or a negotiable instrument prior to receipt by the lender or investor.

(1)(6) "Appraiser" as used in Section For the purposes of subsection 494.0043(1)(a), F.S., when providing an opinion of value of security property for brokering or selling a mortgage loan to a noninstitutional investor, "appraiser" means any person who is licensed, registered or certified in the State of Florida pursuant to the provisions of Chapter 475, F.S.

(7) For purposes of licensing and enforcement actions under Chapter 494, F.S., the phrase "Having a license, or the equivalent, to practice any profession or occupation revoked, suspended, or otherwise acted against . . ." as utilized in subsections 494.0041(2)(i) and 494.0072(2)(i), F.S., is deemed to include state or federal enforcement actions for orders of prohibition or removal of an officer, director, or employee of a state or federal financial institution, or any orders of

prohibition or orders of removal, or any combination thereof, entered against or stipulated to by officers, directors, and employees of state or federal financial institutions.

(8) For the purpose of subsection 494.006(2)(a), F.S., "employed" or "employee" means a natural person engaged in the service of another for a salary or wages. Such person is subject to withholding, FICA, and other lawful deductions by the employer as a condition of employment and is subjected to the right of the employer to direct and control the actions of the employee.

(9) "Independent contractor" means a person who contracts with another to perform a service where this person is not directed or controlled by the other person or is required to maintain separate records regarding his contract for services in respect to, but not limited to, accounting and taxes.

(10) "Notice of noncompliance" means a notification by the Office of Financial Regulation that a person has violated an administrative rule which is classified as a minor offense as set forth in Section 120.695, F.S. The mandatory fine that is associated with the administrative rule is waived for the first offense.

(11) For purposes of Rules 69V40.100, 69V40.200, 69V40.220, and 69V40.242, F.A.C.:

(a) "Operate" shall mean to exercise power or influence over the business operations.

(b) "Exercise" shall mean the discharge of an official duty or function.

(c) "Control" shall mean to have the influence and power to make decisions for the business.

(2) "Hold himself or herself out to the public as being in the mortgage lending business" in Section 494.00115(2)(e) and (f), F.S., means that any individual who does any of the following, but not limited to, is not exempt from regulation under Part III of Chapter 494, F.S.:

(a) Is employed with a business where mortgage lending or mortgage brokering services may be received;

(b) Has placed himself or herself in a position where he or she is likely to come into contact with borrowers or investors or buyers or sellers of mortgage loans;

(c) Advertises, related to mortgage loans, by soliciting for borrowers, lenders or purchasers in any manner;

(d) Advertises in any manner that would lead a person to believe the individual was in the business of buying, making or selling mortgage loans. For example, placing an advertisement which states "I buy and sell mortgages" would lead a person to believe the individual was in the mortgage lending business; or

(e) Solicits in a manner which would lead a person to believe the individual was in the business of buying, making or selling mortgage loans.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.00115(2)(e),(f), ~~120.695, 494.001, 494.004(1), 494.0041(2)(a), (f), 494.0043, 494.0061(2), (8), 494.0062(2), (11), 494.0067(5), 494.0072(2)(i)~~ FS. History-Revised 9-23-65, Renumbered from 3-3.01 to 3D-40.01 on 9-8-75, Formerly 3D-40.01, Amended 12-7-89, 6-23-91, 8-24-92, 2-11-93, 11-17-93, 4-14-94, 9-7-94, 5-14-95, 7-25-96, 12-12-99, 12-8-02, Formerly 3D-40.001, Amended 3-23-08, 10-1-10.

69V-40.00112 Effect of Law Enforcement Records on Applications for Loan Originator, Mortgage Broker, and Mortgage Lender Licensure.

(1) General Procedure Regarding Law Enforcement Records. For the purposes of this rule each loan originator applicant and each control person of a mortgage broker and mortgage lender license applicant shall be referred to collectively as "relevant persons." If the mortgage broker or mortgage lender license applicant is a natural person, he or she is a relevant person under this rule. As part of the application review process, the Office is required to consider a relevant person's law enforcement record when deciding whether to approve an application for licensure as a loan originator, mortgage broker, or mortgage lender. When conducting this review, the Office reviews the relevant person's Form MU1, MU2 or MU4 responses and criminal history information derived from the fingerprint check. In the event of a question regarding the relevant person's criminal history, the Office may request additional information from the relevant person to determine the status of a criminal event, the specific facts and circumstances surrounding a criminal event, or to address other issues determined to be relevant to the review of the law enforcement record. The Office will notify the applicant of any specific documents that it requires in order to complete its review. The requested documents must be legible. Documentation that is typically requested includes:

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

(b) A certified copy of the charges.

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

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

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

If the requested documentation cannot be obtained, the relevant person shall submit evidence of that fact in order for the application to be deemed complete. Evidence that documentation cannot be obtained shall consist of a written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced.

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

(a) The omission of any part of a law enforcement record required to be disclosed on Form MU1, MU2, or MU4 is a material misrepresentation or material misstatement on the application and the application shall be denied pursuant to Section 494.00255(1)(s), F.S.

(b) If the Office discovers the relevant person's failure to disclose any part of a law enforcement record required to be disclosed on the Form MU1, MU2, or MU4 after a license has been granted, the Office will suspend or revoke each license currently held by the applicant as follows:

1. Suspension for 12 months if, had the application been accurate, the application would have been granted, based on the statutes and rules applicable to the application at the time the Office granted licensure.

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

(3) Classification of Crimes.

(a) The Office makes a general classification of crimes into four classes: A, B, C and D as listed in subsections (14), (15), (16) and (17) of this rule.

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

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

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

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

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

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

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

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

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

(5) Applicants With Multiple Crimes.

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

(b) The additional periods are added to the disqualifying period for the most serious class "B", "C", or "D" crime, and the combined total disqualifying period then runs from the trigger date of the most recent class "B", "C", or "D" crime.

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

(6) Mitigating Factors.

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

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

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

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

4. One year is deducted if the applicant furnishes proof that the relevant person was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has

examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

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

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

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

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

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

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

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

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

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

(9) Pre-Trial Intervention. If at the time of application a relevant person is participating in a pre-trial intervention program based upon a charge of criminal conduct that would authorize denial of a license under Chapter 494, F.S., the Office will deny the application for license. The Office considers participation in a pre-trial intervention program to be a pending criminal prosecution under Chapter 494, F.S., and finds it

necessary to the public welfare to wait until final disposition of all charges of criminal conduct that would authorize denial of a license under Chapter 494, F.S., before an application for licensure may be considered.

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

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

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

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

2. However, if the relevant person did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Chapter 494, F.S.

(11) Effect of Varying Terminology.

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

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

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

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

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

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

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

(12) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, F.S., while a relevant person is imprisoned, under arrest, or serving a sentence for any crime. Further, the Office shall not license any applicant when a relevant person has been released from imprisonment, based upon a charge of

criminal conduct that would authorize denial of licensure under Chapter 494, F.S., until the later of the period otherwise set out in the rules or five (5) years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least five (5) years on good behavior, before licensure can be granted without undue risk to the public welfare. For the purposes of this section, the term "imprisonment" shall include confinement in a state or federal prison or county jail for a period of more than one year.

(b) Community Supervision. The Office shall not grant licensure when a relevant person who at the time of application or at any time during the pendency of the application is under supervision as the result of the commission or a criminal offense and released to the community under the jurisdiction of the courts, paroling authorities, correctional agencies, or other criminal justice agencies based upon a charge of criminal conduct that would authorize denial of a license under Chapter 494, F.S.

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

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

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

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand Theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity theft.

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

(n) Misuse of public office.

(o) Racketeering.

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

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

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

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

(v) Money Laundering.

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

(a) Murder in all degrees.

(b) Arson.

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

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

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

(f) Rape.

(g) Sexually molesting any minor.

(h) Sexual battery.

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

(j) Kidnapping.

(k) Video Voyeurism.

(16) Class "C" Crimes include all felonies not Class "A" or Class "B" Crimes.

(17) Class "D" Crimes includes any misdemeanor that involves fraud, dishonesty, or any other act of moral turpitude.

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

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

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

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States; for example, the right of a defendant to a public trial, the right against self-incrimination, the right of notice of the charges, the right to confront witnesses, the right to call witnesses, and the right to counsel.

(19) For purposes of this rule, "certified" means that there must be a certification or attestation by the issuer of the record that the document is a true copy of a record contained in the issuer's office and the issuer's seal, if any.

(20) Uniform Mortgage Lender/Mortgage Broker Form, MU1; Uniform Mortgage Biographical Statement & Consent Form, MU2; and Uniform Individual Mortgage License/Registration & Consent Form, MU4, are incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2)(c) FS. Law Implemented 494.0011(2)(c), 494.00312, 494.00321, 494.00611 FS. History-New 10-1-10.

69V-40.002 Adoption of Forms.

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

(a) Application for Mortgage Brokerage Business and Lender License, Form OFR 494-01, effective December 25, 2008;

(b) Application for Branch Office License, Form OFR 494-02, effective March 23, 2008;

(c) Application for Licensure as a Mortgage Broker, Form OFR 494-03, effective December 25, 2008;

(d) Application for a Mortgage Business School Permit, Form OFR 494-04, effective March 23, 2008;

(e) Mortgage Brokerage and Mortgage Lending Act Surety Bond, Form OFR 494-05, effective March 23, 2008;

(f) Mortgage Lender License Renewal and Reactivation Form, Form OFR 494-06, effective March 23, 2008;

(g) Mortgage Broker License Renewal and Reactivation Form, Form OFR 494-07, effective March 23, 2008;

(h) Quarterly Report Form, Form OFR 494-08, effective March 23, 2008;

(i) Mortgage Brokerage Deposit Account Form, Form OFR 494-09, effective March 23, 2008;

(j) Mortgage Brokerage Transaction and Lending Journal, Form OFR 494-10, effective March 23, 2008;

(k) Calculation of Aggregate Value of Mortgage Loans Serviced, Form OFR 494-11, effective March 23, 2008;

(l) Non Institutional Investor's Funds Account Form, Form OFR 494-12, effective March 23, 2008;

(m) FL921050Z, Florida Fingerprint Card, effective March 23, 2008.

(a) Registry Forms:

1. Uniform Mortgage Lender/Mortgage Broker Form, MU1, dated 1/25/2010.

2. Uniform Mortgage Biographical Statement & Consent Form, MU2, dated 1/25/2010.

3. Uniform Mortgage Branch Office Form, MU3, dated 1/2/2008.

4. Uniform Individual Mortgage License/Registration & Consent Form, MU4, dated 1/25/2010.

(b) Florida Forms:

1. Mortgage Brokerage Deposit Account Form, Form OFR-494-09, effective March 23, 2008;

2. Mortgage Brokerage Transaction and Lending Journal, Form OFR-494-10, effective March 23, 2008;

3. Calculation of Aggregate Value of Mortgage Loans Serviced, Form OFR-494-11, effective March 23, 2008;

4. Non-Institutional Investor's Funds Account Form, Form OFR-494-12, effective March 23, 2008.

5. Declaration of Intent to Engage in Loan Processing, Form OFR-494-13, effective \_\_\_\_\_.

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

Proposed Effective Date: October 1, 2010

Rulemaking Authority ~~215.405, 494.0011(2), 494.0016(4), 494.00312(2), 494.00313(1), 494.00321(1), 494.00322(1), 4494.00331(2), 494.0036(2), 494.00611(2), 494.00612(1), 494.0066(2) FS. Law Implemented 494.0016, 494.00312, 494.00313, 494.00321, 494.00322, 494.00331, 494.0036, 494.00611, 494.00612, 494.0066, 494.0025, 494.0033, 494.0041, 494.0042, 943.053 FS. History-New 3-23-08, Amended 12-25-08, 10-1-10.~~

69V-40.003 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 of Financial Regulation's website at [www.flor.com](http://www.flor.com).

(2) All forms adopted under paragraphs 69V-40.002(1)(a) through (d) and (f) through (h), F.A.C., must be filed with the Office of Financial Regulation through the REAL system.

(3) All fees required to be filed with the Office of Financial Regulation under Chapter 69V-40, F.A.C., must be filed 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-40, 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 of Financial Regulation will provide any person granted a waiver under this subsection a hardcopy version of the applicable form.

(1) All forms adopted under paragraph 69V-40.002(1)(a), F.A.C., must be electronically filed through the Registry.

(2) Unless otherwise specifically instructed in this Rule Chapter all fees required in conjunction with an initial application, amendment, and license renewal must be filed electronically through the Registry.

(3) Annual Financial Audit Reports required in Section 494.0063, F.S., must be filed electronically through the Registry.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00611(2)(f), 494.0063 FS. Law Implemented 494.0011, 494.00611(2)(f), 494.0063 FS. History-New 10-21-08, Amended 10-1-10.

69V-40.008 Fees and Commissions.

(1) A mortgage broker brokerage business shall state in each contract for services the total fee to be received. The total fee shall not exceed the maximum as prescribed in Section subsection 494.0042(2), F.S.

(2)(a) In determining the total loan origination mortgage brokerage fee, all compensation for the following services, by whatever name called, shall be included:

1. Arranging for a conditional mortgage loan commitment between a borrower and a lender;

2. Taking an application, assembling information and preparing all paperwork and documentation necessary for a conditional mortgage loan commitment;

3. Reviewing, analyzing, and evaluating a borrower's financial statements, income, and credit history; and

4. Incidental services utilized in arranging for and procuring a conditional loan commitment, such as, courier services, express mailings, and long distance telephone charges, except as provided in subparagraph (3)(a)12., below.

5. Premiums and other charges for insurance written in connection with a loan, except as provided in subparagraph (3)(a)5. below.

(b) The total loan origination mortgage brokerage fee shall include all compensation for the services described in paragraph (2)(a), whether or not the compensation is to be received by the licensee, a co-broker, an affiliate, or an independent third party.

(c) A good faith estimate does not supplant or substitute for the agreement required by Section 494.0038(1), F.S.

(3)(a) In addition to stating the total loan origination mortgage brokerage fee, the licensee shall provide a good faith estimate of costs for services or products that may be incurred or expended on behalf of the borrower in arranging for the loan. Services or products for which costs shall be estimated, but which are not required to be included in the loan origination mortgage brokerage fee include the following:

1. Appraisal fee charged to obtain a statement of property value for the lender prior to closing. This subparagraph shall not be construed to prevent a licensee or lender from setting reasonable criteria for the selection of an appraiser;

2. Inspection fees required by the lender, its agents, or a governmental body or agency or quasi-governmental body or agency for the security property;

3. Loan assumption fee and a transfer fee charged to enable the buyer to assume existing loans;

4. Pest inspection fee charged to cover inspections for termites or other pest infestations;

5. Charges for title insurance as defined in Section 624.608, F.S., abstract of title, title search fee, and fees for an attorney's title opinion. A licensee may not receive or accept any monetary consideration or inducement in connection with the issuance of a title insurance policy in a transaction in which he was involved;

6. Survey or topography fees charged to determine the exact location of any structures and the lot line, as well as easements and rights of way;

7. Mortgage guaranty insurance as defined in Section 635.011, F.S.;

8. Credit report fee;

9. Photograph fees for photographs of the property offered as security, if required by the lender in writing and acceptable photographs of the property have not been otherwise provided to the lender;

10. Flood hazard determination fee charged by an entity to assist lenders in determining whether the security property is in a flood hazard area;

11. Real estate tax service fee charged by an entity engaged in the business of assisting lenders or their agents in assuring that real property taxes are paid on the security property;

12. Incidental fees, such as, courier services and express mailings if pre-authorized in writing by the borrower;

13. Settlement or closing fee charged by a settlement agent for distributing the proceeds of the mortgage loan;

14. Attorney's fees;

15. Charges imposed by federal, state, county or municipal governments or government agencies or quasi-governmental agencies including, but not necessarily limited to, the cost of recording the mortgage, cost of documentary stamps, and intangible taxes for the mortgage;

16. Environmental audit costs required by the lender, or by local ordinances or state or federal law; and

17. Costs incurred in curing title defects affecting the security property.

(b) The costs enumerated in paragraph (3)(a) may be charged and collected provided they are itemized and supported by an actual expenditure.

(4)(a) Premiums or other charges for life, credit life, accident, health, or loss-of-income insurance written in connection with a loan are not included in determining the loan origination brokerage fee if:

1. The licensee or registrant discloses to the borrower in writing that such insurance is not required to be purchased through the licensee; and

2. The licensee discloses to the borrower in writing the premiums for the initial term.

(b) Premiums or other charges for insurance that is written in connection with a mortgage loan and protects against loss or damage to property or liability arising out of the ownership or use of property are not included in determining the loan origination brokerage fee if the borrower may choose the insurance agent and the insurance provider.

(5) The loan origination mortgage brokerage fee does not include prepaid finance charges of the lender under the Federal Truth in Lending Act, as amended, and Federal Reserve Board Regulation Z that are disclosed on a Truth in Lending Disclosure form provided to the borrower.

(6) The maximum fees or commissions as provided in Section subsection 494.0042(2), F.S., must be based on the net proceeds of the loan.

(7) In determining the maximum fees or commissions on the gross proceeds of a loan, the following method may be used: On loans in excess of \$1,000 and not over \$5,650, add \$1,500 to the gross proceeds of the loan and divide that sum by 11; and, on loans of \$5,760 and over, divide the gross proceeds by 11 and add \$227.27. On loans that are over \$5,650 but less than \$5,750, the maximum fee is the amount in excess of \$5,000.

~~(8) If a mortgage brokerage business brokers an extension of the maturity date of the unpaid portion of an existing mortgage loan previously brokered by him, the total fees and commissions he may charge or receive on both the original transaction and the extension may not exceed in the aggregate the amount of costs and expenses permitted in subsection 494.0042(2), F.S.~~

~~(8)(9) No person shall charge or exact, directly or indirectly, from the mortgagor or lender a fee or commission in excess of the maximum fees or commissions as set forth herein. All fees paid to or on behalf of the licensee including, but not limited to, bonus plans, advertisement allowances, incentive plans, kick-backs, premiums or discounts whether paid directly or indirectly or to an affiliate firm in which the licensee has an ownership interest, must be included in determining the maximum loan origination brokerage fees.~~

~~(9)(10) All loan origination brokerage fees to other mortgage brokers brokerage businesses disbursed from the loan proceeds shown on the closing statement shall reflect the name of each mortgage broker brokerage business or co-brokering mortgage broker brokerage business paid.~~

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0016(4), 494.0038(2)(b), 494.0041(2) FS. Law Implemented 494.0038, 494.0025, 494.0041, 494.0042 FS. History-Revised 9-23-65, Amended 9-1-67, 5-8-68, Renumbered from 3-3.08 to 3D-40.08 on 9-8-75, Amended 9-29-75, 4-27-77, Joint Administrative Procedures Committee Objection Filed-See FAW Vol. 2, No. 19, May 7, 1976, Joint Administrative Procedures Committee Objection Withdrawn-See FAW Vol. 3, No. 30, July 29, 1977, Amended 7-6-78, 2-5-80, 8-17-83, Formerly 3D-40.08, Amended 1-5-87, 5-24-89, 8-24-92, Formerly 3D-40.008, Amended 3-23-08, 10-1-10.

69V-40.0113 Demonstrating Character, General Fitness, and Financial Responsibility.

(1) Definitions. As used in this rule, the term:

(a) "Adverse credit history information" means the following:

1. Personal bankruptcy within the previous year.

2. Bankruptcy within the previous year of any organization based on events that occurred while the relevant person was a control person.

3. Outstanding tax lien or other governmental lien.

4. Outstanding judgment based upon grounds of fraud, embezzlement, misrepresentation, or deceit.

5. Open collection account or account that is actively assigned to a collection agency.

6. Any account that has been "charged off" within the previous 5 years and remains unpaid.

7. Foreclosure on personally owned property within the last 5 years.

(b) "Charge off" means an account that has been identified by the creditor as an uncollectable debt. A charged off account is normally reported on the credit report as an R9, I9, or M9.

(c) "Relevant person" means each loan originator applicant and each control person of a mortgage broker and mortgage lender license applicant. If the mortgage broker or mortgage lender license applicant is a natural person, he or she is a relevant person under this rule.

(2) Adverse Credit History Information. If a relevant person's credit report or responses to the license application contains adverse credit history information, the Office will notify the applicant in writing of the specific items constituting adverse credit history information. The notification will also inform the applicant of the:

(a) Opportunity to explain the circumstances surrounding the specific items and provide any other relevant information that the applicant wishes the Office to consider surrounding the specific items;

(b) Documents that the Office requires in order to complete its review of the specific items. The requested documents provided by the applicant must be legible. Documents that are typically requested by the Office include, but are not limited to:

1. Copies of satisfaction of judgment.

2. Copies of satisfaction of outstanding tax liens or other governmental liens.

3. Copies of court documents that reflect the substance of the matter and how the matter was resolved or adjudicated.

4. Copies of recent account statements or letters from the creditors explaining the current status of accounts. The account statement or letter from the creditor must be dated within 30 days after the received date of the application or the Office's request, whichever is later. For security purposes, the relevant person may redact all but the last four (4) digits of the account number prior to submitting the document to the Office.

5. Copies of tax returns, pay stubs, or other documentation of income.

If the documents requested above cannot be obtained, the relevant person shall submit evidence of that fact in order for the license application to be deemed complete. Evidence that

documents cannot be obtained shall consist of a written statement from the agency's or creditor's records custodian that is written on the agency's or creditor's letterhead; indicates that the agency or the creditor does not have any record of such matter or that the record was lost, damaged, or destroyed, or cannot otherwise be produced and provide a statement as to why the record cannot be produced; and is signed by the agency's or creditor's records custodian.

(3) Procedure for Reviewing Adverse Credit History Information.

(a) When deciding whether to approve an application for licensure as a loan originator, mortgage broker, or mortgage lender, the Office must make a determination regarding whether the relevant person has demonstrated that he or she possesses the character, general fitness, and financial responsibility to warrant the Office's determination that the relevant person will operate honestly, fairly, and efficiently. In making this determination, the Office will consider the following information:

1. The relevant person's entire credit history as reflected in the credit report.

2. The information provided by the relevant person under subsection (2).

3. The responses contained in the license application.

4. The previous licensing history with the Office including whether the relevant person was named in any regulatory action by the Office.

5. Other information that reflects upon an applicant's character, general fitness, or financial responsibility.

6. The time and context of the information available and any pattern of behavior the information may demonstrate.

(b) Based on the totality of the circumstances as developed under paragraph (a), the Office will make a determination as to whether the relevant person has demonstrated that he or she possesses the character, general fitness, and financial responsibility to warrant the Office's determination that the relevant person will operate honestly, fairly, and efficiently. In considering the totality of the circumstances, the fact that an applicant has been a debtor in a bankruptcy or been the control person of a bankrupt organization shall not be the sole basis of the Office's determination to deny the issuance of a license.

Proposed Effective Date: October 1, 2010.

Rulemaking Authority 494.0011(2)(b), FS. Law Implemented 494.00312, 494.00313, 494.00321, 494.00322, 494.00611, 494.00612, FS History-New 10-1-10.

69V-40.021 Fictitious Name Registration.

No mortgage business school, mortgage brokerage business or lender having a license or permit pursuant to Chapter 494, F.S., will be permitted to use a fictitious name unless they have provided evidence to the Office of Financial Regulation that such fictitious name is duly registered with the Florida Secretary of State, pursuant to Section 865.09, F.S.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0029(2)(e), 494.0041(2)(q), 494.0072(2)(q) FS. History—New 8-7-97, Formerly 3D-40.021, Amended 3-23-08, Repealed 10-1-10.

69V-40.022 Quarterly Report Filing Requirements.

(1) Each mortgage brokerage business, correspondent mortgage lender, mortgage lender, and mortgage lender licensed pursuant to the savings clause, that was licensed with the Office of Financial Regulation on or before March 31, 2000, shall file an initial quarterly report on or before April 30, 2000 as required by subsections 494.004(6) and 494.0067(9), F.S. Thereafter, a quarterly report shall be filed as required by subsections 494.004(6) and 494.0067(9), F.S., within 30 days of the end of each calendar quarter.

(2) Each mortgage brokerage business, correspondent mortgage lender, mortgage lender and mortgage lender licensed pursuant to the savings clause, that becomes licensed with the Office of Financial Regulation after March 31, 2000, shall file an initial quarterly report within 30 days of the end of the calendar quarter in which the original license is issued, and thereafter shall file a quarterly report as required by subsections 494.004(6) and 494.0067(9), F.S.

(3) The report shall be filed electronically on Form OFR 494-08 by accessing the Office of Financial Regulation's website at [www.flor.com](http://www.flor.com).

(a) Any person may petition for a waiver of the requirement of electronic filing of quarterly reports by filing a petition pursuant to Rule 28-106.301, F.A.C. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the quarterly report in a paper format. Such petitions are timely filed if received by the office by the quarterly report filing deadline.

(b) Any person granted a waiver pursuant to paragraph (3)(a) above will be provided a copy of Form OFR 494-08.

(4) All reports shall be filed with the Office of Financial Regulation within thirty (30) days after the last day of each calendar quarter. If the 30th day falls on a weekend or official holiday such reports will be considered timely filed on the next business day.

(5) If a correct initial report or correct quarterly report thereafter is not timely received (incidental and isolated clerical errors or omissions shall not be considered a violation) as required by subsection 494.004(6), F.S., or subsection 494.0067(9), F.S., the penalty shall be the issuance of a "notice of noncompliance" for the first offense. Any subsequent finding of a violation of this rule shall be a fine of \$500. The penalty for any intentional violations of this rule shall be a fine of \$500 and suspension of the license.

(6) Form OFR 494-08 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010.

Rulemaking Authority 494.0011(2), 494.004(7), 494.0067(9) FS. Law Implemented 494.0011(2), 494.004(7), 494.0067(9) FS. History—New 11-7-00, Formerly 3D-40.022, Amended 3-23-08, Repealed 10-1-10.

69V-40.025 Mortgage Broker Examination.

(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 of Financial Regulation's website at [www.flor.com](http://www.flor.com).

(2) Upon receipt of an application filed through the REAL System, each test candidate will be responsible for scheduling his or her mortgage broker examination with the Office of Financial Regulation or its designee. In addition to any application fee as prescribed by Chapter 494, F.S., and any other fee required by administrative rule, the candidate shall pay \$43 for the mortgage broker examination and every retake of the examination. The Office of Financial Regulation or its designee shall be responsible for the administration and grade notification of the Mortgage Broker Examination.

(3) All examinations shall be administered and supervised by proctors who are Office of Financial Regulation employees or its designees. During the examination the examinees shall abide by the instructions of the proctors. Specific instructions for completion of the examination shall be communicated prior to the examination and the examinees shall be permitted to ask reasonable questions relating to the instructions. The Office of Financial Regulation or its designee shall be responsible for determining that the student taking the examination is the actual person authorized to take the examination. Examinees shall not give or receive help from other examinees. There shall be no talking or communication between the examinees while the exam is in progress. Reference materials shall not be permitted in the examination room unless specifically authorized in the instructions.

(4) Cheating on an examination or violating test center or examination procedures published orally, in writing, or electronically at the test site by Office of Financial Regulation employees or its designees shall be grounds for denial of licensure by the Office of Financial Regulation.

(5) Candidates failing the examination will be notified of the review procedures and will be responsible for requesting a retake of the mortgage broker examination through the REAL system. Candidates will not be permitted to request an examination that will be conducted on a date beyond the candidate's ninety (90) day application period. Candidates who fail the examination may request a review of their previous examination one time, for a \$30 fee, and must do so through the REAL system. Candidates reviewing shall have the right to have access to the examination questions, their examination responses, and the correct answers. Rules of examinee conduct during the review are the same as those for the examination.

(6) Examinations will be written and composed of 110 (100 scored and 10 pretest questions) multiple choice questions. Examination scores will be computed based on the following criteria:

(a) The examination will be scored on the basis of 100 points.

(b) An applicant who receives a grade of 75 points or higher shall be passed. A passing score will be valid for a period of 2 years from the date of passing the examination.

(c) Test scores will be derived from the number of correct responses.

(7) Candidates will be allowed 3 hours to complete the examination. Candidates will be permitted to use a non programmable hand held or battery type calculator.

(8) Notification of results. The applicant will be notified of the results of the examination by the Office of Financial Regulation or its designee.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0033(2)(b) FS. History-New 10-1-91, Amended 6-8-92, Formerly 3D-40.025, Amended 3-23-08, 10-21-08, 3-4-09, Repealed 10-1-10.

69V-40.026 Curriculum for Mortgage Broker Pre-licensing Classroom Education.

Section 494.0033, F.S., requires any person applying for a mortgage brokerage license after July 1, 1992, to have completed twenty four (24) hours of classroom education prior to becoming licensed. The curriculum for the education shall cover primary and subordinated financing transactions, the provisions of Chapter 494, F.S., and Chapter 69V-40, F.A.C., federal statutes which apply to the financing of real estate, current and accepted mortgage principles and technical information basic to the mortgage broker profession, and shall include the following:

(1) Demonstrate customer relationship skills as related to a mortgage broker. The student should be able to:

(a) Assist and advise customers in selecting loan programs, including interest rate, discount points and fees.

(b) Provide customer with required disclosures (good faith estimate, Reg Z, ARM rate, lock in, etc.)

(c) Interpret and satisfy commitment contingencies with borrower.

(d) Explain the commitment of a lender.

(e) Demonstrate basic knowledge of the FAR/BAR real estate sale contract as it relates to financing real estate.

(f) Discuss types of real estate ownership with the consumer and determine how title shall be held.

(g) Explain closing documents and the procedure for determining that the borrower fully understands these documents. These documents include the following:

1. The note.

2. Mortgage contract.

3. HUD 1 closing statement.

(h) Demonstrate the ability to explain the need and technical basis for the following:

1. Property inspection.

2. Survey.

3. Title insurance.

4. Restrictive covenants; deed restrictions; encroachments.

(i) Understand the pertinent provisions in a standard mortgage contract. Explain the purpose and use of a contract for deed.

(2) Demonstrate the ability to prepare, explain and execute written and oral communications. The student should be able to:

(a) Prepare, explain, execute and deliver brokerage agreement to the consumer.

(b) Demonstrate the ability to understand and explain FNMA application procedures including required disclosures; knowledge of credit report procedures; verifications of income, deposit and employment.

(c) Demonstrate basic knowledge of the appraisal process and identify FNMA appraisal procedures.

(d) Evaluate appraiser's conclusions for support by accurate, complete and consistent data.

(3) Explain and compute the mathematical skills necessary for success as a mortgage broker. The student should be able to:

(a) Calculate brokerage fees for gross loans and net loans.

(b) Prepare, explain, execute, and deliver a good faith estimate of maximum costs to the consumer.

(c) Calculate and analyze ratios of house payment to income and total obligations to income to determine acceptability according to FNMA standards.

(d) Calculate loan to value ratios, origination fees, and discounts.

(e) Understand and calculate documentary stamp tax on deed and mortgage, intangible tax on mortgage, calculation of daily interest and pro rata of ad valorem tax.

(f) Calculate rate changes on ARMS (Adjustable Rate Mortgages).

(g) Convert hourly and weekly salaries to monthly income to compare income ratios.

(4) Identify and explain state laws and policies in regards to mortgage brokerage and lending procedures. The student should have a knowledge of the following:

(a) The "Definitions" and all subjects identified in the General Provisions, Part I, of Chapter 494, F.S.

(b) "Prohibited Practices" discussed in the General Provisions, Part I, of Chapter 494, F.S.

(c) Principles necessary to establish and operate a mortgage brokerage business.

(d) The authority of the various licensees in Chapter 494, F.S.

(e) The rules in Chapter 69V-40, F.A.C., which apply to a mortgage brokerage business, including, but not limited to: definition of moral turpitude, restoration of civil rights, and mortgage brokerage file requirements.

(f) The difference in licensing requirements for the two types of lenders; exemptions; lock in procedures; fines and penalties for lenders; and ability to sell and service a loan for non institutional investor.

(g) Penalties for failure to comply with Chapter 494, F.S., and the administrative rules in Chapter 69V-40, F.A.C.

(5) Explain federal laws which affect mortgage brokerage and lending transactions in the state of Florida. The student should understand the following federal statutes and/or procedures:

(a) Truth in Lending Act; Real Estate Settlement Procedures Act (RESPA); Fair Credit Reporting Act; Equal Credit Opportunity Act; and National Flood Insurance Act.

(b) Various government agencies which administer the federal statutes named in paragraph (a) above.

(6) Demonstrate knowledge of FNMA underwriting procedures. The student should be able to perform the following based on FNMA Guidelines:

(a) Demonstrate the ability to verify that the property is adequate security for the loan. Assess value of property, area markets and adverse conditions.

(b) Explain the requirements for determining if property meets investor's guidelines. Assess physical aspects such as age, location, drainage and utilities.

(c) Analyze stability of employment and probability of continued employment at verified income level.

(d) Analyze acceptability of credit history. Understand how to read a credit report.

(e) Calculate and analyze status of house payments to income and total obligations to income to determine acceptability.

(f) Analyze income tax returns of self employed borrowers to confirm monthly average income.

(g) Determine that funds for closing and sources of those funds are acceptable.

(h) Determine and collect necessary exhibits to clear all underwriting contingencies.

(i) Understand the procedures for issuing adverse action notices.

(j) Assemble for submission an entire loan package for underwriting.

(7) Demonstrate basic business operations applicable to mortgage brokerage and banking. The student should be able to:

(a) Arrange rate lock in. Identify and satisfy any outstanding commitment contingencies.

(b) Investigate and confirm application data including, but not limited to, credit report and property appraisal.

(e) Determine that survey of property has been arranged and guidelines have been met. Ascertain that no encroachments exist.

(d) Arrange for property inspection.

(e) Evaluate and review title insurance policy. Understand owners vs. mortgagee's policy. Define acceptable exceptions on an ALTA policy according to FNMA guidelines.

(f) Demonstrate the ability to arrange for funds in the amount of loan proceeds and disburse to proper parties. Understand the various methods of funding a loan.

(g) Discuss and identify principles and practices of mortgage brokerage and banking.

(h) Understand and explain the function and operation of Private Mortgage Insurance (PMI) and know when it is required.

(i) Explain to the customer the meaning of the terms: novation, assumption of mortgage, subject to the mortgage, and release of liability.

(8) Demonstrate knowledge and understanding of the secondary mortgage market by explaining the following principles:

(a) Terms of a loan commitment.

(b) FNMA eligibility requirements to purchase a single family residential conventional mortgage loan.

(c) Primary and secondary mortgage markets.

(d) Function and method of operation of FNMA, GNMA, and FHLMC.

(e) Method and marketing aspect of a GNMA mortgage backed pass through security consisting of FHA-VA mortgage loans.

(9) Demonstrate an understanding of the basic concepts of mortgage financing. The student should have an understanding of the following:

(a) Fixed and adjustable rate mortgages.

(b) Negative and positive amortization and when they occur.

(c) Various loan products available in the marketplace such as Graduated Payment Mortgages, Reverse Mortgages, and Growing Equity Mortgages.

(d) Buy down of an interest rate and its benefit to the borrower.

(e) Wraparound Mortgage.

(10) Demonstrate the ability to explain to the borrower the following basic functions of mortgage servicing:

(a) Collection and remittance of monthly payments.

(b) Escrow accounts (taxes and insurance).

(c) Foreclosure and/or deed in lieu of foreclosure.

(d) Payoffs and/or assumptions.

(e) Transfer of servicing rights from one servicer to another and effect on borrower.

(11) Intended Outcome: After successfully completing the program, the student should be able to:

- (a) Demonstrate customer relationship skills as related to a mortgage broker.
- (b) Demonstrate the ability to prepare, explain and execute written and oral communications which relate to the mortgage origination process.
- (c) Explain and compute the mathematical skills necessary for success as a mortgage broker.
- (d) Identify and explain federal and state laws and policies in regards to mortgage brokerage and lending procedures.
- (e) Utilize effective selling techniques and procedures by explaining to the consumer the various loan products available in the marketplace and advising the consumer of the advantages and disadvantages of each.
- (f) Demonstrate knowledge of FNMA application and underwriting procedures.
- (g) Demonstrate the ability to explain the loan closing process; various funding methods; secondary market procedures; and FNMA purchase requirements.
- (h) Demonstrate basic business operations applicable to mortgage brokerage and banking.
- (i) Demonstrate the ability to satisfy consumer needs by explaining the basic concepts of mortgage financing and mortgage servicing.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2), 494.0033(3) FS. Law Implemented 494.0033 FS. History—New 7-2-92, Amended 5-19-96, 12-9-01, Formerly 3D-40.026, Repealed 10-1-10.

#### 69V-40.0271 Mortgage Broker Pre-licensing Education Requirement.

(1) Effective July 5, 1992, persons desiring to become licensed as a mortgage broker pursuant to Section 494.0033, F.S., shall satisfactorily complete twenty four (24) hours of classroom study on primary and subordinate financing transactions and the provisions of Chapter 494, F.S., and Chapter 69V 40, F.A.C. The course of study shall include the curriculum for mortgage broker classroom education in Rule 69V 40.026, F.A.C.

(2) Qualifying hours may be obtained by attendance at a duly permitted and accredited Mortgage Business School or an accredited college, university, community college, or area vocational technical school in this State which offers the twenty four (24) hour mortgage brokerage training course. Any school offering qualifying hours must include the curriculum for mortgage broker classroom education, Rule 69V 40.026, F.A.C., and the provisions of Chapter 494, F.S., and Chapter 69V 40, F.A.C., as the basis for course study.

(3) For the purpose of this rule “School” means any duly permitted and accredited Mortgage Business School and any accredited college, university, community college or area vocational technical school in this State, which offers the twenty four (24) hour mortgage brokerage training course as a

condition precedent to licensure as a mortgage broker. Such course shall include the curriculum described in Rule 69V 40.026, F.A.C.

(4) Within five (5) days of completion of each twenty four (24) hour mortgage broker course, each school shall submit to the Office of Financial Regulation the full name of the student, the social security number of each student, the school's name, the school's license number, if applicable, and the completion date of all students who successfully completed the course. Each school shall submit the required information on the Office of Financial Regulation's website at [www.flor.com](http://www.flor.com). Each mortgage business school shall maintain student completion records for at least three (3) years from the completion dates.

(5) An instructor of a school who teaches a pre-licensing course may use the course toward the satisfactory completion of the pre-licensing education requirement.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0016 FS. Law Implemented 494.0016, 494.00295, 494.0033 FS. History—New 7-5-92, Amended 11-5-95, 11-24-97, 8-22-99, 12-9-01, Formerly 3D-40.027, Amended 3-23-08, Repealed 10-1-10.

#### 69V-40.0271 Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives.

(1) All persons licensed as a mortgage broker shall satisfactorily complete fourteen (14) hours of professional continuing education covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V 40, F.A.C.

(2) The principal representative and each loan originator of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause shall satisfactorily complete fourteen (14) hours of professional continuing education covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V 40, F.A.C.

(3) Qualifying hours may be obtained by attendance at a duly permitted and accredited Mortgage Business School or an accredited college, university, community college, or area vocational technical school in this State which offers the fourteen (14) hours professional continuing education course(s). Qualifying hour of at least 4 hours may be obtained by attending training courses covering the provisions of Chapter 494, F.S., and Chapter 69V 40, F.A.C., that are conducted by the Office of Financial Regulation or its Regional Offices.

(4) For the purpose of this rule, the following definitions will apply:

(a) "Hour" shall mean 60 minutes of class time, of which 50 minutes shall be instruction, with a maximum of 10 minutes of break per hour.

(b) "School" shall mean any duly permitted and accredited Mortgage Business School and any accredited college, university, community college, or area vocational technical school in this State, which offers the fourteen (14) hours professional continuing education course.

(c) "Student" shall mean all persons licensed as a mortgage broker, the principal representative, and loan originators of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause.

(d) "Good Cause" means an incident or occurrence which is beyond the control of the student and which prevents attendance. Examples of good cause include, but are not limited to, disabling accident, illness, call to military duty, or declared national emergency.

(5) The fourteen (14) hours of professional continuing education can be taken in one or more courses at one or more schools.

(6) Schools shall not issue certificates of completion to students who do not attend or complete the scheduled hours for any professional continuing education course.

(a) Schools shall be responsible for determining that the student attending or completing the professional continuing education course is the actual person scheduled to complete the class or session.

(b) At the discretion of the school, students may miss a class or session and attend a make-up class or session to complete the attendance requirements upon showing good cause.

(c) The school may hold makeup classes or sessions to accommodate the student.

(7) An instructor of a school who teaches a professional continuing education course may use the course toward the satisfactory completion of the professional continuing education requirement.

(8) Neither students nor instructors may earn professional continuing education credit for attending or instructing at any subsequent offering of the same professional continuing education course during any two (2) year period.

(9) The professional continuing education courses may be offered through classroom instruction, electronic transmission ("Internet"), or distance education ("correspondence course").

(10) The professional continuing education courses taught by using the Internet and correspondence courses shall have:

(a) Course subject matter, assignment work, scholastic standards and other related requirements substantially similar to the course offered by classroom instruction, having due regard however, to the different methods of presentation.

(b) Shall provide students with instructions on how to contact an instructor to answer inquiries. The school shall also disclose to the student when the instructor will be available, however the instructor shall respond within 2 business days to the student's inquiries.

(c) When the course is in the form of a video tape or CD-Rom, the presentation must be of a quality that permits the student to view and listen to the presentation without interfering with the learning process.

(11) Within five (5) days of completion of each professional continuing education course, each permitted school shall submit to the student a certificate of completion indicating successful completion of the course, and the number of hours that course consisted of. Within five (5) days of completion of each professional continuing education course, each permitted school shall submit to the Office of Financial Regulation the full name and mortgage broker license number or social security number of each student, the school's name and license number, the number of hours completed by the student, and the completion date for individuals licensed as mortgage brokers. Each permitted school shall submit the required information on the Office of Financial Regulation's website at [www.flor.com](http://www.flor.com). Each mortgage business school shall maintain all student course completion records for at least four (4) years from the completion dates.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00295(4) FS. Law Implemented 494.0016, 494.0029, 494.00295, 494.0034, 494.0064, 494.0067 FS. History-New 12-9-01, Formerly 3D-40.0271, Amended 3-23-08. Repealed 10-1-10.

#### 69V-40.028 Permit for Mortgage Business School.

(1) Application Process. Each person, school, or institution desiring to obtain a permit for a Mortgage Business School shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Business School Permit, Form OFR 494-04.

(b) A nonrefundable application fee of \$500.

(c) A \$400 nonrefundable accreditation fee.

(d) For schools teaching the 24 hour pre licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand outs, audio/video materials, computer disks/eds, and any computer based training.

(2) 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 by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within thirty (30) days from the date of the request. Failure to respond to the request shall be construed

by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to subsection 120.60(1), F.S.

(3) ~~Amendments to Pending Applications.~~ If the information contained in any application for a permit for a Mortgage Business School or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-04. 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.

(4) ~~Withdrawal of Application.~~ An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(5) ~~Refunds.~~ If the application is withdrawn or denied, all fees are non-refundable.

(6) ~~Valid Period of Permit.~~ Upon approval of an application, a permit will be issued for the remainder of the annual license period, which ends each September 30th. The permit will be valid for this period unless the Office of Financial Regulation takes administrative action against it or unless the permit is terminated by the holder.

(7) ~~Form OFR 494-04 is incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0029(1), (3) FS. Law Implemented 120.60(1), 494.0029 FS. History-New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.028, Amended 3-23-08, Repealed 10-1-10.

#### 69V-40.0281 Mortgage Business Schools Prohibited Practices and Advertising/Publicity.

(1) ~~The following practices are prohibited from being used in any publicity or advertising done by mortgage business schools and will be considered a violation of subsections 494.0029(2)(e) and (d), F.S.:~~

(a) ~~Making any reference or comparison to another school (named or unnamed).~~

(b) ~~Any type of guarantee of non measurable outcomes, such as, but not limited to, "satisfaction guaranteed."~~

(c) ~~Any claim to being the only, largest, best, less expensive, or other such comparison.~~

(d) ~~Any claim or reference as to a school's knowledge of the State of Florida Mortgage Broker Test questions and answers.~~

(2) ~~For the purpose of this rule, any publicity or advertising shall include:~~

(a) Any written material, including but not limited to, study guides, business cards, flyers, pamphlets, and correspondence.

(b) Any electronic media, including but not limited to, video and audio tapes, cassettes, or disks.

(c) Any oral presentation, including but not limited to, speeches and telephone conversations.

(3) ~~Pass/Fail Ratio as used in subsection 494.0029(2)(f), F.S., shall be defined as any reference to how a student or any group of students performed on the State Mortgage Broker Examination. No reference shall be made to any comparative superlatives such as, but not limited to, "excellent passing ratio" or "better than average results."~~

(4) ~~The following additional practices of mortgage business schools are prohibited:~~

(a) ~~Misrepresenting any material fact furnished to the Office of Financial Regulation.~~

(b) ~~Failing to conduct classes or sessions for the total required hours.~~

(c) ~~Allowing a proxy to complete the pre licensing or continuing education course(s).~~

(d) ~~Falsifying any pre licensing or continuing education course completion record or other document related to the course.~~

(e) ~~Offering to teach a pre licensing or continuing education course without first being permitted as a mortgage business school.~~

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0025, 494.0029, 494.00295 FS. History-New 8-14-97, Amended 12-9-01, Formerly 3D-40.0281, Amended 3-23-08, Repealed 10-1-10.

#### 69V-40.029 Mortgage Business School Permit Renewal.

(1) ~~Each active Mortgage Business School permit shall be renewed for the annual period beginning October 1 of each year upon submission of the following:~~

(a) ~~A permit renewal fee of \$500.~~

(b) ~~A recertification accreditation fee of \$400 for the school; and~~

(c) ~~For schools teaching the 24 hour pre licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand outs, audio/video materials, computer disks/eds, and any computer based training.~~

(2) ~~Renewal fees shall be sent directly to the Office of Financial Regulation or may be paid electronically by following the applicable instructions on the Office of Financial Regulation's website at [www.florfr.com](http://www.florfr.com). The Office of Financial Regulation shall deem a renewal received upon receipt of the requisite fees and training materials at such time as it has been date stamped by the Cashier's Office of the Department of Financial Services or the date the renewal process has been completed on the Office's website. All~~

renewal fees and training materials must be received by September 30 of the year in which the permit expires. If September 30 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received.

(3) Failure to submit the fees and training materials required in subsection (1) prior to October 1 of each renewal year shall automatically result in the permit becoming expired. After the license has expired, there is no provision for reinstatement. A new application for a permit must be submitted as described in Rule 69V40.028, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0029(1), (3) FS. Law Implemented 494.0029 FS. History—New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.029, Amended 3-23-08, Repealed 10-1-10.

69V40.030 Accreditation Process for a Mortgage Business School.

(1) Section 494.0029, F.S., authorizes the Office of Financial Regulation to evaluate each school by an accreditation process to determine compliance and competency of mortgage business schools and to recertify each school on an annual basis.

(2) The basis for accreditation of mortgage business schools that offer the 24 hour mortgage broker pre-licensing course and the professional education (“continuing education”) will consist of the following evaluation criteria:

(a) Minimum adherence to the required curriculum.  
(b) Quality and substance of course outline, workbooks and study guide available to student from school.  
(c) Reference material, library and training manuals available for non-classroom study.  
(d) Training and visual aids equipment utilized in classroom.  
(e) Instructor’s ability to convey subject matter.  
(f) Classroom and review procedures.  
(g) Student interviews (post course).  
(h) Compliance with Americans with Disabilities Act.  
(i) Physical classroom facilities.  
(j) Compliance with Florida Statutes and Administrative Rules.

(3) The basis for accreditation of mortgage business schools that only offer the 14 hour professional education (“continuing education”) will consist of the following evaluation criteria:

(a) Compliance with Florida Statutes and Administrative Rules.  
(b) Compliance with Americans with Disabilities Act.  
(4) The accreditation process will be conducted by the Office of Financial Regulation or its designee during the license year by one or more of the following methods:

(a) Pre-arranged on-site interview with owners and/or management;  
(b) Visitation with no prior notice to observe instructor during classroom session;

(c) Questionnaires and/or personal interviews with current and former students;

(d) Questionnaires completed by owners and/or management;

(e) Written correspondence from prior students/student complaints;

(f) Compliance with Florida Statutes and Administrative Rules.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2) FS. Law Implemented 494.0029 FS. History—New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.030, Repealed 10-1-10.

69V40.031 Application Procedure for Mortgage Broker License.

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

(a) A completed Application for Licensure as a Mortgage Broker, Form OFR 494-03;

(b) The statutory nonrefundable application fee required by Section 494.0033, F.S., which shall be the fee for the biennial period beginning September 1 of each odd numbered year or any part thereof;

(c) A completed fingerprint card (FL921050Z) mailed to the Office of Financial Regulation, 200 East Gaines St., Tallahassee, Florida 32399-0376;

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

(e) A nonrefundable mortgage broker examination fee of \$43;

(f) Evidence that the applicant has completed the mortgage broker education requirements of subsection 494.0033(3), F.S.; and

(g) Evidence that the applicant has passed the mortgage broker examination as defined in Rule 69V40.025, F.A.C.

(2) Request for Additional Information. Any request for additional information, including a passing score on the Mortgage Broker Examination, will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

~~(3) Amendments to Pending Applications.~~ If the information contained in an Application for Licensure as a Mortgage Broker or any amendment thereto becomes inaccurate for any reason the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-03. 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 of Financial Regulation. 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 of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee(s), will be required. A material change means a change to a response to the disclosure questions listed in section 10 on Form OFR-494-03.

~~(4) Withdrawal of Application.~~ An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

~~(5) Refunds.~~ If the application is withdrawn or denied, the application fee and fingerprint processing fee are nonrefundable.

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(7) All applications, fees, data and forms required, except the fingerprint card, to be filed under this rule shall be filed electronically at [www.flor.com](http://www.flor.com). An application and fees submitted electronically on the Office's website shall be considered received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation is issued by the Office upon successful submission of an application and payment of all fees.~~

~~(8) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format.~~

~~(9) Form OFR-494-03 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.~~  
Proposed Effective Date: October 1, 2010

Rulemaking Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, 12-11-03, Formerly 3D-40.031, Amended 5-24-05, 3-23-08, 12-25-08, 3-4-09, Repealed 10-1-10.

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

~~(1) General Procedure Regarding Law Enforcement Records.~~ At the time of submitting a mortgage broker application, an applicant for a mortgage broker license shall disclose on the application form any pending criminal charges and all criminal matters in which the applicant has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of any crime. In addition, the applicant shall supply the Office with required documentation, as specified in this rule, relating to: 1) all criminal matters in which the applicant has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of a class "A", "B", "C", or "D" crime as described in this rule, 2) any pending criminal charges relating to a class "A", "B", "C", or "D" crime as described in this rule, or 3) shall supply evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a certified or sworn written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

- ~~(a) A copy of the police arrest affidavit, arrest report or similar document.~~
- ~~(b) A certified copy of the charges.~~
- ~~(c) A certified copy of the plea, judgment, and sentence where applicable.~~
- ~~(d) A certified copy of an order of entry into pre trial intervention, and the order of termination of pre trial intervention showing dismissal of charges where applicable.~~
- ~~(e) A certified copy of an order of termination of probation or supervised release, if applicable.~~

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

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

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

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

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

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

(3) Classification of Crimes.

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

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

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

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

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

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

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

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

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

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

(5) Applicants With Multiple Crimes.

(a) The Office construes Section 494.0041, F.S., to require that an applicant whose law enforcement record includes multiple crimes wait longer than those whose law enforcement record includes only a single crime before becoming eligible for licensure in order to assure that such applicant's greater

inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before licensure can safely be granted. Accordingly, where the applicant has been found guilty or pled guilty or pled *nolo contendere* to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(c) Classification as "Single Crime" versus "Multiple Crimes." For purposes of this rule, two (2) or more offenses are considered a single crime if they are triable in the same court and are based on the same act or transaction or on two (2) or more connected acts or transactions. (b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(6) Mitigating Factors.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Effect of Restoration of Civil Rights.

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

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

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

(12) Effect of Varying Terminology.

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

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

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

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

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

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

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

(13) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, F.S., while the applicant is imprisoned, under arrest, or serving a sentence for any crime. Further, the Office shall not license any applicant who has been released from imprisonment until the later of the period otherwise set out in these rules or five (5) years after the date of release. The Office finds it necessary that the person be released from

imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least five (5) years on good behavior, before licensure can be granted without undue risk to the public welfare.

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

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

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

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

- (b) Perjury.
- (c) Armed robbery.
- (d) Robbery.
- (e) Extortion.
- (f) Bribery.
- (g) Embezzlement.
- (h) Grand theft.
- (i) Larceny.
- (j) Burglary.
- (k) Breaking and entering.
- (l) Identity Theft.
- (m) Any type of forgery or uttering a forged instrument.
- (n) Misuse of public office.
- (o) Racketeering.
- (p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.
- (q) Treason against the United States, or a state, district, or territory thereof.
- (r) Altering public documents.
- (s) Witness tampering.
- (t) Tax evasion.

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

(v) Money laundering.

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

(a) Murder in all degrees.

(b) Arson.

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

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

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

(f) Rape.

(g) Sexually molesting any minor.

(h) Sexual battery.

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

(j) Kidnapping.

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

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

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

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

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

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

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011 FS. Law Implemented 112.011, 494.0033, 494.0041 FS. History-New 12-2-08, Repealed 10-1-10.

69V-40.0312 Application Procedure for Loan Originator license.

(1) Each individual desiring to obtain licensure as a loan originator shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Uniform Individual Mortgage License/Registration & Consent Form, MU4, filed through the Registry;

(b) The statutory nonrefundable application fee of \$195 filed through the Registry;

(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$20 filed through the Registry;

(d) Evidence that the applicant has been awarded a high school diploma or the equivalent;

(e) Confirmation from the Registry that the applicant has satisfied the requirement to complete a 20-hour pre-license class approved by the Registry.

(f) Confirmation from the Registry that the applicant has satisfied the requirement to pass a test developed by the Registry and administered by a provider approved by the Registry. For the purposes of this rule, a test developed by the Registry and administered by a provider approved by the Registry includes both a national component and a state component.

(g) Submit fingerprints to the Registry for submission to the Federal Bureau of Investigation for a federal criminal background check;

(h) Submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement for a state criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(i) Authorize the Registry to obtain and make available to the Office an independent credit report on the applicant.

(2) Request for Additional Information. Within 30 days of receipt the Office shall review each loan originator application and inform the applicant of any request for additional information required to complete its review. The additional information must be received by the Office within 120 days from the date of the request. Failure by the applicant to respond within 120 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to provide the requested information.

(3) Amendments to Pending Applications. If the information contained in Form MU4 or any amendment thereto becomes inaccurate for any reason the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question 9 on Form MU4 shall be considered a material change to the application and grounds for denial of the application.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(5) Upon approval of an application, a loan originator license will be issued with an expiration date of December 31 for the year in which the license was issued. Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.

(6) Uniform Individual Mortgage License/Registration & Consent Form, MU4, is incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00312(2) FS. Law Implemented 494.0011(2), 494.00312 FS. History-New 10-1-10.

69V-40.0313 Loan Originator License Renewal.

(1) In order to renew an active loan originator license a licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$195.25 paid through the Registry which includes the following:

1. \$150 nonrefundable renewal fee;  
2. \$20 nonrefundable mortgage broker guaranty fund fee, and  
3. \$25.25 to cover further costs of criminal background check.

(c) Authorize the Registry to obtain and make available to the Office an independent credit report on the licensee.

(2) Request for Additional Information. The Office shall review each loan originator renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial of the renewal request for failure to provide the requested information.

(3) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00312, F.S., and Rules 69V-40.0112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the loan originator license which shall be valid until December 31 of the year following the expiration date of the loan originator license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renew request pursuant to Section 494.00313(2), F.S.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00313 FS. Law Implemented 494.0011(2), 494.00313 FS. History-New 10-1-10.

69V-40.0321 Application Procedure for a Mortgage Broker license.

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

(a) A completed Uniform Mortgage Lender/Mortgage Broker Form, MU1, filed through the Registry;

(b) The statutory nonrefundable application fee of \$425 filed through the Registry;

(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$100 filed through the Registry;

(d) Designate a qualified principal loan originator who meets the requirements of Section 494.0035, F.S.;

(e) For each of the applicant's control persons, submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdl.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(f) For each of the applicant's control persons, authorize the Registry to obtain and make available to the Office an independent credit report;

(2) For the purposes of this rule, the requirements in paragraphs (1)(e) and (f) above are not required if the control person is currently licensed as a loan originator.

(3) Request for Additional Information. Within 30 days of receipt the Office shall review each mortgage broker application and inform the application of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the applicant to respond within 45 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to provide the requested information.

(4) Amendments to Pending Applications. If the information contained in the Form MU1 or any amendment thereto becomes inaccurate for any reason, the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question 9 on the Form MU1 or question 8 on the Uniform Mortgage Biographical Statement & Consent Form, MU2, shall be considered a material change to the application and grounds for denial of the application.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(6) Upon approval of an application, a mortgage broker license will be issued with an expiration date of December 31 for the year in which the license was issued. Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.

(7) Uniform Mortgage Lender/Mortgage Broker Form, MU1, and Uniform Mortgage Biographical Statement & Consent Form, MU2, are incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00321(1) FS. Law Implemented 494.0011(2), 494.00321 FS. History-New 10-1-10.

69V-40.0322 Mortgage Broker License Renewal.

(1) In order to renew an active loan originator license a mortgage broker licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a payment of \$475 through the Registry for the following:

1. \$375 nonrefundable renewal fee; and

2. \$100 nonrefundable mortgage broker guaranty fund fee.

(c) Submit \$25.25 to the Office for each control person listed on the licensee's Form MU1 to cover the further costs of criminal background check.

(d) Authorize the Registry to obtain and make available to the Office an independent credit report on each control person listed on the licensee's Form MU1.

(e) Submit a nonrefundable renewal fee of \$225 for each branch office license through the Registry at the time of renewing the mortgage broker license.

(2) For the purposes of this rule, the requirements in paragraphs (1)(c) and (d) above are not required if the control person is currently licensed as a loan originator and has filed through the Registry a renewal submission of the loan originator license.

(3) Request for additional information. The Office shall review each mortgage broker renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed by the Office as grounds for denial of the renewal request.

(4) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00321, F.S., and Rules 69V-40.0112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the

mortgage broker license which shall be valid until December 31 of the year following the expiration date of the mortgage broker license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0322(2), F.S.

(5) Uniform Mortgage Lender/Mortgage Broker Form, MU1, is incorporated by reference in Rule 69V-40.002, F.A.C. Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00322 FS. Law Implemented 494.0011(2), 494.00322 FS. History-New 10-1-10.

69V-40.033 Disciplinary Guidelines for Mortgage Business Schools.

Each permitted and accredited mortgage business school which violates any provision of Chapter 494, F.S., or which fails to achieve minimum standards in the accreditation process described in Rule 69V-40.030, F.A.C., shall be subject to the following disciplinary guidelines:

(1) Failure to achieve minimum standards of accreditation shall result in any of the following penalties:

- (a) Reprimand;
- (b) Suspension;
- (c) Revocation, and/or
- (d) Probation.

(2) The probation shall be for such period of time and subject to such conditions as the Office of Financial Regulation may specify.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2), 494.0029 FS. Law Implemented 494.0029, 494.0041 FS. History-New 11-5-95, Amended 12-9-01, Formerly 3D-40.033, Repealed 10-1-10.

69V-40.0331 Declaration of Intent to Engage Solely in Loan Processing.

(1) A person who seeks to act solely as a loan processor shall:

- (a) Be licensed as a loan originator under Chapter 494, F.S., and must at all times thereafter remain licensed; and
- (b) Submit a completed Form OFR-494-13 (Declaration of Intent to Engage Solely in Loan Processing) to the Office.

(2) Form OFR-494-13 (Declaration of Intent to Engage Solely in Loan Processing) is incorporated by reference in Rule 69V-40.002, F.A.C.

(3) A person who currently has on file with the Office a Declaration of Intent to Engage Solely in Loan Processing may withdraw the declaration by filing Form OFR-494-13 (Declaration of Intent to Engage Solely in Loan Processing) indicating on the form the person's intent to withdraw the declaration.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.00331 FS. Law Implemented 494.00331 FS. History-New 10-1-10.

69V-40.036 Application Procedure for a Mortgage Broker Branch Office License.

(1) Each mortgage broker desiring to obtain a mortgage broker branch office license shall apply to the Office of Financial Regulation by submitting the following:

- (a) A completed Uniform Mortgage Branch Office Form, MU3, filed through the registry;
- (b) The statutory nonrefundable application fee of \$225 filed through the registry;

(2) Request for additional information. The Office shall review each mortgage broker branch office application and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the licensee to respond within 45 days from the date of the request shall be construed by the Office as grounds for denial of the renewal request.

(3) Uniform Mortgage Branch Office Form, MU3 is incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0036(2) FS. Law Implemented 494.0011(2), 494.0036, FS. History-New 10-1-10.

69V-40.043 Mortgage Broker License Renewal and Reactivation.

(1) Each active mortgage broker license shall be renewed for the biennial period beginning September 1 of each odd numbered year upon submission of the statutory renewal fee required by Section 494.0034, F.S., certification of compliance with the continuing education requirements of Section 494.00295, F.S., and a completed renewal form, Form OFR 494-07, Mortgage Broker License Renewal and Reactivation Form.

(2) A mortgage broker license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive license may be reactivated within two (2) years after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0034, F.S., certification of compliance with the continuing education requirements of Section 494.00295, F.S., and submission of a completed reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) A mortgage broker license that is not renewed within two (2) years after becoming inactive shall expire.

(4) The Office of Financial Regulation shall not renew or reactivate a mortgage broker license if the minimum continuing education requirements are not satisfied prior to the renewal or reactivation.

(5) The licensee is responsible for maintaining copies of the certificate of completion for all continuing education courses completed and shall supply them to the Office of Financial Regulation upon request.

(6) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.flor.com](http://www.flor.com).

(7) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, F.A.C. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format. If the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(9) Form OFR 494-07 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0034(2) FS. Law Implemented 494.001(3), 494.00295, 494.00331(1), 494.0034 FS. History-New 11-2-86, Amended 6-23-91, 11-12-91, 9-3-95, 12-12-99, 2-5-01, 12-9-01, Formerly 3D-40.043, Amended 3-23-08, Repealed 10-1-10.

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

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

(a) A completed Application for Mortgage Brokerage Business and Lender License, Form OFR 494-01;

(b) The statutory, nonrefundable application fee required by Section 494.0031, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof.

(c) Evidence that the applicant's designated principal broker has been actively licensed as a mortgage broker pursuant to Section 494.0033, F.S., for at least one year, or has demonstrated to the satisfaction of the Office of Financial Regulation that the designated principal broker has been actively engaged in a mortgage related business for at least one year.

(d) For the purpose of this rule, examples of "actively engaged in a mortgage related business" shall include, but are not limited to, the following positions that are engaged in the origination, underwriting, closing, and servicing of mortgage loans: loan originator, loan underwriter, officer, or director of a

mortgage lender or correspondent mortgage lender; mortgage loan officer of a financial institution; mortgage broker in another state; loan closer for a title insurance company or agency; loan representative, loan underwriter, officer, or director of a private mortgage insurance company; and regulator that is directly responsible for the examination, investigation, or regulation of mortgage companies from this state, another state, or a federal government agency.

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

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

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

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

(3) 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 by the Office of Financial Regulation. 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 respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Licensure as a Mortgage Brokerage Business or in any amendment thereto becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-01. 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 of Financial Regulation. 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 of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

(a) A change to a response to the disclosure questions listed in section 8 on Form OFR 494 01;

(b) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR 494 01, or

(c) The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal broker.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

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

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Form OFR 494 01 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C. Proposed Effective Date: October 1, 2010

Rulemaking Authority 215.405, 494.0011(2), 494.0031(2) FS. Law Implemented 494.0031, 494.0035, 494.004(6), 943.053 FS. History—New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-11-03, Formerly 3D-40.051, Amended 3-23-08, 12-25-08, Repealed 10-1-10.

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

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

In addition, the applicant shall supply the Office with required documentation for each relevant person, as specified in this rule, relating to: 1) all criminal matters in which the relevant person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of a class “A”, “B”, or “C” crime as described in this rule, 2) any pending criminal charges for a relevant person relating to a class “A”, “B”, or “C” crime as described in this rule, or 3) shall supply evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a certified or sworn written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

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

(b) A certified copy of the charges.

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

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

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

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

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

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

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

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

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

**(3) Classification of Crimes.**

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

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

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

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

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

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

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

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

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

**(5) Relevant Persons With Multiple Crimes.**

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

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

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

**(6) Mitigating Factors.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(11) Effect of Restoration of Civil Rights.

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

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

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

(12) Effect of Varying Terminology.

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

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

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

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

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

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

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

(13) Imprisoned Persons and Community Supervision.

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

(b) Community Supervision. The Office shall not grant licensure to any person who at the time of application or at any time during the pendency of the application is serving term on community supervision for any felony crime, or any

misdemeanor crime involving fraud, dishonest dealing, or moral turpitude. The Office shall not substantively consider an application until the applicant has successfully completed his or her probationary term.

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

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

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

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

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

(n) Misuse of public office.

(o) Racketeering.

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

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

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

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

(v) Money laundering.

(w) Murder in all degrees.

(x) Arson.

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

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

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

(bb) Rape.

(cc) Sexually molesting any minor.

(dd) Sexual battery.

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

(ff) Kidnapping.

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

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

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

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

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

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

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011 FS. Law Implemented 112.011, 494.0031, 494.0041 FS. History—New 12-2-08, Repealed 10-1-10.

69V-40.053 Mortgage Brokerage Business License and Branch Office License Renewal and Reactivation.

(1) Each active mortgage brokerage business license shall be renewed for the biennial period beginning September 1 of each even numbered year upon submission of the statutory renewal fee required by Section 494.0032, F.S.

(2) A mortgage brokerage business license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) Each active mortgage brokerage business branch office license shall be renewed in conjunction with the mortgage brokerage business license renewal upon submission of the statutory renewal fee required by Section 494.0032, F.S.

(4) A mortgage brokerage business branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive branch office license may be

renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(5) A mortgage brokerage business license and branch office license that is not renewed within six months after the end of the biennial period automatically expires.

(6) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(7) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.flor.com](http://www.flor.com).

(8) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, F.A.C. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format. In the event the renewal payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0032(2), 494.0036(2) FS. Law Implemented 494.001(7), 494.0011(2), 494.0031(1), 494.0032, 494.0036 FS. History—New 11-2-86, Amended 2-8-90, 10-1-91, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.053, Amended 3-23-08, Repealed 10-1-10.

69V-40.058 Application Procedure for Mortgage Brokerage Business Branch Office License.

(1) Every mortgage brokerage business which conducts mortgage brokerage business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) A completed Application for Branch Office License, Form OFR 494-02;

(b) The statutory, nonrefundable license fee required by Section 494.0036, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) 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 by the Office of Financial Regulation. 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 respond to the request within forty five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Mortgage Brokerage Business Branch Office License or in any amendment thereto becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-02. 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 of Financial Regulation.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

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

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Form OFR 494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0036(2) FS. Law Implemented 494.0036 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 8-22-99, 12-12-99, Formerly 3D-40.058, Amended 3-23-08, Repealed 10-1-10.

69V-40.060 Fees Earned Upon Obtaining a Bona Fide Commitment.

Any consumer that would like to file a complaint with the Office of Financial Regulation as a result of any provision of Section 494.00421, F.S., not being met, may contact the Office of Financial Regulation by calling (800)848-3792 or any of the Office of Financial Regulation's regional offices.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.00421(7) FS. Law Implemented 120.695, 494.0031, 494.00421, 494.0073 FS. History—New 7-25-96, Formerly 3D-40.060, Repealed 10-1-10.

69V-40.0611 Application Procedure for a Mortgage Lender License.

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

(a) A completed Uniform Mortgage Lender/Mortgage Broker Form, MU1, filed through the Registry;

(b) The statutory nonrefundable application fee of \$500 filed through the Registry;

(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$100 filed through the Registry;

(d) Designate a qualified principal loan originator who meets the requirements of Section 494.0035, F.S.;

(e) For each of the applicant's control persons, submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4c03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(f) For each of the applicant's control persons, authorize the Registry to obtain and make available to the Office an independent credit report;

(g) Submit a copy of the applicant's financial audit report in compliance with Section 494.00611(2)(f), F.S.

(2) Request for Additional Information. Within 30 days of receipt the Office shall review each mortgage lender application and inform the application of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the applicant to respond within 45 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to provide the requested information.

(3) Amendments to Pending Applications. If the information contained in Form MU1 or any amendment thereto becomes inaccurate for any reason the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question 9 on the Form MU1 or question 8 on Uniform Mortgage Biographical Statement & Consent Form, MU2, shall be considered a material change to the application and grounds for denial of the application.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(5) Upon approval of an application, a mortgage lender license will be issued with an expiration date of December 31 for the year in which the license was issued. Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.

(6) Uniform Mortgage Lender/Mortgage Broker Form, MU1, and Uniform Mortgage Biographical Statement & Consent Form, MU2, are incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011, 494.00611(2) FS. Law Implemented 494.0011(2), 494.00611 FS. History-New 10-1-10.

69V-40.0612 Mortgage Lender License Renewal.

(1) In order to renew an active mortgage lender license a mortgage lender licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a payment of \$575 through the Registry for the following:

1. \$475 nonrefundable renewal fee; and

2. \$100 nonrefundable mortgage broker guaranty fund fee.

(c) Submit \$25.25 to the Office for each control person listed on the licensee's Form MU1 to cover the further costs of a criminal background check.

(d) Authorize the Registry to obtain and make available to the Office an independent credit report on each control person listed on the licensee's Form MU1.

(e) Submit a nonrefundable renewal fee of \$225 for each branch office license through the Registry at the time of renewing the mortgage lender license.

(2) For the purposes of this rule, the requirements in paragraphs (1)(c) and (d) above are not required if the control person is currently licensed as a loan originator and has filed through the Registry a renewal submission of the loan originator license.

(3) Request for additional information. The Office shall review each mortgage lender renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond 30 days from the date of the request shall be construed by the Office as grounds for denial of the renewal request.

(4) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00611, F.S., and Rules 69V-40.0112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the mortgage broker license which shall be valid until December 31 of the year following the expiration date of the mortgage broker license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0612(2), F.S.

(5) Uniform Mortgage Lender/Mortgage Broker Form, MU1, is incorporated by reference in Rule 69V-40.002, F.A.C. Proposed Effective Date: October 1, 2010.

Rulemaking Authority 494.0011(2), 494.00612 FS. Law Implemented 494.0011(2), 494.00612 FS. History-New 10-1-10.

69V-40.066 Application procedure for a Mortgage Lender Branch Office License.

(1) Each mortgage lender desiring to obtain a mortgage lender branch office license shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Uniform Mortgage Branch Office Form, MU3, filed through the Registry;

(b) The statutory nonrefundable application fee of \$225 filed through the Registry;

(2) Request for additional information. The Office shall review each mortgage lender branch office application and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the licensee to respond within 45 days from the date of the request shall be construed by the Office as grounds for denial of the renewal request.

(3) Uniform Mortgage Branch Office Form, MU3, is incorporated by reference in Rule 69V-40.002, F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0066 FS. Law Implemented 494.0011(2), 494.0066 FS. History-New 10-1-10.

69V-40.088 Referrals.

(1) Any person who, for compensation or gain or in the expectation of compensation or gain, refers a borrower to a mortgage brokerage business, mortgage lender or correspondent mortgage lender is deemed to be acting as a mortgage broker requiring licensure pursuant to Chapter 494, Florida Statutes. The referring person shall enter into a written mortgage brokerage business agreement with the borrower as required by Section 494.0038, F.S. If the fee to be paid to the referring person is solely for making the referral, the mortgage brokerage business agreement shall clearly and explicitly state that the fee is being earned solely for making the referral.

(2)(a) A person acting as a mortgage brokerage business shall not assign a written mortgage brokerage business agreement to another person acting as a mortgage brokerage business, mortgage lender acting as a mortgage brokerage business or correspondent mortgage lender acting as a mortgage brokerage business unless the assignment is agreed to in writing by the borrower. The agreement to accept the assignment shall be segregated from other provisions of the written mortgage brokerage business agreement and shall include the name of the assignee. This agreement shall require the signature of the borrower apart from the borrower's original signature for entering into the mortgage brokerage business agreement.

(b) As an alternative to paragraph (2)(a) herein, the borrower may enter into a separate mortgage brokerage business agreement with the successor mortgage brokerage business, mortgage lender or correspondent mortgage lender. The separate mortgage brokerage business agreement shall

~~identify the amount of fees to be earned by each mortgage brokerage business as compensation for acting as a mortgage broker in the mortgage brokerage transaction involved.~~

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2) FS. Law Implemented 494.001(2), 494.0038, 494.0041(2)(b) FS. History-New 1-10-93, Formerly 3D-40.088, Repealed 10-1-10.

69V-40.099 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed as a loan originator, mortgage broker, or mortgage lender mortgage broker, mortgage brokerage business, mortgage lender, correspondent mortgage lender, or permitted mortgage business school which proposes to change its name, form of business organization, or any other information contained in any initial application form or any amendment thereto, must file an amendment through the Registry pursuant to Sections 494.004 494.004(6) and 494.0067 494.0067(4), F.S., not later than 30 thirty-days (30) after the effective date of the change, on Form OFR 494-01 for Mortgage Brokerage Businesses and Lenders, Form OFR 494-02 for Branch Offices, Form OFR 494-03 for Mortgage Brokers, and Form OFR 494-04 for Mortgage Business Schools. Any licensee pursuant to Section 494.0061 or 494.0062, F.S., shall additionally provide a completed surety bond, on Form OFR 494-05, Mortgage Brokerage and Mortgage Lending Act Surety Bond, executed in the new name of the licensee as documented by the requirements of this subsection. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensed mortgage broker brokerage business, or mortgage lender, or correspondent mortgage lender which proposes to change any of the control persons listed on the initial application or amendment thereto personnel described in Sections 494.004 and 494.0067, F.S., listed in any initial application form or any amendment thereto must file an amendment through the Registry not later than 30 thirty-days (30) prior to the effective date of the change or within 2 two (2) business days after the date the licensee first received notice of the change, on Form OFR 494-01 for Mortgage Brokerage Businesses and Lenders. In the event an amendment filed pursuant to this rule the change in personnel in Sections 494.004 and 494.0067, F.S., listed in any initial application or any amendment thereto results in the addition of new control person not previously disclosed on the license anyone referenced in this subsection, such persons must comply with Sections 494.0031(2)(e) and (d), 494.0061(2)(g) and (h), 494.0062(2)(g) and (h), or 494.0065(5)(e) and (f), F.S. unless such person is subject to the fingerprinting and credit report requirements required in Sections 494.00321 and 494.00611, F.S., unless the new control person is currently licensed as a loan originator at the time the amendment is filed through the

Registry, has previously complied with an entity currently licensed under this chapter and the person is currently affiliated with such entity.

(3) Applications for licensure as a mortgage brokerage business, mortgage lender or correspondent mortgage lender required as a result of an acquisition of a controlling interest in a licensee pursuant to Section 494.004(6) and 494.0067(4), F.S., must be filed in a timely manner as to allow the Office to complete its review of the application prior to the effective date of the acquisition, but no later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with Section 494.0031, 494.0061, or 494.0062, F.S.

(4) Any person who is subjected to the requirements of subsection (2) or (3) herein, and who seeks to own, control, or hold power to vote of a mortgage lender licensed pursuant to the Saving Clause, Section 494.0065, F.S., is subjected to the net worth requirements as specified in subsection 494.0065(1)(a)2., F.S., when reapplying for licensure as required in subsections (2) and (3) above. An application for licensure under this subsection shall be submitted in accordance with Rule 69V 40.100, F.A.C.

(5) The office shall waive the requirement for a licensee to file a new application pursuant to Sections 494.004(6) and 494.0067(4), F.S.:

(a) When a person or group of persons proposing to purchase or acquire a controlling interest in a licensee has previously filed the information with the Office required in Sections 494.0031(2)(e) and (d), 494.0061(2)(g) and (h), 494.0062(2)(g) and (h), or 494.0065(5)(e) and (f), F.S., with a mortgage brokerage business or lender currently licensed to the office, provided that such person is currently affiliated with the mortgage brokerage business or lender licensee; or

(b) When the acquirer is currently licensed with the office as a mortgage broker, mortgage brokerage business or lender.

(6) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection (5) of this rule, the licensee must file an amendment as prescribed in subsection (2) of this rule to report the change in controlling interest.

(7) Form OFR 494-01, Form OFR 494-02, Form OFR 494-03, Form OFR 494-04, and Form OFR 494-05 are incorporated by reference in subsection 69V 40.002(1), F.A.C. Amendments required to be filed pursuant to this rule must be accomplished by filing an amendment through the Registry and on same uniform forms required for initial licensure. Only those amendments filed through the Registry will be considered compliant with this rule. Upon filing an amendment pursuant to this rule the Office shall evaluate the licensee to determine if it continues to meet the minimum standards for licensure. The Office may take administrative action in

accordance with Section 494.00255, F.S., if the Office determines the licensee no longer meets the minimum standards for licensure.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.004(1), 494.0067 FS. Law Implemented 494.0011(2), 494.00312, 494.00313, 494.00321, 494.00322, 44.0036, 494.00611, 494.00612, 494.0066, 494.0067 494.0029(1)(d), 494.0031, 494.0061, 494.0062, 494.0065 FS. History—New 1-10-93, Amended 5-14-95, 9-3-95, 12-12-99, 11-1-00, Formerly 3D-40.099, Amended 3-23-08, 10-1-10.

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

(1) Each person who seeks to obtain a controlling ownership or voting interest in a mortgage lender licensed pursuant to the saving clause shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Lender License, Form OFR 494-01;

(b) A nonrefundable application fee of \$500, which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof;

(c) A nonrefundable mortgage broker examination fee of \$43 for the designated principal representative if required to take the mortgage broker examination pursuant to Section 494.0065(4)(c)2., F.S.;

(d) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, then an audited statement from the previous fiscal year end is acceptable.

(e) Designate a principal representative who shall operate and exercise control over the licensee's business. Each mortgage lender applicant pursuant to the saving clause transfer shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V 40.001(11), F.A.C.

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

(a) If the individual owner, director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, principal representative, control person, member, partner, or joint venturer holds an

active mortgage broker's license with the Office of Financial Regulation, he or she is exempt from the provisions of subsection (2).

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

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

(3) 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 by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in any application for a license for a Saving Clause Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494 01. 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 fees, will be required. Material changes include:

(a) A change to a response to the disclosure questions listed in section 8 on Form OFR 494 01.

(b) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR 494 01.

(c) The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

(d) A change to the applicant's net worth.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

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

(7) Form OFR 494 01 and Form FL921050Z are incorporated by reference in subsection 69V40.002(1), F.A.C. Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0065(3) FS. Law Implemented 120.60, 494.001(30), 494.0061(1), (3), (8), 494.0065, 494.0067(3), (4) FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.100, Amended 3-23-08, 12-25-08, 3-4-09, Repealed 10-1-10.

#### 69V40.105 Branch Office License for Transfer in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person applying for a transfer in ownership or control of a saving clause mortgage lender, who also wishes to operate branch offices of that saving clause mortgage lender shall apply to the Office of Financial Regulation for a license to operate each branch office by submitting the following:

(a) A completed Application for Branch Office License. Form OFR 494 02.

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) 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 by the Office of Financial Regulation. 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 respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in any application for a license for a branch office of a Savings Clause Mortgage Lender or any amendment thereto, becomes inaccurate for any reason, the application shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494 02. 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 (30)

days from receipt of the application by the Office. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation.

(5) ~~Withdrawal of Application.~~ An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) ~~Refunds.~~ If the application is withdrawn or denied, the application fee is nonrefundable.

(7) ~~Upon approval of an application, a license will be issued for the remainder of the biennial period.~~

(8) ~~Form OFR 494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0065, 494.0066 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.105, Amended 3-23-08, Repealed 10-1-10.

#### 69V-40.155 Lock-in Statement.

A lock-in agreement which includes applicable information as required by ~~Section subsections~~ 494.0069(1)(a)-(e), F.S., and the following statement meets the requirement of ~~Section subsection~~ 494.0069(1)(f), F.S.

(1) Florida law requires that the lender shall make a good faith effort to process the mortgage loan application and stand ready to fulfill the terms of its lock-in agreement before the expiration date of the lock-in agreement or any extension thereof.

(2) Any lock-in agreement received by the lender by mail or through a ~~mortgage~~ broker must be signed by the lender in order to become effective. The borrower may rescind any lock-in agreement until a written confirmation of the agreement has been signed by the lender and mailed to the borrower or to the ~~mortgage broker brokerage~~ business pursuant to its contractual relationship with the borrower. If a borrower elects to so rescind, the lender shall promptly refund any lock-in fee paid.

(3) If the loan does not close before the expiration date of the lock-in agreement through no substantial fault of the borrower, the borrower may withdraw the application, whereupon the lender shall promptly refund to the borrower any lock-in fee paid by the borrower.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2), 494.0069(6) FS. Law Implemented 494.0069(1)(f) FS. History—New 12-3-91, Formerly 3D-40.155, Amended 10-1-10.

#### 69V-40.156 Third-party Fee Accounts.

(1) All third-party fees and refundable application fees received by a ~~mortgage broker brokerage~~ business shall immediately be deposited in a segregated account in a federally

insured financial institution located in Florida. The account shall be in the name of the mortgage ~~broker brokerage~~ business and shall provide for withdrawal of funds without notice. The account shall be used exclusively for third-party fees and refundable application fees. The licensee shall maintain an updated and accurate record of account activity on Form OFR-494-09, Mortgage Brokerage Deposit Account Form or on a format which is substantially similar to Form OFR-494-09.

(2) For the purposes of this rule “immediately” means within 7 ~~seven~~ (7) business days of receipt of the funds.

(3) The administrative penalty for the failure to comply with this rule shall be \$500. Incidental and isolated clerical errors or omissions shall not be considered a violation of this rule. For the purposes of this rule “isolated clerical errors or omissions” shall mean less than three (3), or a percentage less than 20% of the deposit entries examined or reviewed. The penalty for intentional or repeat violations of this rule shall be a \$500 fine and suspension or revocation.

(4) For the purposes of this rule, failure to maintain an escrow account is a violation of this rule. Failure to maintain a record of account activity in a current manner is a violation of this rule. Failure to make immediate deposits as required is a violation of this rule. Each of the above shall be considered separate violations with each subject to the penalties provided therein.

(5) For the purposes of Section 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

(6) Form OFR-494-09 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.00255(1)(a), 494.0038, 494.0068(5), 494.0041(2)(e), 494.0068(3), 494.0072(2)(e) FS. History—New 12-3-91, Amended 7-25-96, 12-12-99, Formerly 3D-40.156, Amended 3-23-08, 10-1-10.

#### 69V-40.160 Principal Brokers.

(1) ~~Each mortgage brokerage business shall designate a licensed mortgage broker as the principal broker and the individual designated shall accept responsibility by completing the Principal Broker/Representative Designation section of Form OFR-494-01.~~

(2) ~~Upon any change of principal broker, the licensee and the newly designated principal broker shall amend the Principal Broker/Representative Designation section of Form OFR-494-01 pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-01 shall be maintained at the principal office of the mortgage brokerage business. Anyone being designated as a principal broker, must have been actively licensed as a mortgage broker pursuant to Section 494.0033, F.S., for at least one year, or has demonstrated to the satisfaction of the Office~~

of Financial Regulation that the designated principal broker has been actively engaged in a mortgage related business for at least one year, as defined in Rule 69V40.051, F.A.C.

(3) The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR 494-01 shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain the Principal Broker/Representative Designation section of Form OFR 494-01 is intentional, the penalty shall be a fine of \$5,000.

(4) Each licensee shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376 in writing, within thirty (30) days, of the termination or resignation of a principal broker.

(5) Form OFR 494-01 is incorporated by reference in subsection 69V40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0035 FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035, 494.0041(1)(e) FS. History—New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.160, Amended 3-23-08, Repealed 10-1-10.

#### 69V40.165 Branch Brokers.

(1) Each mortgage brokerage business shall designate a licensed mortgage broker as the branch broker of the branch office, and the individual shall accept such responsibility by completing the Branch Broker/Employee in Charge section of Form OFR 494-02.

(2) Upon any change of Branch Broker, the licensee and the newly designated branch broker shall complete the Branch Broker/Employee in Charge section of Form OFR 494-02 pursuant to subsection 69V40.099(1), F.A.C. Form OFR 494-02 shall be maintained at the applicable branch office of the mortgage brokerage business.

(3) The penalty for failure to maintain Form OFR 494-02 shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation OFR 494-02 is intentional, the penalty shall be a fine of \$5,000.

(4) Each licensee shall notify the Office of Financial Regulation in writing, within thirty (30) days, of termination or resignation of a branch broker.

(5) Form OFR 494-02 is incorporated by reference in subsection 69V40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0035(2) FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035(2), 494.0041(1)(e) FS. History—New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.165, Amended 3-23-08, Repealed 10-1-10.

#### 69V40.170 Books and Records.

(1) Books, accounts, and records that are required to be maintained at the principal place of business shall be made available to the Office of Financial Regulation for review, upon the Office of Financial Regulation's request.

(2)(a) A licensee may maintain required books, accounts, and records at a location other than the principal place of business. The licensee must notify the Office of Financial Regulation in writing prior to said books, accounts, and records being maintained in any place other than the designated principal place of business. Such notification shall be submitted to the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Each licensed mortgage broker or mortgage lender which proposes to change the location of books, accounts, and records must file an amendment to Form MU1 through the Registry not later than 30 days prior to the effective date of the change.

(b) The books, accounts, and records must be stored in notification shall include confirmation by the licensee that the proposed storage facilities are a building of stationary construction wherein the books, accounts, and records will be kept in a secured location under conditions, which will not lead to the damage or destruction of the records.

(3) If the Office of Financial Regulation is notified by a licensee that it will maintain the books, accounts, and records at a location other than the principal place of business, such books, accounts, and records shall be made available to the Office of Financial Regulation for review within 3 ~~three~~ (3) business days from the date of a written request by the Office of Financial Regulation and at a reasonable and convenient location in this State designated by the Office of Financial Regulation.

(4) The licensee shall maintain at the principal place of business a copy of the confirmation letter from the Office of Financial Regulation to maintain its records at a location other than the principal place of business.

(4)(5) All books, accounts, and records must be maintained for 3 ~~three~~ (3) years from the date of "original entry". For the purpose of this rule, "original entry" means the date the documentation was originated by the licensee or received by the licensee.

(5)(6)(a) The penalty for maintaining books, accounts, and records at a location other than the principal place of business, without written notification to the Office of Financial Regulation, shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a \$500 fine.

(b) The penalty for refusal to permit an investigation or examination of books, accounts, and records, after a reasonable request by the Office of Financial Regulation, shall be

revocation of the license. This paragraph shall not apply to a proceeding governed by the rules of civil procedure of any state or federal court.

**(6) Uniform Mortgage Lender/Mortgage Broker Form, MU1, is incorporated by reference in Rule 69V-40.002, F.A.C.**  
**Proposed Effective Date: October 1, 2010**

Rulemaking Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.595, 494.0016, 494.00255 494.0041(2) FS. History-New 2-16-92, Amended 7-25-96, 12-12-99, 1-16-03, Formerly 3D-40.170, Amended 3-23-08, 10-1-10.

**69V-40.175 Mortgage Brokerage Files.**

(1) Each mortgage broker brokerage business shall maintain a file for each mortgage broker brokerage transaction. The files shall be maintained in a central location and in an alphabetical or numerical sequence.

(2) Each file shall contain at least the following:

(a) Mortgage broker brokerage agreement pursuant to Section 494.0038, F.S.;

(b) Copy of signed closing statement or documentation of denial or cancellation of the mortgage loan application; and

(c) A copy of the good faith estimate of costs pursuant to Section subsection 494.0038(2)(c), F.S.

(3) Supporting documentation shall be maintained for all expenses or fees paid by the licensee on behalf of the client indicating the amount and the date paid. A canceled check maintained in a separate file shall be considered proof of payment of fees and expenses.

(4) If the mortgage broker brokerage business issues to the client a written commitment for the loan on behalf of the lender then the following must be maintained in the file:

(a) A copy of the written commitment issued by the mortgage broker brokerage business; and

(b) A copy of the written commitment provided by the lender.

(5) If the mortgage broker brokerage business issues to the client a written lock-in for the loan on behalf of the lender then the following must be maintained in the file:

(a) A copy of the written lock-in issued by the mortgage broker brokerage business; and

(b) A copy of the written lock-in provided by the lender.

(6) If the mortgage broker brokerage business receives a mortgage loan application, then the mortgage broker brokerage business shall maintain a copy in the file.

(7) If the loan is funded by a non-institutional investor then the file must also include the following:

(a) A copy of the appraisal or opinion of value of the mortgage property and a signed and dated acknowledgment by the non-institutional investor of receipt of the appraisal or opinion of value, or

2. A copy of a waiver of the appraisal dated and executed by the non-institutional investor.

(b) A receipt acknowledging that the non-institutional investor has been furnished with title insurance or a legal opinion of title, or

2. A written waiver thereof.

(c) On a junior mortgage, documentation that the non-institutional lender has been furnished with a statement showing the balance owed and status of the liens that will be superior to the lien being funded by the non-institutional investor.

(d) A signed and dated acknowledgment by the noninstitutional investor of receipt of the recorded mortgage or other instrument securing a note or assignment.

(e) If applicable, documentation that said licensee has disclosed that it is acting (directly or indirectly) as a borrower or principal in that transaction.

(8) In addition to the foregoing specific documentation, all documentation originated, received, or related to the mortgage loan from the application through the final disposition must be maintained for three (3) years from the date of the original entry. "Original entry" means the date the documentation was originated by the mortgage broker brokerage business or received by the mortgage broker brokerage business. For each broker brokerage transaction, files and documentation shall be maintained and remain complete for three (3) years from the date of "original entry" of the last document in the file.

(9)(a) The penalty for failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) shall be:

1. If the licensee has numerous instances of incomplete files and missing documentation, the fine shall be \$300. For the purpose of this rule, "numerous" shall mean at least three (3), and a percentage equal or greater to 20% of the files examined.

2. If the licensee fails to maintain files and documentation such that an audit trail of all mortgage transactions is provided, the penalty shall be a fine of \$1,000 and a six-month suspension of the licensee.

(b)1. The failure to provide a good faith estimate of costs shall be a fine of \$250 per file.

2. Providing a commitment to a client without first obtaining a written commitment by the lender shall be a fine of \$250 per file.

3. Providing a lock-in for a loan without first obtaining a written lock-in by the lender shall be a fine of \$250 per file.

4. The total fine under paragraph (9)(b) shall not exceed \$2,500.00 per administrative complaint in addition to other penalties.

(c)1. The penalty for failure to provide a disclosure required in subsection (7) above shall be a fine of \$250 per file.

2. The penalty for gross negligence in maintaining documentation required in subsection (7) shall be revocation.

3. The penalty for failure to provide a non-institutional investor with the documentation required in subsection (4) herein shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.

(10) For purposes of Section 120.695, F.S., a violation of the above rule, other than subsection (7) and subparagraph (9)(a)2. above shall be considered a minor violation. Any portion of this section that is deemed to be a minor violation for a first offense shall be a notice of noncompliance.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2), 494.0016(4) F.S. Law Implemented 494.0016, 494.00255, 494.0038, 494.0041, 494.0043 F.S. History—New 2-16-92, Amended 7-25-96, 8-7-97, 1-16-03, Formerly 3D-40.175, Amended 10-1-10.

**69V-40.200 Application Procedure for Mortgage Lender License.**

(1) ~~Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a mortgage lender shall apply to the Office of Financial Regulation by submitting the following:~~

(a) ~~A completed Application for Mortgage Brokerage Business and Lender License, Form OFR 494 01;~~

(b) ~~The statutory, nonrefundable fee required by Section 494.0061, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof;~~

(c) ~~A nonrefundable mortgage broker examination fee of \$43 for the designated principal representative if required to take the mortgage broker examination pursuant to Section 494.0061(8), F.S.;~~

(d) ~~Audited financial statements documenting a minimum net worth of \$250,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;~~

(e) ~~A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR 494-05, Mortgage Brokerage and Mortgage Lending Act Surety Bond.~~

(f) ~~Designate a principal representative who shall operate and exercise control over the licensee's business. Each mortgage lender applicant shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V 40.001(11), F.A.C.~~

(2) ~~Each ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint~~

~~venturer, and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR 494-01, to the Office of Financial Regulation along with a \$43.25 nonrefundable processing fee.~~

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

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

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

(3) ~~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 by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) ~~Amendments to Pending Applications.~~ If the information contained in an Application for Licensure as a Mortgage Lender or in any amendment thereto becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-01. 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 of Financial Regulation. 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 of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

(a) ~~A change to a response to the disclosure questions listed in section 8 on Form OFR 494-01.~~

(b) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR 494-01.

(c) The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

(d) A change to the applicant's net worth.

(e) Any change relating to the surety bond.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

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

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Form OFR 494-01, Form OFR 494-05, and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 215.405, 494.0011(2), 494.0061(3) FS. Law Implemented 494.0061, 494.0067(4) FS. History-New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.200, Amended 3-23-08, 12-25-08, 3-4-09, Repealed 10-1-10.

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

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

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

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

(b) A certified copy of the charges.

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

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

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

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

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

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

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

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

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

(3) Classification of Crimes.

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

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

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

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

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

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

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

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

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

(5) ~~Relevant Persons With Multiple Crimes.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) ~~Collateral Attack on Criminal Proceedings.~~ The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results in which the applicant was found guilty or pled

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

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

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

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

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

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

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

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

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

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

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

(11) Effect of Restoration of Civil Rights.

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

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

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

(12) Effect of Varying Terminology.

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

2. Found guilty; entered a finding of guilt. 1. Adjudicated guilty; convicted.

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

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

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

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

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

(13) Imprisoned Persons and Community Supervision.

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

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

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

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

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

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

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

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

(n) Misuse of public office.

(o) Racketeering.

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

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

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

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

(v) Money laundering.

(w) Murder in all degrees.

(x) Arson.

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

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

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

(bb) Rape.

(cc) Sexually molesting any minor.

(dd) Sexual battery.

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

(ff) Kidnapping.

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

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

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

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

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

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

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011 FS. Law Implemented 112.011, 494.0061, 494.0062, 494.0072 FS. History-New 12-2-08, Repealed 10-1-10.

69V-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation.

(1) (a) Each active mortgage lender license and mortgage lender license pursuant to the saving clause shall be renewed for the biennial period beginning September 1 of each even numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form, Form OFR 494-06, Mortgage Lender License Renewal and Reactivation Form.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of:

1. \$25,000 or more imposed by Section 494.0065, F.S.; or

2. \$250,000 or more imposed by Section 494.0061, F.S.

Upon request of the Office, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) A license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S.

(4) A mortgage lender branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(5) A mortgage lender license and branch office license that is not renewed within six months after the end of the biennial period automatically expires.

(6) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.flor.com](http://www.flor.com).

(7) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, F.A.C. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the applications, fees, data and form in paper format. In the event the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(9) Form OFR 494-06 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0064(2), 494.0065(3) FS. Law Implemented 494.001(4), 494.0011(2), 494.0061(1), 494.0064, 494.0065 FS. History—New 10-1-91, Amended 9-3-95, 8-5-96, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.205, Amended 11-9-04, 3-23-08, Repealed 10-1-10.

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

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a correspondent mortgage lender shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Lender License, Form OFR 494-01;

(b) The statutory, nonrefundable fee required by Section 494.0062, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof;

(c) A nonrefundable mortgage broker examination fee of \$43 for the designated principal representative if required to take the mortgage broker examination pursuant to Section 494.0062(11), F.S.;

(d) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;

(e) A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR 494-05, Mortgage Brokerage and Mortgage Lending Act Surety Bond.

(f) Designate a principal representative who shall operate and exercise control over the licensee's business. Each correspondent mortgage lender applicant shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V-40.001(11), F.A.C.

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

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

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

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

(3) 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 by the Office of Financial Regulation. The additional information must be received by the Office of

Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) ~~Amendments to Pending Applications.~~ If the information contained in an Application for Licensure as a Correspondent Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-01. 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 of Financial Regulation. 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 of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

(a) A change to a response to the disclosure questions listed in section 8 on Form OFR 494-01.

(b) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR 494-01.

(c) The substitution or addition of an ultimate equitable owner of 10% or greater interest, a chief executive officer, a chief financial officer, a chief operations officer, a chief legal officer, a chief compliance officer, a control person, a member, a partner, a joint venturer, or principal representative.

(d) A change to the applicant's net worth.

(e) Any change relating to the surety bond.

(5) ~~Withdrawal of Application.~~ An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

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

(7) ~~Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

(8) Form OFR 494-01, Form OFR 494-05, Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 215.405, 494.0011(2), 494.0062(3), (8), (11), (13) FS. Law Implemented 494.0062, 494.0067(4) FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.220, Amended 3-23-08, 12-25-08, 3-4-09. Repealed 10-1-10.

69V-40.225 Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation.

(1) ~~a~~ Each active correspondent mortgage lender license shall be renewed for the biennial period beginning September 1 of each even numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form, Form OFR 494-06, Mortgage Lender License Renewal and Reactivation Form.

(b) ~~In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of \$25,000 or more imposed by Section 494.0062, F.S. Upon request of the Office, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.~~

(2) ~~A correspondent mortgage lender license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

(3) ~~Each active correspondent mortgage lender branch office license shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S.~~

(4) ~~A correspondent mortgage lender branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation late fees required by Section 494.0064, F.S. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.~~

(5) ~~A correspondent mortgage lender license and branch office license that is not renewed within six (6) months after the end of the biennial period automatically expires.~~

(6) ~~All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.florfr.com](http://www.florfr.com).~~

(7) ~~Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, F.A.C. Such petition shall demonstrate a technological or financial hardship~~

that entitles the person to file the applications, fees, data and form in paper format. In the event the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(9) Form OFR 494-06 is incorporated by reference in subsection 69V 40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0064(2) FS. Law Implemented 494.001(7), 494.0011(2), 494.0062(1), 494.0064 FS. History—New 10-1-91, Amended 9-3-95, 7-25-96, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.225, Amended 11-9-04, 3-23-08, Repealed 10-1-10.

69V-40.240 Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License.

(1) Every mortgage lender or correspondent mortgage lender which conducts mortgage lending business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) A completed Application for Branch Office License, Form OFR 494-02;

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) 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 by the Office of Financial Regulation. 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 respond to the request within forty five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(4) Amendments to Pending Applications. If the information contained in an Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch

Office License or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR 494-02.

(6) Refunds. If the application is withdrawn or denied, the license fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial period.

(8) Form OFR 494-02 is incorporated by reference in subsection 69V 40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0066 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.240, Amended 3-23-08, Repealed 10-1-10.

69V-40.242 Principal Representative.

(1) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall designate a principal representative who operates and exercises control over the business and the individual so designated shall accept responsibility by completing the Principal Broker/Representative Designation section of Form OFR 494-01.

(2) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall maintain the Principal Broker/Representative Designation section of Form OFR 494-01, which includes a statement notifying the licensee that the principal representative is required by statute to operate and exercise control over the business as defined in subsection 69V 40.001(11), F.A.C.

(3) Upon any change of principal representative, the licensee and the newly designated principal representative shall amend the Principal Broker/Representative Designation section of Form OFR 494-01 pursuant to subsection 69V 40.099(1), F.A.C. Form OFR 494-01, shall be maintained at the principal office of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the saving clause.

(4) The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR 494-01 shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain the Principal Broker/Representative Designation section of Form OFR 494-01 is intentional, the penalty shall be a fine of \$5,000.

(5) Each licensee shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376 in writing, within thirty (30) days, of the termination or resignation of its principal representative.

(6) Form OFR 494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

(7) At the time of filing an amendment to designate a new principal representative, the licensee shall file a nonrefundable mortgage broker examination fee of \$43 for the designated principal representative if required to take the mortgage broker examination pursuant to Sections 494.0061(8), 494.0062(11) and 494.0065(4)(e)2., F.S.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0016(4), 494.0061(1), (3), (8), 494.0062(3), (11) FS. Law Implemented 120.60, 120.695, 494.001(31), 494.0016(1), 494.0061, 494.0062, 494.0067, 494.0072 FS. History—New 1-27-02, Amended 12-8-02, Formerly 3D-40.242, Amended 3-23-08, 3-4-09, Repealed 10-1-10.

69V-40.245 Independent Contractors.

A natural person is not exempt from the licensure requirements of Section 494.0033, F.S., when acting as an independent contractor as defined in subsection 69V-40.001(9), F.A.C., for licensees pursuant to Sections 494.006—0077, F.S.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.001, 494.0025, 494.0041 FS. History—New 7-25-96, Amended 12-12-99, Formerly 3D-40.245, Repealed 10-1-10.

69V-40.250 Documentation of Net Worth and Surety Bond.

(1) Each licensee under Sections 494.0061, 494.0062, and 494.0065, F.S., shall document and verify the required net worth with audited financial statements, prepared in accordance with Generally Accepted Accounting Principles, by an independent licensed certified public accountant.

(a) Each mortgage lender shall continuously maintain a net worth of \$250,000, or more.

(b) Each mortgage lender licensed pursuant to the saving clause, Section 494.0065, F.S., shall continuously maintain a net worth of \$25,000, or more.

(c) Each correspondent mortgage lender shall continuously maintain a net worth of \$25,000, or more.

(2) Each licensee identified in subsection (1) above shall have completed, annually, the required audited financial statement within 120 days of the fiscal year end date of said licensee. All audited financial statements shall be maintained in the licensee's principal place of business in this state and made available to Office of Financial Regulation examiners upon request.

(3) Failure to maintain net worth. Each licensee who fails to maintain net worth as prescribed in paragraphs (1)(a), (b), and (c) of this rule shall immediately cease taking any new mortgage loan applications and notify the Office of Financial Regulation in writing by U.S. certified mail within 48 hours. A licensee shall not resume business without written Office of Financial Regulation authorization.

(4) Surety Bond. Surety bonds required as a condition of licensure under Sections 494.0061 and 494.0062, F.S., shall be continuously maintained. A copy of the surety bond shall be maintained in the principal place of business in this state and made available to Office of Financial Regulation examiners upon request.

(a) In the event a licensee changes the issuer of the surety bond, or the issuer of the surety bond cancels the bond, a licensee shall inform the Office of Financial Regulation of such change in writing by U.S. certified mail and provide a new surety bond to the Office of Financial Regulation.

(b) Each surety bond shall be issued by a company authorized to do business in this state by the Office of Financial Regulation.

(c) Each surety bond shall be in the amount of \$10,000 and on the form prescribed by the Office of Financial Regulation.

(d) A mortgage lender licensed pursuant to the saving clause, Section 494.0065, F.S., is not required to have or maintain a \$10,000 surety bond.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.0061(1)(c),(d), 494.0062(1)(c), 494.0063, 494.0065 FS. History—New 10-1-91, Amended 8-24-92, 7-25-96, Formerly 3D-40.250, Repealed 10-1-10.

69V-40.260 Mortgage Lender Files.

(1) Each mortgage lender or correspondent mortgage lender shall maintain a file for each mortgage loan application received. The files shall be maintained in a central location and in an alphabetical or numerical sequence.

(2) Each file shall contain the following:

(a) A copy of the good faith estimate.

(b) The original mortgage loan application, or copy thereof, containing the disclosures set forth in subsection 494.0068(1), F.S.

(c) Copy of the closing statement as required by subsection 494.0016(3), F.S., or documentation demonstrating that the mortgage loan application was cancelled or denied.

(d) Copy of any written lock-in agreement, if issued, containing the requirements set forth in Section 494.0069, F.S.

(e) Copy of any written commitment, if issued, containing the disclosures set forth in Section 494.007, F.S.

(f) Copy of written disclosures of any conflict of interest as required by Section 494.0023, F.S.

(3) Each mortgage lender or correspondent mortgage lender shall maintain supporting documentation of all expenses or fees paid by the mortgage lender or correspondent mortgage lender. The supporting documentation shall indicate the name and address of the person paid, the amount and date of the payment, and a description of the products or services purchased. Invoices from third parties involving multiple loans, maintained in a central file, need not be copied and

placed in each individual loan file. A canceled check maintained in a separate file shall be considered proof of payment of fees and expenses.

(4) If the mortgage lender sells a mortgage loan to a non-institutional investor then each file must contain the following:

(a)1. A copy of the appraisal or opinion of value of the mortgage property and a signed and dated acknowledgement of receipt of same by the noninstitutional investor; or

2. A copy of a waiver of the appraisal or opinion of value dated and executed by the noninstitutional investor.

(b)1. A receipt acknowledging that the noninstitutional investor has been furnished with mortgagee's title insurance, or a legal opinion of title by an attorney licensed in Florida, pursuant to subsection 494.0075(1)(b), F.S.; or

2. A written waiver thereof with the wording required by subsection 494.0075(1)(b)3., F.S.

(c) On a junior mortgage, a copy of the statement furnished to the noninstitutional investor showing the balance owed and the status of the liens that will be superior to the liens being recorded in the favor of the noninstitutional investor in this loan transaction.

(d) A copy of the written disclosure to the noninstitutional investor if the mortgage lender ~~or correspondent mortgage lender~~ is directly or indirectly acting as a borrower or principal in the transaction.

(e) A signed and dated acknowledgement by the noninstitutional investor of receipt of the recorded mortgage or other instrument securing a note or assignment, or a signed acknowledgement by the licensee attesting that the aforementioned documentation was delivered to the noninstitutional investor. However, the mortgage lender may hold such documents in its possession for the use and benefit of the noninstitutional investor if:

1. The noninstitutional investor shall request same in writing; and

2. Said written request acknowledges the right of the noninstitutional investor to the possession of the original documents at any time; and

3. Said written request confirms the right of the noninstitutional investor to at any time terminate the agreement with the mortgage lender and request that the mortgage lender deliver all such documents to the noninstitutional investor forthwith. The written request, which includes subparagraphs 1. through 3. above, may be maintained in one location separate from the mortgage loan file.

(f) A copy of the original note evidencing proper endorsement of the note by the lender to the noninstitutional investor.

(g) A copy of the written servicing agreement if the loan is to be serviced by the mortgage lender.

(5) If the mortgage lender ~~or correspondent mortgage lender~~ acts as a mortgage ~~broker~~ ~~brokerage business~~ it must comply with the file requirement set forth in Rule 69V-40.175, F.A.C.

(6) A mortgage lender which services a mortgage loan for a noninstitutional investor shall enter into a written servicing agreement with the noninstitutional investor prior to servicing the mortgage loan. The mortgage lender may enter into a master servicing agreement with the noninstitutional investor, and such master agreement may be maintained in one central location. A master servicing agreement is not required to be copied and placed in each individual loan file.

(7) All documentation originated or received by a mortgage lender ~~or correspondent mortgage lender~~ must be maintained for three years from the date of original entry. "Original entry" means the date the documentation was originated or received by the licensee. For each lending transaction, files and documentation shall be maintained and remain complete for three years from the original entry date of the last document.

(8)(a) The penalty for failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) shall be:

1. If the mortgage lender ~~or correspondent mortgage lender~~ has numerous instances of incomplete files and missing documentation the fine shall be \$300 for a first offense. For the purpose of this rule "numerous" shall mean at least three incomplete files and a percentage equal or greater than 20% of the files examined.

2. If the mortgage lender ~~or correspondent mortgage lender~~ fails to maintain an audit trail of all mortgage transactions, the penalty shall be a fine of \$1,000 and a six month suspension of the license of the mortgage lender ~~or correspondent mortgage lender~~.

(b) The penalty for failure to provide or maintain a copy of the good faith estimate of costs shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.

(c)1. The penalty for failure to provide a non-institutional investor with the documentation required in subsection (4) herein shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.

2. The penalty for gross negligence in maintaining documentation required in subsection (4) shall be revocation of the license.

(d) Repeat violations of the requirements of this rule shall subject the licensee to the maximum penalties under the provisions of Sections 494.001-.0074, F.S.

(9) For purposes of Section 120.695, F.S., a violation of the above rule, other than subsection (4) and subparagraph (8)(a)2. above, shall be considered a minor violation. Any portion of this section that is deemed to be a minor violation for a first offense shall be a notice of noncompliance.

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2), 494.0016(2), (4) FS. Law Implemented 120.695, 494.0016, 494.00255, 494.0072, 494.0023, 494.0067(8), 494.0068, 494.0069, 494.007, 494.0075 FS. History—New 1-10-93, Amended 7-25-96, 8-7-97, Formerly 3D-40.260, Amended 10-1-10.

69V-40.265 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage lender ~~or correspondent mortgage lender~~ shall maintain a Mortgage Brokerage and Lending Transaction Journal, which shall include, at least, the following information:

(a) Name of applicant;

(b) Date applicant applied for the mortgage loan;

(c) Disposition of the mortgage loan application. The journal shall indicate the result of the lending transaction. The disposition of the transaction shall be categorized as one of the following: loan funded, loan denied, or application withdrawn.

(d) Name of lender, if applicable.

(2) The journal shall be maintained on Form OFR-494-10, Mortgage Brokerage and Lending Transaction Journal, or a form substantially similar.

(3) In lieu of maintaining Form OFR-494-10, each mortgage lender ~~or correspondent mortgage lender~~ may maintain the Home Mortgage Disclosure Act loan/application register, Form FR HMDA-LAR, found at 12 C.F.R., part 203, Appendix A; (2010) if all lending transactions are recorded on this form. The form is hereby incorporated by reference and may be accessed through the Government Printing Office website: <http://www.gpoaccess.gov/cfr/>. The effective date of the form is 1-10-93.

(4) The Mortgage Brokerage and Lending Transaction Journal shall be maintained in the principal office or in each branch office where mortgage lender transactions are originated. The Mortgage Brokerage and Lending Journal shall be kept current. The failure to initiate an entry to the Mortgage Brokerage and Lending Transaction Journal within 7 ~~seven~~ business days from the date the transaction was entered into, shall be deemed to be a failure to keep the Mortgage Brokerage and Lending Transaction Journal current.

(5) The penalty for failure to maintain the Mortgage Brokerage and Lending Transaction Journal or to keep the same current (incidental or isolated clerical errors or omissions shall not be considered a violation) shall be the issuance of a “notice of noncompliance” for a first offense. Any subsequent finding of a violation of this rule during an examination or

investigation shall be a fine of \$500. The penalty for intentional or continued violations of this rule shall be a fine of \$500 and suspension of the license.

(6) Form OFR-494-10 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.00255, 494.0072(2) FS. History—New 1-10-93, Amended 7-25-96, 12-12-99, Formerly 3D-40.265, Amended 3-23-08, 10-1-10.

69V-40.285 Noninstitutional Investor Funds Account.

(1) All money received by a mortgage lender ~~or correspondent mortgage lender~~ from a noninstitutional investor for disbursement at a mortgage loan closing shall be deposited in a trust account in a federally insured financial institution within 7 ~~seven~~ business days of receipt of the funds unless otherwise directed, in writing, by the noninstitutional investor. Such trust account may be used for more than one noninstitutional investor’s funds. Noninstitutional funds may not be commingled with the licensee’s operating account or funds. The account shall be in the name of the mortgage lender ~~or correspondent mortgage lender~~ and shall provide for withdrawal of funds without notice. The licensee shall maintain an updated and accurate record of account activity on Form OFR-494-12 or on a format which is substantially similar to Form OFR-494-12 ~~OFR-MX-555~~.

(2) In lieu of depositing noninstitutional investor money into a trust account the mortgage lender ~~or correspondent mortgage lender~~ may have noninstitutional investor money intended for mortgage loan closings deposited with and disbursed by an attorney licensed in this state or by a title company duly licensed in this state if such title company is not owned, controlled or affiliated with the licensee.

(3) The administrative penalty for failure to comply with this rule shall be \$500. Incidental and isolated clerical errors or omissions shall not be considered a violation of this rule. The penalty for intentional or repeat violations of this rule shall be a \$500 fine and suspension or revocation.

(4) For the purposes of Section 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

(5) Form OFR-494-12 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Proposed Effective Date: October 1, 2010

Rulemaking Authority 494.0016(4) 494.0011(2) FS. Law Implemented 120.695, 494.0043, 494.0073 FS. History—New 8-24-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.285, Amended 3-23-08, 10-1-10.

69V-40.290 Acts Requiring Licensure as a Mortgage Broker, Mortgage Brokerage Business, Mortgage Lender or Correspondent Mortgage Lender.

(1) ~~A person shall not be deemed to be acting as a mortgage broker pursuant to subsection 494.001(3), F.S., to be acting as a correspondent mortgage lender pursuant to subsection 494.001(1), F.S., or a mortgage lender pursuant to subsection 494.001(4), F.S., for:~~

(a) ~~Purchasing or offering to purchase a mortgage loan from a member of the general public.~~

(b) ~~Selling or offering to sell a mortgage loan to an institutional investor.~~

(c) ~~Negotiating or offering to negotiate the purchase or sale of a mortgage loan to an institutional investor.~~

(2) ~~The phrase "holds himself out to the public in any manner" in subsection 494.006(1)(i) and (j), F.S., means that any person who does any of the following, but not limited to, is not exempt from mortgage lender or correspondent mortgage lender license requirements:~~

(a) ~~Is a business entity which makes, sells, or offers to sell, mortgage loans to noninstitutional investors;~~

(b) ~~Is employed or associated with a business where mortgage lending or mortgage brokering services may be received;~~

(c) ~~Has placed himself in a position where he is likely to come into contact with borrowers or investors or buyers or sellers of mortgage loans;~~

(d) ~~Advertises in newspapers, magazines, or the like in a manner which would lead the reader to believe the person was in the business of buying, making or selling mortgage loans. For example, placing an advertisement which states "I buy and sell mortgages" would lead the public to believe the person was in the mortgage lending business;~~ or

(e) ~~Advertises, related to mortgage loans, by soliciting for borrowers, lenders or purchasers in a telephone directory;~~

(f) ~~Solicits in a manner which would lead the reader to believe the person was in the business of buying, making or selling mortgage loans.~~

Proposed Effective Date: October 1, 2010

Rulemaking Specific Authority 494.0011(2) FS. Law Implemented 494.001, 494.006(1) FS. History—New 1-10-93, Amended 12-12-99, Formerly 3D-40.290, Repealed 10-1-10.

**NAME OF PERSON ORIGINATING PROPOSED RULE:**  
Gregory C. Oaks, Chief, Bureau of Regulatory Review, Finance, Division of Finance, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, FL 32399-0376, phone (850)410-9805, Facsimile (850)410-9914, E-mail: Greg.Oaks@flofr.com

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

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

## FINANCIAL SERVICES COMMISSION

### Office of Financial Regulations

RULE NO.: RULE TITLE:

69W-100.007 Advertising and Sales Literature  
PURPOSE AND EFFECT: The rule is clarified to provide that if an advertisement or sales literature is in compliance with the requirements of NASD Rule 2210, relating to communications with the public, the material does not need to be approved by or filed with the Office of Financial Regulation.

SUMMARY: The rule is clarified to provide that if an advertisement or sales literature is in compliance with the requirements of NASD Rule 2210, relating to communications with the public, the material does not need to be approved by or filed with the Office of Financial Regulation.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office determined the proposed rule will not have an adverse impact on small business.

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

RULEMAKING AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.081 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-100.007 Advertising and Sales Literature.

(1) No change.

(2) Every advertisement used in connection with an offering of securities registered pursuant to Section 517.081, F.S., must be authorized in writing by the Office of Financial Regulation before being published or circulated unless it is within the requirements of NASD Rule 2210 and rules promulgated by the National Association of Securities Dealers concerning advertisements for use in newspapers or any other means of public communication or satisfies the requirements of the Securities Act of 1933 and any statement of policy by

the Securities and Exchange Commission concerning advertisements and sales literature, or contains no more than the following:

- (a) Date of issuance or release;
- (b) Name and address of issuer;
- (c) Identity or title of securities;
- (d) Per unit offering price;
- (e) Amount of offering;
- (f) Brief statement of general character of the business;
- (g) Address where prospectus or offering circular may be obtained.

(3) Any advertisement, except an offering circular or prospectus, intended to be used by a registered Florida dealer in connection with the public sale or offer for sale of any securities within the State of Florida shall be filed with the Office of Financial Regulation at least ten (10) days prior to publication or circulation if such advertisement contains more than the disclosure items listed in subsection (2), or does not meet the requirements of NASD Rule 2210 and rules promulgated by the National Association of Securities Dealers concerning advertisements for use in newspapers or any other means of public communication or does not satisfy the requirements of the Securities Act of 1933 and statement of policy by the Securities and Exchange Commission concerning advertisements and sales literature.

(4) NASD Rule 2210 (Feb. 5, 2009) is hereby incorporated by reference. Copies of the rule may be obtained through the Financial Industry Regulatory Authority's website ([http://finra.complinet.com/en/display/display\\_viewall.html?rb\\_id=2403&element\\_id=3617&record\\_id=10467](http://finra.complinet.com/en/display/display_viewall.html?rb_id=2403&element_id=3617&record_id=10467)) or by contacting the Florida Office of Financial Regulation, Division of Securities, 200 E. Gaines Street, Tallahassee, Florida 32399, (850)410-9500.

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.081 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-100.07, 3E-100.007, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

## FINANCIAL SERVICES COMMISSION

### Office of Financial Regulation

RULE NO.: 69W-200.001 RULE TITLE:

Definitions

PURPOSE AND EFFECT: The rule is amended to reflect the most current version of federal regulations and federal statutes referenced in the rule. The rule is also amended to replace references to the National Association of Securities Dealers with the Financial Industry Regulatory Authority (FINRA). FINRA was created in July 2007 through the consolidation of National Association of Securities Dealers and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. The rule corrects cross-references.

SUMMARY: The rule is amended to reflect the most current version of federal regulations and federal statutes referenced in the rule. The rule is also amended to replace references to the National Association of Securities Dealers with the Financial Industry Regulatory Authority (FINRA). FINRA was created in July 2007 through the consolidation of National Association of Securities Dealers and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. The rule corrects cross-references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office determined the proposed rule will not have an adverse impact on small business.

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

RULEMAKING AUTHORITY: 517.03(1) FS.

LAW IMPLEMENTED: 517.07, 517.12, 517.021, 517.061, 517.051, 517.081, 517.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

### THE FULL TEXT OF THE PROPOSED RULE IS:

#### 69W-200.001 Definitions.

As used in the Rules and Regulations of the Financial Services Commission and Office of Financial Regulation, pursuant to Chapter 517, F.S., unless the context otherwise specifically requires:

(1) "Accredited Investor" shall mean any person who comes within any of the following categories, or who the issuer reasonably believes comes within any of the following categories, at the time of the sale of the securities to that person:

(a) Any bank as defined in section 3(a)(2) of the Securities Act of 1933 (15 U.S.C. § 77c-(a)(2) (2006 & Supp. II)), or any savings and loan association or other institution as defined in section 3(a)(5)(A) of that Act (15 U.S.C. § 77c-(a)(5)(A) (2006 & Supp. II)) whether acting in its individual or fiduciary capacity; any broker or dealer registered pursuant to section 15 of the Securities Exchange Act of 1934 (15 U.S.C. § 78o (2006 & Supp. II)); any insurance company as defined in section 2(13) of the Securities Act of 1933 (15 U.S.C. § 77b (2006 & Supp. II)); any investment company registered under the Investment Company Act of 1940 (15 U.S.C. §§ 80a-1 through 80a-64 (2006 & Supp. II)) or a business development company as defined in section 2(a)(48) of that Act (15 U.S.C. § 80a-2(a)(48) (2006 & Supp. II)); Small Business Investment Company licensed by the U.S. Small Business Administration under section 301(c) ~~or (d)~~ of the Small Business Investment Act of 1958 (15 U.S.C. § 681(c) (2006 & Supp. II)); any plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions for the benefit of its employees, if such plan has total assets in excess of \$5,000,000; employee benefit plan within the meaning of the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1002(3) (2006 & Supp. II)) if the investment decision is made by a plan fiduciary, as defined in section 3(21) of such Act (29 U.S.C. § 1002(21) (2006 & Supp. II)), which is either a bank, savings and loan association, insurance company, or registered investment adviser, or if a self-directed plan, with investment decisions made solely by persons that are accredited investors;

(b) Any private business development company as defined in section 202(a)(22) of the Investment Advisers Act of 1940 (15 U.S.C. § 80b-2(a)(22) (2006 & Supp. II));

(c) Any organization described in section 501(c)(3) of the Internal Revenue Code (26 I.R.C. § 501(c)(3) (2006 & Supp. III)), corporation, Massachusetts or similar business trust or partnership, not formed for the specific purpose of acquiring the securities offered, with total assets in excess of \$5,000,000;

(d) through (f) No change.

(g) Any trust, with total assets in excess of \$5,000,000, not formed for the purpose of acquiring the securities offered, whose purchase is directed by a sophisticated person as described in Securities and Exchange Commission Regulation 230.506(b)(2) (ii) (17 C.F.R. § 230.506(b)(2)(ii) (2009)); and

(h) No change.

(2) No change.

(3) "Aggregate Indebtedness" is defined pursuant to S.E.C. Rule 15c3-1 (17 C.F.R. CFR § 240.15c3-1 (2009)).

(4) "Allowable Assets" is defined pursuant to S.E.C. Rule 15c3-1 (17 C.F.R. CFR § 240.15c3-1 (2009)).

(5) through (6) No change.

(7)(a) "Associated person" as defined in Section 517.021(2), F.S., shall include any person who for compensation refers, solicits, offers, or negotiates for the purchase or sale of securities and/or of investment advisory services. A person whose activities fall within this definition is required to register with the Office of Financial Regulation as an associated person pursuant to Sections 517.12(1) or (4), F.S.

(b) Notwithstanding the provisions of paragraph (a), an associated person registered with the Office of Financial Regulation and operating in compliance with subsection 69W-600.003(3) 69W 600.003(2), F.A.C., shall not be deemed an associated person of any investment adviser other than the investment adviser or dually registered dealer/investment adviser with which such associated person is registered.

(c) Any person acting in compliance with S.E.C. Rule 206(4)-3 (17 C.F.R. CFR § 275.206(4)-3 (2009)), ~~as it existed on July 1, 2003~~, shall not be deemed an associated person of an investment adviser.

(8) through (16) No change.

(17) "Independent Director" shall be defined as a member of the Issuer's Board of Directors who:

(a) Is not an officer or employee of the Issuer, its subsidiaries, or their affiliates or associates and has not been an officer or employee of the Issuer, its subsidiaries or their affiliates or associates within the last two years; and

(b) Is not a promoter as defined in Section 517.021(18)(b) 517.021(15)(b), F.S.; and

(c) Does not have a material business or professional relationship with the issuer or any of its affiliates or associates. For purposes of determining whether or not a business or professional relationship is material, the gross revenue derived by the Independent Director from the Issuer, its affiliates and associates shall be deemed material if it exceeds 5% of the Independent Director's;

1. Annual gross revenue, derived from all sources, during either of the last two years; or

2. Net worth, on a fair market value basis.

(18) through (19) No change.

(20) "Issuers" Within the Meaning of Section 517.021(14) 517.021(11), F.S.

(a) For the purposes of determining whether a person is an issuer within the meaning of Section 517.021(14) 517.021(11), F.S., the term "promoter" shall be deemed to include:

1. Any person who, acting alone or in conjunction with one or more other persons, directly or indirectly initiates the founding or organizing of the business or enterprise of an issuer; or

2. Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services, or a combination of services and property, 10% or more of any class of securities of the issuer or 10% or more of the proceeds from the sale of any class of securities of the issuer; provided

that any person who receives securities or proceeds from the sale of securities either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter if such person does not otherwise take part in founding and organizing the enterprise of the issuer.

(b) Notwithstanding the provisions of subsection (1) of this rule, no person shall be deemed to be a promoter with respect to any issuer which is duly qualified to transact business under the laws of the jurisdiction in which it is organized and which has actively been engaged in business for a continuous period of one year.

(21) through (24) No change.

(25) "Qualified Institutional Buyer" for purposes of Section 517.061(7), F.S., shall be defined as provided in Securities and Exchange Commission rule 144A(a) (i.e., 17 C.F.R. § 230.144A(a) (2009)), as such rule existed on November 1, 1992.

(26) through (27) No change.

(28) "Reportable Act" shall mean:

(a) Having exercised management or policy control over or owned 10 percent or more of the securities of any dealer or investment adviser for which a Securities Investor Protection Corporation ("SIPC") trustee was appointed pursuant to the Securities Investor Protection Act or which is insolvent;

(b) Conviction of or entry of a plea of guilty or no contest to any criminal act, excluding traffic violations or other minor offenses;

(c) Having been the subject of any decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or order by any court of competent jurisdiction, administrative law judge, or by any state or federal agency, national securities, commodities, or option exchange, or national securities, commodities, or option association, involving a violation of any federal or state securities or commodities law or any rule or regulation promulgated thereunder, or any rule or regulation of any national securities, commodities or options exchange or national securities, commodities, or options association, or having been the subject of any injunction or adverse order by a state or federal agency or court of competent jurisdiction regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers, or other related or similar industries;

(d) Being charged, in a pending enforcement action or pending criminal prosecution, with any conduct that if proven and not subsequently reversed, suspended, or vacated, would be deemed a reportable act under paragraphs (a) through (c) of this rule.

1. For purposes of this rule, "enforcement action" means any judicial proceeding or any administrative proceeding where such judicial or administrative proceeding is brought by an agency of the United States or of any state to enforce or restrain violation of any state or federal law, or any disciplinary proceeding maintained by the Financial Industry Regulatory

Authority (formerly known as the National Association of Securities Dealers), the National Futures Association, the New York Stock Exchange, or any other similar self-regulatory organization.

2. An enforcement action is pending at any time after notice to the respondent of such action and is terminated at any time after entry of final judgment or decree in the case of judicial proceedings, final agency action in the case of administrative proceedings, and final disposition by a self-regulatory organization in the case of disciplinary proceedings.

3. A criminal prosecution is pending at any time after criminal charges are filed and is terminated at any time after conviction, acquittal, or dismissal.

(29) "Renewal Applicant" shall mean an applicant who is a registrant who seeks a timely renewal of the license.

(30) "Securities Act of 1933", 15 U.S.C. §§ 77a through 77mm (2006 & Supp. II), "Securities Exchange Act of 1934", 15 U.S.C. §§ 78a through 78oo (2006 & Supp. II), "Investment Company Act of 1940", 15 U.S.C. §§ 80a-1 through 80a-64 (2006 & Supp. II), "Investment Advisers Act of 1940", 15 U.S.C. §§ 80b-1 through 80b-21 (2006 & Supp. II), and "Internal Revenue Code", 26 U.S.C. Subtitles A through K (2006 & Supp. III), mean the federal statutes of those names as amended.

(31) "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

(32) "Total Equity Investment" for purposes of subsection 69W-700.005(1), F.A.C., shall mean the total of (1) par or stated values of all equity securities offered or proposed to be offered; and (2) the amount of surplus of any kind, regardless of description and whether or not restricted.

(33) "Wholesaler" is defined as any dealer conducting business exclusively with other dealers in this State, and such dealer need not be registered as a dealer under Section 517.12, F.S.

(34) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.07, 517.12, 517.021, 517.061, 517.051, 517.081, 517.161 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-200.01, Amended 12-8-87, 10-14-90, 7-31-91, 6-16-92, 1-10-93, 5-5-94, 10-20-97, 8-9-98, 8-19-99, 10-30-03, Formerly 3E-200.001, Amended 5-15-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

## FINANCIAL SERVICES COMMISSION

### Office of Financial Regulation

RULE NOS.: RULE TITLES:

69W-300.002 Financial Statements and Reports

69W-300.003 Refunds of Fees, Files Denied or Withdrawn

PURPOSE AND EFFECT: Rule 69W-300.002, F.A.C., is amended to reflect the most current version of federal regulations and federal statutes referenced in the rule. The rule is also amended to replace references to the National Association of Securities Dealers with the Financial Industry Regulatory Authority (FINRA). FINRA was created in July 2007 through the consolidation of National Association of Securities Dealers and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. Rule 69W-300.003, F.A.C., is repealed. This rule is not needed because the statutes under Chapter 517, F.S., specify the accounts where fees are to be deposited and also specify that fees are non-refundable.

SUMMARY: Rule 69W-300.002, F.A.C., is amended to reflect the most current version of federal regulations and federal statutes referenced in the rule. The rule is also amended to replace references to the National Association of Securities Dealers with the Financial Industry Regulatory Authority (FINRA). FINRA was created in July 2007 through the consolidation of National Association of Securities Dealers and the member regulation, enforcement and arbitration functions of the New York Stock Exchange. Rule 69W-300.003, F.A.C., is repealed. This rule is not needed because the statutes under Chapter 517, F.S., specify the accounts where fees are to be deposited and also specify that fees are non-refundable.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office determined the proposed rule will not have an adverse impact on small business.

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

RULEMAKING AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.081, 517.082, 517.12, 517.131, 517.315 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULES IS:

69W-300.002 Financial Statements and Reports.

(1) All financial statements required for registration of securities, or registration of dealers and investment advisers, shall be prepared in accordance with United States generally accepted accounting principles. Financial statements required to be prepared in accordance with Regulation S-X (17 C.F.R. Part 210 (2009)) ~~together with the Accounting Series Releases, pursuant to the Securities Act of 1933 and the Securities Exchange Act of 1934~~, will be acceptable to the Office of Financial Regulation unless otherwise required by these rules.

(2) No change.

(3) Requirements for Dealers.

(a) Every dealer applicant, unless exempted under paragraph (3)(b) or (3)(e) of this rule, shall file financial statements as of a date within ninety (90) days prior to the date of filing for registration. These financial statements need not be audited provided that there shall also be filed audited financial statements as of said applicant's most recent fiscal year end.

(b) Those dealer applicants which have been in operation for a period of time less than twelve (12) months, and for whom an audited financial statement has not been prepared or is not available, shall be permitted to file unaudited financial statements provided the following conditions are met:

1. Such financial statements are as of a date within thirty (30) days prior to the date of filing for registration, and are prepared in accordance with the provisions of paragraphs (2)(b), (2)(d) and (3)(c) of this rule; and

2. Such applicant is effectively registered with the Securities Exchange Commission or Financial Industry Regulatory Authority ~~(formerly known as the National Association of Securities Dealers, Inc.)~~

(c) Every dealer applicant and registrant shall file, in addition to the information specified in paragraph (2)(b) of this rule, the following:

1. Computations of net capital and customer reserve requirements prepared in accordance with the provisions of Rules 69W-600.016 and 69W-600.017, F.A.C.;

2. Written notice of designation of an independent certified public accountant, which notice shall include name, address, and telephone number of the accountant so designated;

3. Written notice of fiscal year end or audit date of such dealer;

4. Disclosure of any contingent, civil or criminal liabilities of such dealer.

(d) The Office of Financial Regulation shall deem those financial statements and reports, prepared and filed in accordance with the provisions of SEC Rule 17a-5 (17 C.F.R. § 240.17a-5 (2009)) and SEC Rule 17a-10 (17 C.F.R. § 240.17a-10 (2009)) (as such provisions existed on July 1, 2003), to be in compliance with, and fulfill the requirements of, this rule as applicable to a dealer.

(e) The financial statements and reports required by paragraphs (a) through (d) are not required to be filed with the Office of Financial Regulation, unless specifically requested by the Office of Financial Regulation, by a dealer applicant or registrant if the dealer registrant is a current member of a securities association registered pursuant to section 15A of the Securities Exchange Act of 1934 (15 U.S.C. §78o-3 (2006 & Supp. II)) and such association requires financial reports to be filed with it.

**(4) Requirements for Investment Advisers.**

(a) Investment adviser applicants shall file financial statements as of a date within ninety (90) days prior to the date of filing for registration, which statements may be unaudited financial statements defined in paragraph (2)(d) of this rule. However, each investment adviser who has custody or possession of client's funds or securities; requires prepayment of advisory fees six months or more in advance and in excess of \$500 per client; or computes net capital pursuant to SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1 (2009)) for purposes of compliance with subsection 69W-600.016(3), F.A.C., shall file financial statements as required by paragraphs (3)(a) and (3)(b) of this rule.

(b) Investment adviser registrants shall provide the Office of Financial Regulation with written notification of such investment adviser's fiscal year end or annual audit date, and thereafter file annually financial statements as of said date in accordance with the provisions of subsection 69W-600.015(3), F.A.C. Such financial statements may be unaudited as defined in paragraph (2)(d) of this rule. However, each investment adviser who has custody or possession of client's funds or securities; requires prepayment of advisory fees six months or more in advance and in excess of \$500 per client; or computes net capital pursuant to SEC Rule 15c3-1 (17 C.F.R. § 240.15c3-1 (2009)) for purposes of compliance with subsection 69W-600.016(3), F.A.C., shall file audited financial statements as defined by paragraph (2)(a) of this rule. Accompanying all audited financial statements shall be a

written statement from the independent certified public accountant verifying compliance with subsection 69W-600.016(3), F.A.C.

(c) Every investment adviser applicant and registrant, in addition to the information specified in paragraphs (2)(b) and (2)(d) of this rule, shall provide to the Office of Financial Regulation:

1. Computations of net capital requirements prepared in accordance with the provision of Rule 69W-600.016, F.A.C.;

2. Written disclosure of any contingent, civil or criminal liabilities of such investment adviser.

(5) through (7) No change.

(8) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.081, 517.12 FS. History-New 12-5-79, Amended 9-20-82, Formerly 3E-300.02, Amended 6-28-93, 11-22-93, 12-24-95, 9-19-00, 10-30-03, Formerly 3E-300.002, Amended 5-15-07.

69W-300.003 Refunds of Fees, Files Denied or Withdrawn.

~~(1) Fees paid to the Office of Financial Regulation in connection with the filing of applications for registration become a part of the general revenue of the State when paid in accordance with Sections 517.12(10) and (11), F.S., and are not refundable when files are denied or withdrawn, after a preliminary evaluation of the file has been initiated.~~

~~(2) Fees paid to the Office of Financial Regulation in connection with the filing of applications of Registrations under Section 517.081 or 517.082, F.S., become a part of the general revenue of the State and are not refundable when files are denied or withdrawn, after a preliminary evaluation of the file has been initiated.~~

~~(3) Pursuant to Section 517.315, F.S., all fees and charges collected under Chapter 517, F.S., except those collected under Section 517.131, F.S., are paid into the General Revenue Fund. The fees collected under Section 517.131, F.S., are paid into the Security Guaranty Fund. No refund of monies referred to in these sections shall be refunded for amounts less than one (1) dollar, unless such is requested by the registrant or applicant.~~

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.081, 517.082, 517.12, 517.131, 517.315 FS. History-New 12-5-79, Formerly 3E-300.03, Amended 7-31-91, 10-1-96, 10-20-97, 10-30-03, Formerly 3E-300.003, Repealed

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 25, 2010

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 24, 2009

## FINANCIAL SERVICES COMMISSION

### Office of Financial Regulation

RULE NO.: RULE TITLE:  
69W-301.003 Right to Hearing

PURPOSE AND EFFECT: Rule 69W-301.003, F.A.C., is amended to clarify the references to the administrative rules that govern the process of requesting a hearing.

SUMMARY: Rule 69W-301.003, F.A.C., is amended to clarify the references to the administrative rules that govern the process of requesting a hearing.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office determined the proposed rule will not have an adverse impact on small business.

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

RULEMAKING AUTHORITY: 517.03(1), 517.12, 517.1201 FS.

LAW IMPLEMENTED: 120.60(1), 120.57, 517.051, 517.081, 517.082, 517.12, 517.161(5), 517.241(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-301.003 Right to Hearing.

Should the Office of Financial Regulation refuse to grant the license, the Office of Financial Regulation shall notify the applicant of this decision stating the grounds for denial. The applicant aggrieved by such a refusal shall be entitled to an administrative hearing upon filing a written request for such a

hearing. Procedures for requesting such hearing appear in Rules 28-106.201 and 28-106.301, F.A.C. Chapters 28-106 and 28-107, F.A.C.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 120.60, 120.57, 517.081, 517.082, 517.12, 517.241(1) FS. History—New 9-20-82, Formerly 3E-301.03, Amended 7-31-91, 6-22-98, Formerly 3E-301.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

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

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## FINANCIAL SERVICES COMMISSION

### Office of Financial Regulation

RULE NOS.:	RULE TITLES:
69W-500.008	Unsolicited Purchase or Sale of Securities Pursuant to Section 517.061(13), F.S.
69W-500.013	Exemption/Mobile Home Parks/Limited Purpose Stock Offering
69W-500.015	Exemption for Offers and Sales of Securities of Foreign Issuers to Non-U.S. Persons in Offshore Transactions
69W-500.016	Exemption for Issuers of Section 4(2) Offerings
69W-500.017	Compensatory Benefit Plan Exemption

PURPOSE AND EFFECT: Rules 69W-500.008, .015, .016, and .017, F.A.C., are amended to reflect the most current versions of federal regulations and federal statutes referenced in the rules. Rule 69W-500.013, F.A.C., is amended to correct a cross reference.

SUMMARY: Rules 69W-500.008, .015, .016, and .017, F.A.C., are amended to reflect the most current versions of federal regulations and federal statutes referenced in the rules. Rule 69W-500.013, F.A.C., is amended to correct a cross reference.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared. The Office determined that the proposed amendments will not have an adverse impact on small business.

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

RULEMAKING AUTHORITY: 517.03, 517.061(19) FS.

LAW IMPLEMENTED: 517.061(13), 517.061(18), 517.061(19) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-500.008 Unsolicited Purchase or Sale of Securities Pursuant to Section 517.061(13), F.S.

(1) For purposes of Section 517.061(13), F.S., the offer or sale of securities in a transaction meeting the requirements of SEC Rule 144 (17 C.F.R. § 230.144 (2009)), which is hereby incorporated by reference, promulgated pursuant to section 4(1) of the Securities Act of 1933, as in effect on November 1, 1978, shall be deemed an unsolicited purchase or sale of securities on order of and as agent for another. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>.

(2) through (3) No change.

Rulemaking Specific Authority 517.03(1) FS. Law Implemented 517.061(13) FS. History-New 12-5-79, Amended 9-20-82, Formerly 3E-500.08, Amended 10-14-90, Formerly 3E-500.008, Amended.

69W-500.013 Exemption/Mobile Home Parks/Limited Purpose Stock Offering.

Transactions which involve the offer or sale of stock, bonds, or other instruments deemed to be securities as defined in Section 517.021(21) 517.021(17), F.S., offered or sold by or on behalf of a non-profit corporation consisting solely of property owners of a singular mobile home park, where the securities evidence shares of the corporation, are hereby exempted from the registration requirements of Section 517.07, F.S., provided that such securities meet and comply with all of the following criteria:

(1) That proceeds from the sale of securities are used exclusively for the maintenance, improvement or acquisition of common areas within the mobile home park.

(2) That the solicitation and subsequent sale of securities is made exclusively by the non-profit corporation to persons retaining a property interest in the mobile home park and no form of general solicitation or general advertisement is instituted.

(3) That no individual, either directly or indirectly, receives any compensation or commission for or as a result of the sale of such securities.

(4) That prior to the sale of said securities, each property owner within the mobile home park is provided with or given reasonable access to full and fair disclosure concerning all relevant information relating to the securities themselves.

(5) That the Office of Financial Regulation is provided with reasonable notice of the issuance of said securities prior to or contemporaneous with their offer and sale.

Rulemaking Specific Authority 517.03 FS. Law Implemented 517.061(18) FS. History-New 1-8-86, Amended 7-31-91, Formerly 3E-500.013, Amended.

69W-500.015 Exemption for Offers and Sales of Securities of Foreign Issuers to Non-U.S. Persons in Offshore Transactions.

(1) Any offer or sale of securities of a foreign issuer made to a person, other than a U.S. person, in an offshore transaction that is exempt from registration under section 5 of the Securities Act of 1933 pursuant to Regulation S (17 C.F.R. §§ 230.901 through 230.905 (2009)) promulgated by the Securities and Exchange Commission, is hereby exempted from the registration requirements of Section 517.07, F.S.

(2) For purposes of this rule, the terms "foreign issuer," "offshore transaction," and "U.S. person" shall have the meanings prescribed in rule 902 of Regulation S (17 C.F.R. § 230.902 (2009)) as it existed on April 29, 1998.

(3) The federal regulations referenced in this rule are hereby incorporated by reference. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>.

Rulemaking Specific Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History-New 7-30-98, Formerly 3E-500.015, Amended.

69W-500.016 Exemption for Issuers of Section 4(2) Offerings.

Securities offered or sold in a transaction exempt under a rule or regulation issued by the Securities and Exchange Commission under Section 4(2) of the Securities Act of 1933 (15 U.S.C. § 77d(2) (2006 & Supp. II)), as it existed on January 1, 2001, are hereby exempted from the filing requirements of Section 517.07, F.S. An issuer of such securities and each of its bona fide employees who satisfy the criteria set forth in Section 517.021(6)(b), F.S., and through whom the issuer elects to sell such securities, shall be

exempted from the registration requirements of Section 517.12(1), F.S. The federal statute cited in this rule is hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>.

Rulemaking Specific Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History—New 1-1-02, Formerly 3E-500.016, Amended.

#### 69W-500.017 Compensatory Benefit Plan Exemption.

(1) Transactions involving the offer or sale of a security pursuant to a written compensatory benefit plan (or a written compensation contract) or similar plan established by the issuer, its parent, its majority-owned subsidiaries or majority-owned subsidiaries of the issuer's parent, for the participation of their employees, directors, general partners, trustees, officers, or consultants and advisors, and their family members who acquire such securities from such persons through gifts or domestic relations orders, are exempt from the registration provisions of Section 517.07, F.S., if:

(a) The sale of the security meets all of the requirements of SEC Rule 701 (17 C.F.R. § 230.701 (2009)) as it existed on November 1, 2000;

(b) The security is sold pursuant to a plan of a type exempt under section 3(a) of the Securities Act of 1933; or

(c) The security is effectively registered under sections 6 to 8 of the Securities Act of 1933, 15 U.S.C. §§ 77f through h (2006 & Supp. II), and is offered and sold in compliance with the provisions of section 5 of the Securities Act of 1933, 15 U.S.C. § 77e (2006 & Supp. II).

(2) For the purposes of this rule, the terms "compensatory benefit plan" and "family member," shall have the same meanings as defined in SEC Rule 701 (17 C.F.R. § 230.701 (2009)) as it existed on November 1, 2000.

(3) through (4) No change.

(5) The federal statutes and regulations referenced in this rule are hereby incorporated by reference. Copies of the United States Code are available online through the U.S. House of Representatives, Office of the Law Revision Counsel: <http://uscode.house.gov/download/downloadPDF.shtml>. Copies of the Code of Federal Regulation are available online through the U.S. Government Printing Office via GPO Access: <http://www.gpoaccess.gov/cfr/retrieve.html>.

Rulemaking Specific Authority 517.03(1), 517.061(19) FS. Law Implemented 517.061(19) FS. History—New 11-25-01, Formerly 3E-500.017, Amended.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Pam Epting, Chief, Bureau of Regulatory Review, Division of Securities, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0375, (850)410-9500, pam.epting@flofr.com

**NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE:** Financial Services Commission  
**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** May 25, 2010  
**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December 24, 2009

#### AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY

##### Office of Information Security

RULE NOS.:	RULE TITLES:
71A-1.001	Purpose and Scope
71A-1.002	Definitions
71A-1.003	Agency Information Security Program
71A-1.004	Agency Information Technology Workers
71A-1.005	Agency Contracts, Providers, and Partners
71A-1.006	Confidential and Exempt Information Access Control
71A-1.007	Awareness and Training
71A-1.008	Audit and Accountability
71A-1.009	Certification, Accreditation, and Security Assessments
71A-1.010	Configuration Management
71A-1.011	Contingency Planning
71A-1.012	Identification and Authentication
71A-1.013	Incident Response
71A-1.014	Maintenance
71A-1.015	Media Protection
71A-1.016	Physical and Environmental Protection
71A-1.017	System and Application Security Planning
71A-1.018	Personnel Security and Acceptable Use
71A-1.019	Risk Assessment
71A-1.020	Systems, Applications and Services Acquisition and Development
71A-1.021	Systems and Communications Protection
71A-1.022	Systems and Information Integrity

**PURPOSE AND EFFECT:** Section 282.318, F.S., authorizes the Agency for Enterprise Information Technology to establish rules for ensuring an appropriate level of security for all data and information technology resources for executive branch agencies. The purpose of proposed Rule Chapter 71A-1, F.A.C., is to define minimum management, operational and technical security controls to be used by state agencies to secure information and information technology resources. These rules will replace the policies and standards in Rule Chapter 60DD-2, F.A.C., which are being noticed for repeal. A

Notice of Proposed Rule to repeal Rule Chapter 60DD-2, F.A.C., is contained in this edition of the Florida Administrative Weekly.

**SUMMARY:** The proposed rules document a framework of information security best practices for state agencies in order to safeguard the confidentiality, integrity, and availability of Florida government data and information technology resources.

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

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

**RULEMAKING AUTHORITY:** 14.204(7), 282.318(3),(6) FS.  
**LAW IMPLEMENTED:** 282.318 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Renee Harkins, Project Analyst, Agency for Enterprise Information Technology, 4030 Esplanade Way, Suite 135, Tallahassee, Florida 32399, telephone (850)414-6771

THE FULL TEXT OF THE PROPOSED RULES IS:

71A-1.001 Purpose and scope.

(1) Rule 71A-1, F.A.C., shall be known as the Florida Information Technology Resource Security Policies and Standards.

(2) The information security standards of this rule chapter apply to executive branch agencies as provided in Title IV, Florida Statutes.

(3) The information security policies and standards of this rule chapter apply equally to all levels of management and to all members of the workforce.

(4) The State of Florida government information technology resources, data, and information are valuable assets to its citizens. The confidentiality, integrity, and availability of those resources must be protected. Data and resources must be reliable, and must be available to those who are authorized to use them.

(5) The purposes of the Florida Information Technology Resource Security Standards are to:

(a) Document a framework of information security best practices for state agencies in order to safeguard the confidentiality, integrity, and availability of Florida government data and information technology resources.

(b) Define minimum standards to be used by state agencies to categorize information and information technology resources based on the objectives of providing appropriate levels of information security according to risk levels.

(c) Define minimum management, operational and technical security controls to be used by state agencies to secure information and information technology resources.

(6) State agencies shall use these standards as the minimum security requirements for information and information technology resources.

(7) Nothing in this rule chapter shall be construed as limiting the access of the Auditor General to agency records, systems, or networks in the performance of a properly authorized audit or examination pursuant to Chapters 11 and 119, Florida Statutes.

(8) Nothing in this rule chapter shall be construed to impair the public's access rights under Article I, Section 24 of the Florida Constitution, and Chapter 119, Florida Statutes.

(9) For guidance the State of Florida will follow Federal Information Processing Standards (FIPS) and National Institute of Standards and Technology (NIST) standards and guidelines implemented as a result of the Federal Information Security Management Act of 2002 (FISMA, 44 U.S.C. § 3541, et seq.). The Agency for Enterprise Information Technology (AEIT) Office of Information Security (OIS) will assist agencies by publishing guidelines and templates to be used by agencies when implementing these rules.

(10) Heads of executive agencies may find it necessary to employ compensating security controls when the agency is unable to implement a security standard or the standard is not cost-effective due to the specific nature of a system or its environment. After the agency analyzes the issue, a compensating control may be employed if the agency documents the analysis results and senior management documents the acceptance of the risk associated with employing the compensating control. All related documentation shall be retained by the agency Information Security Manager. This documentation is confidential, pursuant to Section 282.318, Florida Statutes, except that such information shall be available to the Auditor General and the Agency for Enterprise Information Technology.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

71A-1.002 Definitions.

(1) Access – the ability to acquire, read, write, or delete data or information; make use of an information technology resource; enter a room or facility.

(2) Access control – the enforcement of specified authorization rules based on user or system authentication.

(3) Access point – a station that transmits and receives data (for example, a wireless access point).

(4) Accountability – the principle stating that a specific action is traceable to a unique individual.

(5) Agency worker – see Worker.

(6) Agency-approved software – software that has been reviewed and deemed acceptable by the agency for use with agency information technology resources.

(7) Agency-managed device – a device that is not owned by the agency, but that is declared by the device owner and accepted by the agency to be compliant with agency standard configurations.

(8) Anti-malware software – software that detects and removes malicious software from a computer or network stream.

(9) Application – information resources designed to satisfy a specific set of user requirements.

(10) Application development life cycle (ADLC) – a set of procedures to guide the development and modification of production application software and data items. A typical ADLC includes design, development, quality assurance, acceptance testing, maintenance, and disposal (also known as System Development Life Cycle – SDLC).

(11) Application development team – the entire set of people responsible for planning, designing, developing, installing, and maintaining applications. The roles represented include project managers, analysts, computer programmers, database administrators, data administrators, system administrators, network administrators, etc.

(12) Application owner – the business unit that requested the application be developed and/or purchased; the individual (usually a manager) from the business unit(s) for which an application is acquired who has responsibility and authority to make decisions related to the application, such as requirements, deliverable approvals, access, etc.

(13) Application security review – an evaluation of an application's security requirements and associated controls (planned or implemented) with the goal of determining if controls are sufficient to minimize risks to the confidentiality, integrity, and availability of the application, its data, or other information technology resources.

(14) Audit logs – documentation of activity within a system incorporating, at a minimum, date, time, action, and user account associated with the action.

(15) Authentication – the process of verifying that a user, process, or device is who or what it purports to be. Techniques for authentication fall into categories as follows:

(a) Something the user knows, such as a password or PIN;

(b) Something the user has, such as a smartcard or ATM card; and

(c) Something that is part of the user, such as a fingerprint, voice pattern or retinal scan.

(16) Authorization – official or legal permission or approval.

(17) Availability – the principle that authorized users have timely and reliable access to information and information technology resources.

(18) Breach – unlawful and/or unauthorized access of computerized data that materially compromises the security, confidentiality, or integrity of personal information.

(19) Chief Information Officer – the person appointed by the agency head that coordinates and manages the agency information technology functions and responsibilities.

(20) Compensating Control – a management, operational, or technical control (i.e., safeguard or countermeasure) employed by an organization in lieu of a recommended security control that provides an equivalent or greater level of protection for an information system and the information processed, stored, or transmitted by that system.

(21) Complex password – a password that is at least eight characters and is comprised of at least three of the following categories: uppercase English letters; lowercase English letters, numbers 0-9, and non-alphanumeric characters.

(22) Comprehensive risk assessment – the risk analysis required to be conducted by agencies every three years, in accordance with Section 282.318, Florida Statutes.

(23) Computer user – any authorized entity who uses information technology resources (interchangeable with User).

(24) Confidential information and/or confidential data – information not subject to inspection by the public that may be released only to those persons and entities designated in Florida statute; information designated as confidential under provisions of federal law or rule.

(25) Confidentiality – the principle that information is accessible only to those authorized.

(26) Continuity of Operations Plan (COOP) – the documented plan detailing how the agency will respond to incidents that could jeopardize the organization's core mission pursuant to Section 252.365, Florida Statutes.

(27) Critical information resources – the resources determined by agency management to be essential to the agency's critical mission and functions, the loss of which would have severe or catastrophic adverse effect.

(28) Cryptography – the discipline that embodies the principles and methods for the transformation of data in order to hide semantic content, prevent unauthorized use, or prevent undetected modification. Cryptography is a method to protect data and includes both encryption (which is reversible) and hashing (which is not reversible, or "one way").

(29) Data store – a collection of information organized so it can be accessed, managed, and updated.

(30) Degaussing – a method of bulk erasing data from magnetic media. Degaussing demagnetizes the disk such that all data stored on the disk is permanently destroyed.

(31) Demilitarized Zone (DMZ) – physical or logical sub-network or computer host that provides an additional layer between the Internet and an organization’s internal network so that external parties only have access to devices in the DMZ rather than the internal network.

(32) Development infrastructure – a technical environment that is used for design, development, and/or piloting of new technical capabilities or applications. The development infrastructure is separated logically or physically from the production and test infrastructures.

(33) Directly connect [to the agency internal network] – a device that is joined to and becomes an extension of the agency’s internal network. Dial-up and Virtual Private Network (VPN) connections to the agency are considered to be directly connected.

(34) Disaster recovery plan – see Information Technology Disaster Recovery Plan.

(35) Encryption – the reversible process of transforming readable text into unreadable text (cipher text).

(36) Exempt Information – information an agency is not required to disclose under Section 119.07(1), Florida Statutes, but which the agency is not necessarily prohibited from disclosing in all circumstances.

(37) Information owner – the manager of the business unit ultimately responsible for the collection, maintenance, and dissemination of a specific collection of information.

(38) Information security – protecting information and information technology resources from unauthorized access, use, disclosure, disruption, modification, or destruction.

(39) Information Security Manager (ISM) – the person designated to administer the agency’s information security program in accordance with Section 282.318, Florida Statutes.

(40) Information security program – a coherent assembly of plans, project activities, and supporting resources contained within an administrative framework, to assure adequate security for agency information and information technology resources.

(41) Information Technology Disaster Recovery Plan (ITDRP) – information technology resources and procedures to ensure the availability of critical resources needed to support the agency mission in the event of a disaster and to return to normal operations within an accepted timeframe. The ITDRP takes into account availability requirements, recovery time frames, recovery procedures, back-up/mirroring details, systematic and regular testing and training.

(42) Information technology infrastructure – network devices, server hardware, and host operating systems, database management systems, utilities, and other assets required to deliver or support IT services.

(43) Information technology resources – a broad term that describes a set of technology related assets. While in some cases the term includes items such as people and maintenance,

as used in this rule, this term means computer hardware, software, networks, devices, connections, applications, and data.

(44) Information technology worker – an agency user whose job duties and responsibilities specify development, maintenance, or support of information technology resources (see User; Worker; Workforce).

(45) Integrity – the principle that assures information remains intact, correct, authentic, accurate and complete. Integrity involves preventing unauthorized and improper creation, modification, or destruction of information.

(46) Interactive session – a work session where there is an exchange of communication between a user and a computer.

(47) Least privilege – the principle that grants the minimum possible privileges to permit a legitimate action in order to enhance protection of data and functionality from faults and malicious behavior.

(48) Malware – malicious software; a general term used by computer professionals to mean a variety of forms of hostile, intrusive, or annoying software or program code.

(49) Management Controls – The security controls (i.e., safeguards or countermeasures) for an information system that focus on the management of risk and the management of information system security.

(50) Media – physical devices or writing surfaces including but not limited to magnetic tapes, optical disks, magnetic disks, memory chips, printouts (but not including display media) onto which information is recorded, stored, or printed within an information system.

(51) Mobile computing device – a portable device that can process data (e.g., laptop, personal digital assistant, certain media players and cell phones).

(52) Mobile device – a general term describing both mobile computing and mobile storage devices.

(53) Mobile storage device – portable data storage media including external hard drives, thumb drives, floppy disks, recordable compact discs (CD-R/RW), recordable digital videodiscs (DVD-R/RW), or tape drives that may be easily attached to and detached from computing devices.

(54) National Institute of Standards and Technology (NIST) – a non-regulatory Federal agency within the U.S. Commerce Department’s Technology Administration.

(55) Need to know – the principle that individuals are authorized to access only specific information needed to accomplish their individual job duties.

(56) Network – an interconnected group of information technology devices; a system that transmits any combination of voice, video and/or data between devices.

(57) Network perimeter – the boundary of an agency’s information technology infrastructure.

(58) Operational Controls – security controls (i.e., safeguards or countermeasures) for an information system that primarily are implemented and executed by people (as opposed to systems).

(59) Operational information security plan – the agency plan governing the information security program. In addition to detailing the activities, timelines and deliverables for the security objectives that, subject to current resources, the agency will implement during the current fiscal year, the plan includes a progress report for the prior fiscal year, related costs that cannot be funded from current resources, and a summary of agency compensating controls.

(60) Owner – the manager of the business unit ultimately responsible for an information technology resource.

(61) Patch management – the process for identifying, acquiring, testing, installing, and verifying software updates, also known as patches.

(62) Peer to peer – a communications model that allows the direct sharing of files (audio, video, data, and software) among computers.

(63) Personal firewall – software installed on a computer or device which helps protect that system against unauthorized incoming or outgoing network traffic.

(64) Personal information – an individual's first name, first initial and last name, or any middle name and last name, in combination with any one or more of the following data elements:

(a) Social Security Number.

(b) Driver's license number or Florida Identification Card number.

(c) Account number, credit card number, or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. Note: as provided in Section 817.5681, Florida Statutes, the term personal information does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records or widely distributed media.

(65) Privately-owned device – a device not purchased with agency funds; a device owned by a person or other non-agency entity and not configured, maintained, or tracked by the agency.

(66) Production infrastructure – network devices, server hardware, and host operating systems that comprise an agency's operational or real-time environment.

(67) Public records act – refers to Chapter 119, Florida Statutes.

(68) Remote access – any access to an agency's internal network through a network, device, or medium that is not controlled by the agency (such as the Internet, public phone line, wireless carriers, or other external connectivity). A virtual private network client connection is an example of remote access.

(69) Review – a formal or official examination of system records and activities that may be a separate agency prerogative or a part of a security audit.

(70) Risk – the likelihood that a threat will occur and the potential impact of the threat.

(71) Risk analysis – a process that systematically identifies valuable data, information, and information technology system resources and threats to those resources, quantifies loss exposures (i.e., loss potential) based on estimated frequencies and costs of occurrence, and recommends how to allocate resources to countermeasures so as to minimize total exposure. The analysis lists risks in order of cost and criticality, thereby determining where countermeasures should be applied first. (Used interchangeably with risk assessment).

(72) Risk management – the ongoing process of risk analysis and subsequent decisions and actions to accept risk or to reduce vulnerabilities by either mitigating the risks or applying cost effective controls.

(73) Security controls – the management, operational, and technical controls (i.e., safeguards or countermeasures) prescribed to protect the confidentiality, integrity, and availability of information technology resources.

(74) Security incident – any action or activity, whether accidental or deliberate, that compromises the confidentiality, integrity, or availability of agency data or information technology resources.

(75) Security review – an examination of system records and activities to determine the adequacy of system controls, ensure compliance with established security policy and operational procedures, detect breaches in security, and recommend any indicated changes in any of the foregoing.

(76) Separation of duties – the concept of having more than one person required to complete a task. This is a way to ensure that no one individual has the ability to control all critical stages of a process.

(77) Service account – an account used by a computer process and not by a human, (e.g., an account used by the backup process for file access). Normally service accounts may not log on to a system.

(78) Session – the time during which two devices maintain a connection and are usually engaged in transferring data or information.

(79) Smart card – a pocket-sized card with embedded circuits that can process data. Often smart cards are used as a form of authentication for single sign-on systems (also known as integrated circuit card).

(80) Sniffing – capturing network data.

(81) Special trust or position of trust – positions that, because of the special trust or responsibility or sensitive location of those positions, require that persons occupying those positions be subject to a security background check, including fingerprinting, as a condition of employment, pursuant to Section 110.1127, Florida Statutes.

(82) Standards – a specific set of practices or procedures to regulate how a system or organization provides services; required practices, controls, components, or configurations established by a recognized authority.

(83) Standard configuration – documentation of the specific rules or settings used in setting up agency hardware, software, and operating systems.

(84) Standard hardware – agency-approved hardware.

(85) Standard software – agency-approved software.

(86) State Chief Information Security Officer – the State of Florida executive responsible for the state government information security posture and direction. This position is appointed by the state Chief Information Officer and oversees the state Office of Information Security.

(87) State Office of Information Security (OIS) – the State of Florida information security office, which guides, coordinates and assists state agencies in identifying threats to their information assets and mitigating their risks so effective security controls can be implemented. The OIS is part of the Agency for Enterprise Information Technology, pursuant to Section 282.318(3), Florida Statutes.

(88) Strategic information security plan – the agency three-year plan that defines security goals, intermediate objectives, and projected agency costs for the strategic issues of information security policy, risk management, security training, security incident response, and survivability.

(89) Strong cryptography – cryptography based on industry-tested and accepted algorithms, along with strong key lengths and proper key-management practices. Secure Hash Algorithm revision 1 (SHA-1) is an example of an industry-tested and accepted hashing algorithm. Examples of industry-tested and accepted standards and algorithms for encryption include Advanced Encryption Standard (AES) 128 bits, Triple Data Encryption Standard (TDES), minimum double-length keys, Rivest, Shamir and Adleman (RSA), 1024 bits and higher, Elliptic Curve Cryptography (ECC), 160 bits and higher, and ElGamal (1024 bits and higher).

(90) Survivability – the capability of an organization to maintain or quickly recover critical business functions after a disaster or adverse event, minimize the effect of an event, reduce financial loss, and expedite the return to normalcy.

(91) System – a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, storing, reporting, printing, dissemination, or disposition of information.

(92) System administrator – a person in charge of managing and maintaining computer or telecommunication systems.

(93) System hardening – the process of securing a system. Hardening typically includes ensuring proper configurations based on intended function, removing non-essential programs and utilities, disabling certain accounts, and installing patches.

(94) System security plan – the plan for an application or information technology resource that describes the security requirements, the controls in place or planned, and roles/responsibilities of all authorized individuals who use the system. A system security plan may also contain critical data policies, backup, disaster recovery, and user policies.

(95) Technical controls – security controls (i.e., safeguards or countermeasures) for an information system that are primarily implemented and executed by the information system through mechanisms contained in the hardware, software, or firmware components of the system.

(96) Test infrastructure – a technical environment that mirrors part or all of the production environment and is used for final testing of a technology or an application prior to production implementation. The test infrastructure is separated logically or physically from the production and development infrastructure.

(97) Track – the documented assignment of an asset to a user and/or location.

(98) User – any authorized entity that uses information technology resources (see Worker; Workforce; Information Technology Worker).

(99) Virtual Private Network (VPN) – a communications network tunneled through another communications network.

(100) Warning banner – a message displayed prior to or upon connection to a resource informing the user that activities may be monitored or access is restricted.

(101) Worker – a member of the workforce; a worker may or may not use information technology resources (see User; Workforce; Information Technology Worker).

(102) Workforce – employees, contractors, volunteers, trainees, and other persons whose conduct, in the performance of work for the agency, is under the direct control of the agency, whether or not they are paid by the agency (see User; Worker; Information Technology Worker).

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.003 Agency Information Security Program

(1) Each agency shall develop, document, implement, and maintain an agency-wide information security program. The goal of the information security program is to ensure administrative, operational and technical controls are sufficient to reduce to an acceptable level risks to the confidentiality, availability, and integrity of agency information and information technology resources.

(2) Each agency head shall appoint an Information Security Manager (ISM) to administer the agency information security program. Within one week of the effective date of appointment, and annually thereafter by January 1, the agency head shall send notification of the Information Security Manager appointment to the State Chief Information Security Officer.

(3) The agency Information Security Manager is responsible for the following duties, which shall also be specified in the agency position description:

(a) Development of a strategic information security plan and associated operational information security plan;

(b) Development and implementation of agency information security policies, procedures, standards, and guidelines;

(c) Development and implementation of the agency information security awareness program;

(d) Coordination of the agency information security risk management process;

(e) Coordination of the agency Computer Security Incident Response Team;

(f) Coordination of Information Technology Disaster Recovery planning in support of the agency Continuity of Operations Plan;

(g) Taking an active role in the agency information technology monitoring and reporting activities;

(4) The agency Information Security Manager shall maintain all agency information security program documents including, the Strategic Information Security Plan, the Operational Information Security Plan, and Security Policies and Procedures.

(5) The agency strategic information security plan must cover a three-year period and define security goals, intermediate objectives, and projected agency costs for the strategic issues of agency information security policy, risk management, security training, security incident response, and survivability.

(6) The agency operational information security plan must include the following items: a progress report for the prior operational information security plan; a project plan that includes activities, timelines, and deliverables for the current fiscal year; related costs that cannot be funded from current resources, and a summary of compensating controls employed by the agency including for each compensating control employed, the implementation date, the target system, and the compensating control description.

(7) The agency Information Security Manager shall review and update the agency Strategic Information Security Plan and the Information Security Operational Plan annually.

(8) By July 31 each year, the agency Information Security Manager shall submit a copy of the agency Strategic Information Security Plan and the Information Security Operational Plan to the State Chief Information Security Officer.

(9) The agency Information Security Manager shall develop, distribute, and periodically update agency information security policies and procedures consistent with this rule.

(10) The agency Information Security Manager, in fulfilling these responsibilities, shall follow the guidelines published by the Agency for Enterprise Information Technology Office of Information Security.

(11) With the approval of the agency head, the agency Information Security Manager may appoint or recommend appointments of individuals from agency offices, divisions, regional agency offices, etc. to be security representatives for their business units. The Information Security Manager shall assign the security responsibilities of the security representatives which shall include serving as security liaison between the unit and the Information Security Manager, promoting security awareness, and ensuring security incident reporting to the Information Security Manager.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.004 Agency Information Technology Workers.

(1) Agency heads are responsible to ensure information technology workers are managed appropriately and effectively.

(2) Information technology positions with access to information processing facilities, or positions that have system, database, developer, network, or other administrative capabilities for systems, applications, or servers with risk categorization of moderate or high are positions of special trust.

(3) Each agency shall conduct background investigations using, at a minimum, Level 2 screening standards and disqualification criteria for personnel in positions of special trust as set forth in Section 110.1127, and Chapter 435, Florida Statutes.

(4) Each agency shall provide training for information technology workers to ensure competency in both technical and security aspects of their positions.

(5) Each agency shall establish procedures to ensure administrative rights for information technology resources are restricted to information technology workers who have received appropriate technical training and who are authorized based on job duties and responsibilities.

(6) Information technology workers shall be granted access to agency information technology resources based on the principles of "least privilege" and "need to know."

(7) Agency Information Security Managers shall give written consent to workers based on job duties and responsibilities before allowing the workers to perform monitoring, sniffing, and related security activities.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

71A-1.005 Agency Contracts, Providers, and Partners.

(1) Contractors, providers, and partners employed by agencies or acting on behalf of agencies shall comply with this rule, agency security policies, and employ adequate security measures to protect agency information, applications, data, resources, and services.

(2) The agency shall develop procedures to ensure that security requirements are specified throughout the procurement process for information technology services.

(3) Each agency shall ensure contracts and agreements include language whereby the contractor/partner agrees to comply with agency information technology security policies.

(4) Each agency shall ensure that non-agency entities execute a network connection agreement that will ensure compliance with agency security policies prior to allowing non-agency entities to connect to the agency internal network.

(5) Each agency shall maintain a centralized file of network connection agreements.

(6) Each agency shall ensure background investigations using, at a minimum, Level 2 screening standards and disqualification criteria are performed for contractors hired as Information Technology workers with access to information processing facilities, or who have system, database, developer, network, or other administrative capabilities for systems, applications, or servers with risk categorization of moderate or high.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

71A-1.006 Confidential and Exempt Information.

(1) Agencies shall exercise due diligence to protect exempt, and confidential and exempt information by using appropriate administrative, technical, and physical controls.

(2) Each agency shall maintain a reference list of exempt, and confidential and exempt agency information or software and the associated applicable state and federal statutes and rules.

(3) Each agency shall identify agency information and software that is exempt, or confidential and exempt, under provisions of applicable Florida law or federal law and rules.

(4) Agency information owners are responsible for identifying exempt, and confidential and exempt information.

(5) Exempt, and confidential and exempt information, regardless of format, shall be labeled as such to the extent possible.

(6) Procedures for handling and protecting exempt, and confidential and exempt information shall be referenced in the agency operational information security plan and documented in a policy that is reviewed and acknowledged by all agency staff.

(7) Each agency shall encrypt exempt, and confidential and exempt information sent by e-mail.

(8) Each agency shall encrypt electronic transmission of exempt, and confidential and exempt information when the transport medium is not owned or managed by the agency.

(9) Each agency shall ensure the following:

(a) All passwords are unreadable during transmission and storage using appropriate encryption technology.

(b) Mobile computing devices used with exempt, or confidential and exempt information are encrypted.

(c) Mobile storage devices with exempt, or confidential and exempt agency data have encryption technology enabled such that all content resides encrypted.

(10) For systems containing exempt, or confidential and exempt data, each agency shall ensure written agreements and procedures are in place to ensure proper security for sharing, handling or storing confidential data with entities outside the agency.

(11) Each agency shall destroy exempt, and confidential and exempt information when authorized by the applicable retention schedule, regardless of media type.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

71A-1.007 Access Control.

(1) Agency information owners shall be responsible for authorizing access to information.

(2) Agency information owners shall review access rights periodically based on risk, access account change activity, and error rate.

(3) Workers shall be authorized access to agency information technology resources based on the principles of "least privilege" and "need to know."

(4) Each agency shall limit access to information media to authorized workers.

(5) For functions susceptible to fraudulent or other unauthorized activity, the agency shall ensure separation of duties so no individual has the ability to control the entire process.

(6) Access authorization shall be promptly removed when the user's employment is terminated or access to the information resource is no longer required.

(7) Wireless access into the agency internal network shall require user-authentication.

(8) Only agency-approved wireless devices, services, and technologies may be connected to the agency internal network.

(9) Procedures for granting remote access shall be documented.

(10) Users may remotely connect computing devices to the agency internal network only through agency-approved, secured remote access methods.

(11) Remote access client connections shall not be shared; they are to be used only by the authorized user.

(12) Only agency-owned or agency-managed information technology resources may connect to the agency internal network.

(13) Only agency-owned or agency-managed mobile storage devices are authorized to store agency data.

(14) No privately-owned devices (e.g., MP3 players, thumb drives, printers) shall be connected to agency information technology resources without documented agency authorization.

(15) Mobile computing devices shall be issued to and used only by agency-authorized users.

(16) Mobile computing devices shall require user authentication.

(17) Agency workstations and mobile computing devices shall have enabled a screensaver secured with a complex password and with the automatic activation feature set at no more than 15 minutes.

(18) The agency shall monitor for unauthorized information technology resources connected to the agency internal network.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.008 Awareness and Training.

(1) The agency Information Security Manager shall implement and maintain the agency information security awareness program.

(2) At a minimum, agency workers shall receive annual security awareness training.

(3) Agency workers shall receive initial security awareness training within 30 days of employment start date.

(4) Specialized agency workers (e.g., law enforcement officers) who are required to receive extended off-site training prior to reporting to their permanent duty stations shall receive initial security awareness training within 30 days of the date they report.

(5) Initial training shall include acceptable use restrictions, procedures for handling exempt, and confidential and exempt information, and computer security incident reporting procedures.

(6) The agency shall maintain records of individuals who have completed security awareness training in accordance with the applicable retention schedule.

(7) The agency shall provide specialized training for workers whose duties bring them into contact with exempt, or confidential and exempt information resources.

(8) The security awareness program shall include on-going education and reinforcement of security practices.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.009 Audit and Accountability.

(1) Where possible, audit records will allow actions of users to be uniquely traced to those users so they can be held accountable for their actions.

(2) The agency shall implement procedures to establish accountability for accessing exempt, or confidential and exempt data stores.

(3) The agency shall implement procedures to establish accountability for modifying exempt, or confidential and exempt data.

(4) The agency shall implement procedures to protect the integrity and confidentiality of audit logs.

(5) The agency shall retain audit records as required by the appropriate State, Federal, or other (e.g., Payment Card Industry) schedule.

(6) The agency Information Security Manager, Inspector General, or other specifically authorized personnel shall be granted access to review audit logs containing accountability details.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.010 Certification, Accreditation, and Security Assessments.

(1) The agency shall implement documented procedures to analyze systems and applications to ensure security controls are effective and appropriate.

(2) Information technology resources shall be validated as conforming to agency standard configurations prior to production implementation.

(3) An application security review shall be approved by the application owner, agency Information Security Manager, and Chief Information Officer (or respective documented designee) before a new application or technology is placed into production.

(4) For applications and technologies housed in a primary data center, the application security review shall also be approved by the data center Information Security Manager (or their respective designee) before the new application or technology is placed into production.

(5) An application security review shall be approved by the application owner, agency Information Security Manager, and Chief Information Officer (or designee) before modifications to an application or technology are placed into production.

(6) For applications and technologies housed in a primary data center, the application security review also shall be approved by the data center Information Security Manager (or their respective designee) before modifications to an application or technology are placed into production.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.011 Configuration Management.

(1) The agency shall identify and document information technology resources and associated owners and custodians.

(2) The agency shall specify standard software and hardware.

(3) The agency shall specify and document standard configurations used to harden software and hardware and assure the configurations address known security vulnerabilities and are consistent with industry-accepted system hardening standards.

(4) The agency shall implement a change management process for modifications to production information technology resources.

(5) Agencies shall track agency mobile computing devices.

(6) Mobile computing devices and mobile storage devices shall conform to the following configurations:

(a) Mobile computing devices used with exempt, or confidential and exempt information require encryption.

(b) Mobile storage devices with exempt, or confidential and exempt agency data shall have encryption technology enabled such that all content resides encrypted.

(c) Mobile computing devices connecting to the agency internal network shall use current and up-to-date anti-malware software (where technology permits).

(d) Agency mobile computing devices shall activate an agency-approved personal firewall (where technology permits) when connected to a non-agency internal network.

(e) Only agency-approved software shall be installed on state mobile computing devices.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.012 Contingency Planning.

(1) Data and software essential to the continued operation of critical agency functions shall be mirrored to an off-site location or backed up regularly with a current copy stored at an off-site location.

(2) To prevent loss of data, each agency shall develop procedures to ensure agency data, including unique copies of agency data stored on workstations or mobile devices, is backed up.

(3) The agency shall ensure security controls over backup resources are appropriate to the criticality, confidentiality, and cost of the primary resources.

(4) Information technology resources identified as critical to the continuity of governmental operations shall have documented disaster recovery plans to provide for the continuation of critical agency functions in the event of a disaster.

(5) Information Technology Disaster Recovery Plans shall be tested at least annually; results of the annual exercise shall document those plan procedures that were successful and modifications required to correct the plan.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.013 Identification and Authentication.

(1) Agency computer users shall have unique user accounts.

(2) Where technology permits, user accounts shall be authenticated at a minimum by a complex password.

(3) The agency shall ensure accounts with administrative rights are created, maintained, monitored and removed in a manner that protects information technology resources.

(4) The agency shall not use vendor-supplied default passwords.

(5) Administrative account activities shall be traceable to an individual.

(6) The agency shall ensure service accounts are maintained in a manner that protects information technology resources.

(7) Service accounts may be exempted from agency password expiration requirements.

(8) Service accounts shall not be used for interactive sessions.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New .

#### 71A-1.014 Incident Response.

(1) Each agency shall establish a Computer Security Incident Response Team (CSIRT) to respond to suspected computer security incidents by identifying and controlling the incidents, notifying designated CSIRT responders, and reporting findings to agency management.

(2) The CSIRT membership shall include at a minimum the Information Security Manager, the Chief Information Officer, and a member from the Inspector General's Office.

(3) The CSIRT shall develop, document, and implement the agency computer security incident reporting process.

(4) The CSIRT shall develop, document, and implement the agency computer security incident response process.

(5) The agency computer security incident response process will include notification procedures to be followed for incidents where investigation determines non-encrypted personal information was, or is reasonably believed to have been, accessed by an unauthorized person, as required by Section 817.5681, Florida Statutes.

(6) The CSIRT under the direction of the Chief Information Officer or Information Security Manager shall determine the appropriate response required for each suspected computer security incident.

(7) The agency shall notify the Office of Information Security of computer security incidents including suspected or confirmed breaches within 24 hours of discovery.

(8) Each suspected computer security incident, including findings and corrective actions, shall be documented and maintained as specified in the agency computer security incident procedures.

(9) The CSIRT shall convene at least once a quarter.

(10) The CSIRT shall provide regular reports to the agency Chief Information Officer.

(11) Suspected computer security incidents shall be reported according to agency reporting procedures.

(12) Agency workers shall report loss of mobile devices immediately according to agency reporting procedures.

(13) Agency workers shall immediately report lost security tokens, smart cards, identification badges, or other devices used for identification and authentication purposes according to agency reporting procedures.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.015 Maintenance.

(1) The agency shall ensure information technology resources are correctly maintained to ensure continued confidentiality, availability and integrity.

(2) Agencies shall perform preventative maintenance according to manufacturer specifications for information technology equipment.

(3) Administration of hardware, software, or applications performed over a network shall be encrypted where technology permits.

(4) The application maintenance process shall include reviews of application security requirements and controls to ascertain effectiveness and appropriateness relative to new technologies and applicable state and federal regulations.

(5) The agency shall implement service level agreements for non-agency provided technology services to ensure appropriate security controls are established and maintained.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.016 Media Protection.

(1) The agency shall implement procedures to protect agency information from loss, destruction, and unauthorized or improper disclosure or modification.

(2) The agency shall maintain electronic data in accordance with applicable regulatory retention requirements.

(3) The agency shall sanitize or destroy information media according to the applicable retention schedule and before disposal or release for reuse.

(4) The agency shall document procedures for sanitization of agency-owned computer equipment prior to reassignment or disposal.

(5) Equipment sanitization shall be performed such that there is reasonable assurance that the data may not be easily retrieved and reconstructed. File deletion and media formatting are not acceptable methods of sanitization.

(6) Acceptable methods of sanitization include using software to overwrite data on computer media, degaussing, or physically destroying media.

(7) Users shall take reasonable precautions, based upon applicable facts and circumstances, to protect mobile computing devices in their possession from loss, theft, tampering, unauthorized access, and damage.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.017 Physical and Environmental Protection.

(1) Information technology resources shall be protected by physical controls.

(2) The agency shall implement procedures to manage physical access to information technology facilities.

(3) Physical controls shall be appropriate for the size and criticality of the information technology resources.

(4) Physical access to central information resource facilities shall be restricted to authorized personnel.

(5) Visitors shall be recorded and, in locations housing systems categorized as moderate impact or high impact, they shall be supervised.

(6) Information technology resources shall be protected from environmental hazards (e.g., temperature, humidity, air movement, dust, and faulty power) in accordance with manufacturers' specifications.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.018 System and Application Security Planning.

(1) The agency shall document security controls required to protect the information technology infrastructure.

(2) Application owners shall define application security-related business requirements.

(3) Each agency application or system with a Federal Information Processing Standards (FIPS) 199 categorization of moderate-impact or higher shall have a documented system security plan.

(4) System security plans shall document controls necessary to protect production data in the production infrastructure and copies of production data used in non-production infrastructures.

(5) Production exempt, or confidential and exempt data shall not be used for development.

(6) Production exempt, or confidential and exempt data may be used for testing if: the data owner authorizes the use; test system security controls provide for restricted access and auditing; and production exempt, and confidential and exempt data is removed from the system when testing is completed.

(7) Application security documentation shall be maintained by the agency and be available to the Information Security Manager.

(8) The system security plan is confidential per Section 282.318, Florida Statutes. The agency Information Security Manager or designee shall be provided access to system security plans.

(9) Technology managers shall restrict and tightly control the use of utility programs that may be capable of overriding system and application controls.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History—New

#### 71A-1.019 Personnel Security and Acceptable Use.

(1) Agency workers shall follow agency security policies whenever they are using agency IT resources and data, whether they are inside the agency building or elsewhere.

(2) The agency shall document and implement disciplinary procedures for workers failing to comply with agency security policies and procedures. Disciplinary action shall be appropriate to the violation up to and including termination and/or criminal prosecution as provided by law.

(3) Each agency worker shall agree in writing, to comply with agency acceptable use policies prior to using agency information technology resources.

(4) Agency workers shall agree in writing to comply with agency procedures for handling exempt, and confidential and exempt information prior to accessing exempt, or confidential and exempt information.

(5) Agency workers must obtain documented authorization before taking information technology equipment, software, or information away from the agency facility.

(6) Each agency shall document parameters that govern personal use of agency information technology resources.

(7) The agency shall determine whether an information technology use is personal or business.

(8) Personal use, if allowed by the agency, shall not interfere with the normal performance of a worker's duties.

(9) Personal use, if allowed by the agency, shall not consume significant amounts of state information technology resources (e.g. bandwidth, storage).

(10) To prevent loss of data, agency users shall ensure unique copies of agency data stored on workstations or mobile devices is backed up.

(11) Agency computer users shall have unique user accounts.

(12) Agency computer users shall be held accountable for activities performed by their accounts.

(13) User accounts shall be authenticated at a minimum by a complex password.

(14) Users shall change their passwords at least every 60 days for high risk systems, every 90 days for moderate risk systems and every 180 days for low risk systems.

(15) Agency workers are responsible for safeguarding their passwords and other authentication methods.

(16) Agency workers shall not share their agency accounts, passwords, personal identification numbers, security tokens, smart cards, identification badges, or other devices used for identification and authentication purposes.

(17) Remote access client accounts shall not be shared.

(18) Agency workers shall immediately report suspected unauthorized account activity according to agency incident reporting procedures.

(19) Agency workers shall immediately report lost security tokens, smart cards, identification badges, or other devices used for identification and authentication purposes according to agency incident reporting procedures.

(20) Agency workers shall have no expectation of privacy with respect to the contents of agency-owned or agency-managed information technology resources.

(21) The agency may inspect all files stored on agency internal network or computer systems, including attached removable media.

(22) The agency may monitor the use of agency information technology resources.

(23) Use of agency information technology resources constitutes consent to monitoring activities whether or not a warning banner is displayed.

(24) Agency computer users shall follow agency-established guidelines for acceptable use of e-mail and other messaging resources.

(25) Exempt, or confidential and exempt information sent by e-mail shall be encrypted.

(26) Inappropriate use of agency e-mail includes the following: distribution of malware, forging headers, propagating "chain" letters, and auto-forwarding agency messages to a private e-mail address.

(27) Agency computer users shall follow agency-established guidelines for acceptable use of Internet resources.

(28) Inappropriate use of the Internet includes unauthorized, non-work related access to the following: chat rooms, political groups, singles clubs or dating services; peer-to-peer file sharing; material relating to gambling, weapons, illegal drugs, illegal drug paraphernalia, hate-speech, or violence; hacker web-site/software; and pornography and sites containing obscene materials.

(29) Agency computer users shall logoff or lock their workstations prior to leaving the work area.

(30) Workstations shall be secured with a password-protected screensaver with the automatic activation feature set at no more than 15 minutes.

(31) Only agency-approved software shall be installed on agency computers.

(32) Illegal duplication of software is prohibited.

(33) No privately-owned devices (e.g., MP3 players, thumb drives, printers, CDs, DVDs) shall be connected to state-owned information technology resources without documented agency authorization.

(34) Information security activities such as monitoring, sniffing, and related security activities shall be performed only by agency workers based on job duties and responsibilities when given explicit consent.

(35) Agency workers shall not attempt to access information technology resources and information to which they do not have authorization or explicit consent.

(36) Agency information technology resources shall not be used for personal profit, benefit or gain.

(37) Agency information technology resources shall not be used to access, create, store, or transmit offensive, indecent or obscene material unless these activities are a required aspect of the worker's job duties.

(38) Agency workers shall not use agency information technology resources to engage in activities that may harass, threaten, or abuse others.

(39) Agency information technology resources shall not be used for political campaigning or unauthorized fund raising.

(40) Agency workers shall not circumvent agency computer security measures.

(41) Agency information technology resources shall not be used for any activity which adversely affects the confidentiality, integrity, or availability of information technology resources.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.020 Risk Assessment.

(1) The agency shall categorize information technology resources according to the Federal Information Processing Standards (FIPS) Publication 199, which is hereby incorporated by reference. This process estimates the magnitude of harm that would result from unauthorized access, unauthorized modification or destruction, or loss of availability of a resource – low-impact, moderate-impact, or high-impact relative to the security objectives of confidentiality, integrity, and availability.

Potential Impact on Agency or State Operations, Assets or Individuals				
	Low	Moderate	High	
Security Objective Lost	Confidentiality (unauthorized disclosure)	limited adverse effect	serious adverse effect	severe or catastrophic adverse effect
	Integrity (improper modification or destruction)	limited adverse effect	serious adverse effect	severe or catastrophic adverse effect
	Availability (disruption of accessibility)	limited adverse effect	serious adverse effect	severe or catastrophic adverse effect

(2) The agency shall implement a documented risk management program, including risk analysis for high-impact information resources.

(3) Every three years, the Office of Information Security shall coordinate a comprehensive risk assessment to be conducted in each agency.

(4) The agency Information Security Manager shall submit comprehensive risk assessment findings to the Office of Information Security.

(5) The agency shall implement risk mitigation plans to reduce identified risks to agency information technology resources and data.

(6) The agency Information Security Manager shall monitor and document risk mitigation implementation.

(7) Documentation of an agency's information security risk analysis and risk mitigation plans is confidential pursuant to Section 282.318, Florida Statutes, except that such information shall be available to the Auditor General, the Agency for Enterprise Information Technology, and the respective agency's Inspector General.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.021 Systems, Applications and Services Acquisition and Development.

(1) The agency shall perform an impact analysis prior to introducing a new technology. The purpose of this analysis is to assess effects of the new technology on the existing environment.

(2) The agency shall perform an impact analysis prior to modifying current technology, systems, or applications. The purpose of this analysis is to assess effects of the modifications on the existing environment.

(3) The agency shall ensure software applications obtained, purchased, leased, or developed provide appropriate security controls to minimize risks to the confidentiality, integrity, and availability of the application, its data, and other information technology resources.

(4) The agency shall develop procedures to ensure that security requirements are specified throughout the procurement process for information technology resources.

(5) The agency shall develop procedures to ensure that security requirements are specified throughout the application procurement process and incorporated into each phase of the application development lifecycle.

(6) The application development team shall implement appropriate security controls to minimize risks to agency information technology resources and meet the security requirements of the application owner.

(7) Agency software applications obtained, purchased, leased, or developed will be based on secure coding guidelines. Some examples of secure coding guidelines are: OWASP [Open Web Application Security Project] Secure Coding Principles – [http://www.owasp.org/index.php/Secure\\_Coding\\_Principles](http://www.owasp.org/index.php/Secure_Coding_Principles); CERT Security Coding – <http://www.cert.org/secure-coding/>; Top 10 Security coding Practices – <https://www.securecoding.cert.org/confluence/display/seccode/Top+10+Secure+Coding+Practices>.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.022 System and Communications Protection.

(1) The Department of Management Services Division of Telecommunications provides the statewide network referred to as SUNCOM. The Department of Management Services establishes standards for SUNCOM network connections and regulates and monitors SUNCOM network connections. (Reference Chapters 60FF-1, 60FF-2, 60FF-3, F.A.C.)

(2) Preventative actions taken by agencies to protect information technology resources help ensure the protection of the statewide SUNCOM network and reduce probability of adverse impacts among the agencies that connect to the SUNCOM network.

(3) The agency Information Security Manager or designee shall be granted access to monitor all agency information technology resources.

(4) Technology managers shall monitor technology resources to ensure desired performance and facilitate future capacity-based planning.

(5) The agency shall establish procedures to ensure regular review of system activity logs.

(6) The agency may inspect any files stored on agency internal network or computer systems, including attached removable media.

(7) The agency shall establish and document firewall and router configuration standards that include a current network diagram.

(8) The agency shall ensure network perimeter security measures are in place to prevent unauthorized connections to agency information technology resources.

(9) Databases containing mission critical, exempt, or confidential and exempt data shall be placed in an internal network zone, segregated from the DMZ.

(10) The agency shall monitor for unauthorized network access points.

(11) Unauthorized wireless access points connected to the agency internal network shall be removed immediately upon detection.

(12) Wireless transmission of agency data shall be implemented using strong cryptography for authentication and transmission.

(13) For agency wireless environments, the agency shall change wireless vendor defaults, including default encryption keys, passwords, and SNMP (Simple Network Management Protocol) community strings, and ensure wireless device security settings are enabled for strong cryptography technology for authentication and transmission.

(14) Agencies shall establish procedures to ensure agency cryptographic implementations are developed and maintained according to the Federal Information Processing Standards (FIPS) Publication 140-2, Security Requirements for Cryptographic Modules (2004).

(15) Key management processes and procedures for cryptographic keys used for encryption of data will be fully documented and will cover key generation, distribution, storage, periodic changes, compromised key processes, and prevention of unauthorized substitution.

(16) Key management processes must be in place and verified prior to encrypting data at rest (including e-mail messages, data files, hard drives, data backups).

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

#### 71A-1.023 System and Information Integrity.

(1) Controls shall be established to ensure the accuracy and completeness of data.

(2) The development and test infrastructures shall be physically or logically separated from the production infrastructure.

(3) A sufficiently complete history of transactions shall be maintained for each session involving access to critical information to permit an audit of the system by tracing the activities of individuals through the system.

(4) Individuals accessing critical information shall be uniquely identified.

(5) The agency shall ensure anti-malware software is maintained on agency information technology resources.

(6) The agency shall implement a patch management process for information technology resources.

(7) The Agency for Enterprise Information Technology Office of Information Security will monitor the Internet and appropriate global information security resources for any abnormalities or threats present on the Internet and provide relevant Security Alerts to state agencies.

(8) Application developers shall incorporate validation checks into applications to detect data corruption that may occur through processing errors or deliberate actions.

Rulemaking Authority 14.204(7), 282.318(3), 282.318(6) FS. Law Implemented 282.318 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Russo, State Chief Information Officer, Office of Information Security, Agency for Enterprise Information Technology, 4030 Esplanade Way, Suite 135, Tallahassee, Florida 32399, telephone (850)922-7502

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Governor and Cabinet

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 8, 2010

DATE NOTICES OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 21, 2009 and October 9, 2009

### Section III Notices of Changes, Corrections and Withdrawals

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### Division of Plant Industry

RULE NO.: 5B-65.005      RULE TITLE: Movement of Regulated Articles

##### NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 21, May 28, 2010 issue of the Florida Administrative Weekly.

The Notice of Change published in the Vol. 36, No. 21, May 28, 2010, issue of the FAW contained the following error:

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. 35, No. 42, October 23, 2009, Vol. 36 No. 20, May 21, 2010 issue of the Florida Administrative Weekly.

#### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

#### DEPARTMENT OF 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 NOS.:

62-302.400

##### RULE TITLES:

Classification of Surface Waters, Usage, Reclassification, Classified Waters

62-302.530

Table: Surface Water Quality Criteria

##### 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. 36, No. 16, April 23, 2010 issue of the Florida Administrative Weekly.

62-302.400 Classification of Surface Waters, Usage, Reclassification, Classified Waters.

(1) through (3) No change.

(4) Water quality classifications are arranged in order of the degree of protection required, with Class I water having generally the most stringent water quality criteria and Class V the least. However, Class I, II, and III surface waters share water quality criteria established to protect fish consumption, recreation and the propagation and maintenance of a healthy, well-balanced population of fish and wildlife. For manmade lakes, canals or ditches, or streams converted to canals before November 28, 1975, considered under subsections (5) and (11) below, the Department shall evaluate the limited aquatic life support and habitat limitations of such waters, recognizing the physical and hydrologic characteristics and water management uses for which they were constructed.

(5) Class III-Limited surface waters share the same water quality criteria as Class III except for any site specific alternative criteria that have been established for the waterbody under Rule 62-302.800, F.A.C. Class III-Limited waters are restricted to waters with human-induced physical or habitat conditions that prevent attainment of Class III uses and do not include waterbodies that were created for mitigation purposes. "Limited recreation" means opportunities for recreation in the water are reduced due to physical conditions. "Limited population of fish and wildlife" means the aquatic biological community does not fully resemble that of a natural system in the types, tolerance and diversity of species present. Class III-Limited waters are restricted to:

(a) Wholly artificial waterbodies that were constructed consistent with regulatory requirements under Part I or Part IV of Chapter 373, Part I or Part III of Chapter 378, or Part V of Chapter 403, F.S.; or

(b) No change.

(6) through (7) No change.

(8) A petition for reclassification shall reference and be accompanied by the information necessary to support the affirmative findings required in this section, as described in the DEP document titled, "Process for Reclassifying the Designated Uses of Florida Surface Waters" (DEP-SAS-001/10), dated June 2010, incorporated by reference herein. Copies of the Process document may be obtained from the Department's internet site at <http://www.dep.state.fl.us/water> or by writing to the Florida Department of Environmental Protection, Standards and Assessment Section, 2600 Blair Stone Road, MS 6511, Tallahassee, FL 32399-2400.

(9) All reclassifications of waters of the State shall be adopted, after public notice (including notification to affected local and regional governments and sovereign American Indian tribes) and public hearing, only upon affirmative findings by the Environmental Regulation Commission that:

(a) No change.

(b) Such a reclassification is clearly in the public interest after considering public input, including special consideration of input submitted by local and regional elected city or county governing bodies and sovereign American Indian tribes, who represent the public interest where the waters, and affected upstream and downstream waters, are located;

(c) The proposed reclassification will does not allow for the lowering of existing water quality nor result in the nonattainment of water quality standards in downstream waters;

(d) through (e) No change.

(10) No change.

(11) If rulemaking is initiated to reclassify a water to for a less stringent classification, the petitioner or the Department shall include in the reclassification documentation appropriate and scientifically defensible water quality, biological, hydrological, and habitat studies and analyses, as well as environmental, technological, social, and economic studies, including costs to small businesses and local governments, as necessary to establish the present and future most beneficial use by demonstrating that:

(a) through (b) No change.

(c) One or more of the following situations occur:

1. Naturally occurring concentrations Concentrations of naturally occurring substances prevent the attainment of the use;

2. through 6. No change.

(12) The petition for a Class III-Limited classification shall include appropriate Site Specific Alternative Criteria proposals that are protective of the most beneficial use as determined by the demonstration in subsection (9) above. Site Specific Alternative Criteria established to support the Class III-Limited designated use are restricted to numeric criteria for any or all of the following parameters: nutrients (including nutrient response variables), bacteria, dissolved oxygen, alkalinity, specific conductance, transparency, turbidity, biological integrity, or pH. Site Specific Alternative Criteria for these parameters shall not be set at levels less stringent than water quality conditions at the time of reclassification and shall not be subject to the limitations in paragraph 62-302.800(2)(d), F.A.C. Proposed Site Specific Alternative Criteria for other parameters must fully protect Class III uses.

(13) through (16) No change.

#### 62-302.530 Table: Surface Water Quality Criteria.

The following table contains both numeric and narrative surface water quality criteria to be applied except within zones of mixing. The left-hand column of the Table is a list of constituents for which a surface water criterion exists. The headings for the water quality classifications are found at the top of the Table, and the classification descriptions for the headings are specified in subsection 62-302.400(1), F.A.C. Applicable criteria lie within the Table. The individual criteria should be read in conjunction with other provisions in water quality standards, including Rule 62-302.500, F.A.C. The criteria contained in Rule 62-302.500, F.A.C., also apply to all waters unless alternative or more stringent criteria are specified in Rule 62-302.530, F.A.C. Unless otherwise stated, all criteria express the maximum not to be exceeded at any time. In some cases, there are separate or additional limits, which apply independently of the maximum not to be exceeded at any time. For example, annual average (denoted as "annual avg." in the Table) means the maximum concentration at average annual flow conditions (see subsection 62-302.200(2), F.A.C.). In applying the water quality standards, the Department shall take into account the variability occurring in nature and shall recognize the statistical variability inherent in sampling and testing procedures. The Department's assessment methodology, set forth in Chapter 62-303, F.A.C., accounts for such natural and statistical variability when used to assess ambient waters pursuant to sections 305(b) and 303(d) of the Federal Clean Water Act.

Criteria for Surface Water Quality Classifications

Parameter	Units	Class I	Class II	Class III and Class III-Limited (see Note 4)		Class IV	Class V
				Predominantly Fresh Waters	Predominantly Marine Waters		
(1) through (70) No change.							

Notes: (1) through (4) No change.

Additionally, pages within the DEP document entitled, "Process for Reclassifying the Designated Uses of Florida Surface Waters" (DEP-SAS-001/10), dated June 2010, incorporated by reference in subsection 62-302.400(8), F.A.C., were modified to be consistent with the changes made in the Rule above. Page 2 was modified to add the phrase "Part I or III of Chapter 378, F.S." to be consistent with changes to paragraph 62-302.400(5)(a), F.A.C. Page 3 was modified to delete the words "or Tribe's" in response to a concern raised by the Joint Administrative Procedures Committee. Pages 9 and 15 were modified to delete the term "special" before consideration of input from local and regional governing bodies and sovereign American Indian tribes to be consistent with changes to paragraph 62-302.400(9)(b), F.A.C. Pages 5, 34, and 37 were modified to delete the phrase "the lowering of existing water quality" to be consistent with changes to paragraph 62-302.400(9)(c), F.A.C. Pages 5 and 13 were modified to be consistent with changes to subparagraph

62-302.400(11)(c)1., F.A.C. The change prevents using the language for situations where the discharge of "naturally occurring substances" could be man-induced.

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-302.800  
RULE TITLE: Site Specific Alternative Criteria  
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. 36, No. 16, April 23, 2010 issue of the Florida Administrative Weekly.

62-302.800 Site Specific Alternative Criteria.

(1) through (4) No change.

(5) Site specific alternative criteria apply to the water bodies, or portions of the water bodies, listed below. For dissolved oxygen site specific alternative criteria, normal daily and seasonal fluctuations above the levels listed in the table below shall be maintained.

(a) through (c) No change.

(d) Fen holloway River coastal waters (Apalachee Bay) as spatially defined by the coordinates (83° 49' 29.95" W, 29° 59' 38.70" N), (83° 45' 3.61" W, 29° 57' 22.10" N), (83° 47' 23.50" W, 29° 54' 5.01" N), and (83° 51' 45.47" W, 29° 56' 25.71" N). Class III.	The annual average down-welling light at 1 m depth at stations F10 (83° 47' 6.60" W, 29° 57' 4.20" N) and F11 (83° 48' 27.00" W, 29° 57' 38.40" N) shall be 27 percent or more of surface values based on a minimum of 12 measurements using a 2 pi sensor during times when the average flow at <u>Hampton Springs Bridge</u> ( <u>USGS gage 02325000 near Perry</u> ) is less than or equal to 60 cubic feet per second (after subtracting flows from permitted point sources). <u>Cooey Island Bridge</u> at river mile 7.15 measures less than 200 cubic feet per second.	Taylor
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## DEPARTMENT OF JUVENILE JUSTICE

### Probation

RULE NO.: 63D-8.001  
RULE TITLE: Definitions  
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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

63D-8.001 Definitions.

For the purpose of Chapters 63D-9 through 63D-12 F.A.C., the following terms are defined as follows:

(1) through (13) No change.

(14) Multidisciplinary Assessment – An information gathering exercise designed to ensure that youth being considered for commitment are placed in a delinquency program that provides an appropriate level of supervision and treatment services.

(15)(14) Positive Achievement Change Tool (PACT) – The primary assessment instrument used by the JPO to determine the youth's risk to re-offend and identify criminogenic needs that require intervention. The Pre-Screen is

completed and maintained for all youth who are referred to the department. The Full Assessment is completed and maintained for all youth who have been placed under the jurisdiction of the department by the court and have been identified as moderate-high or high risk to re-offend by the Pre-Screen.

(16)(15) PACT Mental Health and Substance Abuse Screening Report and Referral Form – The form used by the JPO to refer the youth for a Comprehensive Assessment whenever the results of the PACT Pre-Screen indicate further assessment is required.

(17)(16) Post-commitment probation (PCP) – Assessment and intervention services provided to youth who are released from residential commitment programs. Under the legal status of post-commitment probation, the youth is legally transferred from commitment status to probation status, and is subject to court-ordered sanctions.

(18)(17) Preliminary Screening – The gathering of preliminary information to be used to determine a youth's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial

interviews, urine and breathalyzer screenings, and reviews of available educational, delinquency and dependency records of the youth.

(19)(18) Probation – Assessment and intervention services provided to youth who are court-ordered to community supervision after the court has determined that the youth committed a delinquent act.

(20)(19) Probation Medical and Mental Health Clearance Form – The form used to screen for mental health, substance abuse and medical problems when law enforcement delivers a youth to the department upon apprehension. The purpose of the form is to comply with statutory requirements for diverting youth to the proper community resource if they require urgent treatment or intervention upon arrest. The form (HS 051, May 2010 January 2008) is incorporated, and is accessible electronically at: [http://www.djj.state.fl.us/forms/health\\_services](http://www.djj.state.fl.us/forms/health_services).

(21) Progressive Response System – A written plan developed in each circuit, in consultation with judges, state attorneys and public defenders, that describes in detail a methodology for responding when youth under supervision violate a condition of their probation. These plans are based upon the principle that sanctions should be based upon the need to ensure public safety, the assessed criminogenic needs and risks of the youth, and how effective the sanction will be in moving the youth to compliant behavior.

(22)(20) Suicide Risk Screening Instrument (SRSI) – A form that documents the standardized questions asked by trained, designated staff upon a youth's intake into the juvenile justice system, and upon admission to a detention center, to identify suicide risk factors and the need for referral for assessment of suicide risk.

(23)(21) Violation of supervision – A noncompliant act committed by a youth that violates the conditions of the probation or post-commitment probation court order.

(24)(22) Youth-Empowered Success (YES) Plan – The document developed by the youth, parent(s)/guardians(s), and JPO to plan for the completion of court-ordered sanctions and address criminogenic needs.

Rulemaking Authority 985.64 FS. Law Implemented 985.03, 985.135, 985.14, 985.145, 985.24, 985.245, 985.433, 985.435, 985.46, 985.601 FS. History–New \_\_\_\_\_.

## DEPARTMENT OF JUVENILE JUSTICE

### Probation

#### RULE NOS.:

63D-9.001  
63D-9.002  
63D-9.003  
63D-9.004  
63D-9.005  
63D-9.006

#### RULE TITLES:

Purpose and Scope  
Detention Screening  
Intake Services  
Risk and Needs Assessment  
Comprehensive Assessment  
Comprehensive Evaluation

### 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

#### 63D-9.001 Purpose and Scope.

This rule establishes uniform procedures for conducting and documenting detention screening, intake, risk and needs assessments, comprehensive assessments, and comprehensive evaluations of youth to allow the department to provide the most appropriate services in the least intrusive manner.

(1) While the needs, strengths and history of the individual youth will determine the how, what, when and where of assessment, the process typically tracks the following sequence:

(a) Detention Screening is completed following the arrest and delivery of the youth to the department. The critical component of detention screening is the Detention Risk Assessment Instrument (DRAI), ~~an automated tool containing the key data elements prescribed by statute for decision making about detention placement. The DRAI is used to determine if a youth meets detention criteria and to determine whether a youth should be placed in secure, non-secure, or home detention care prior to a detention hearing. The DRAI (DJJ 2049, March 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.~~ When a youth is delivered to the department for detention screening, the screener shall also look into the risk of suicidal behaviors. This screening is initiated through a process which includes administration of the Positive Achievement Change Tool (PACT) ~~the primary assessment instrument used by the JPO to determine the youth's risk to re-offend and identify criminogenic needs that require intervention~~ and administration of the Suicide Risk Screening Instrument (SRSI) ~~a form that documents the standardized questions asked by trained, designated staff upon a youth's intake into the juvenile justice system, and upon admission to a detention center, to identify suicide risk factors and the need for referral for assessment of suicide risk as well as a review of any other documentation of suicide risk factors that are available at the time of screening. The PACT (September 10, 2007) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.~~ The SRSI (MHS 002, August 2007) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, Florida 32399-3100.

(b) through (d) No change.

(2) No change.

Rulemaking Authority 985.64 FS. Law Implemented 985.03, 985.135, 985.14, 985.145, 985.24, 985.245, 985.433, 985.435, 985.46, 985.601 FS. History-New \_\_\_\_\_.

63D-9.002 Detention Screening.

(1) The Detention Risk Assessment Instrument (DRAI) directs the decision-making process as to whether detention care is warranted and whether the youth should be placed into secure detention, home detention, or some other form of non-secure detention status.

~~(a) The DRAI (DJJ-2049, March 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.~~

(a) The DRAI shall consist of the following six (6) sections:

1. Section I: Identifying Data,
2. Section II: Admission Criteria,
3. Section III: Risk Assessment,
4. Section IV: State Attorney Review/Decision,
5. Section V: Screening Decision, and
6. Section VI: Narrative.

(2) through (4) No change.

(5) Section III-E of the DRAI, which scores aggravating or mitigating factors, allows the JPO to take into account relevant issues that are not scored in other parts of the DRAI, ensuring the appropriateness of detention and release decisions.

(a) The JPO shall consider any aggravating or mitigating circumstances that may exist. Aggravating factors shall include: youth having a history of absconding, unusual number of prior offenses, offender's attitude presenting a clear and present danger to the victim, victim suffers substantial physical or emotional injury, extreme cruelty was involved in the offense, offense was committed by a youth engaged in organized gang activity. Mitigating circumstances shall include: youth's age and maturity, a significant change in the youth's living circumstances subsequent to the offense providing increased stability and supervision, youth was accompanied by an adult who influenced youth's involvement in the offense, victim suffered little or no injury or property loss, youth suffers from an intellectual impairment which affects decision-making.

(b) Because the DRAI is intended to be an independent and impartial measure of the risk posed by each youth, the decision to either aggravate or mitigate shall not be determined by pressures from outside influences that may lack objectivity.

(e) The JPO shall not consider factors that are accounted for elsewhere in the DRAI.

(c) The JPO shall fully explain what aggravating or mitigating factors were considered in the narrative portion of Section VI.

(6) No change.

Rulemaking Authority 985.245, 985.64 FS. Law Implemented 985.145, 985.24, 985.245, 985.25, 985.255 FS. History-New \_\_\_\_\_.

63D-9.003 Intake Services.

(1) through (3) No change.

(4) An initial conference with the youth and parent(s)/guardian(s) shall be held for all cases unless the youth and parent(s)/guardian(s) refuse or are unable to participate. The initial conference is voluntary until the youth enters a plea (guilty or no contest) or the youth is found guilty.

(a) The conference may be completed at a juvenile assessment center (JAC), at a detention center, or in the office of the JPO, or other suitable location.

(b) During the conference, the JPO interviews the youth and parent(s)/guardian(s) to gather information, explain the youth's status in the juvenile justice system, and conduct a risk and needs assessment.

(c) The JPO shall obtain written consent for substance abuse treatment from the youth and parent at the intake conference for all youth with substance abuse needs.

(5) No change.

(6) The PDR is a multidisciplinary assessment that reports the youth's priority needs, recommendations as to a classification of risk for the youth in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the youth's needs with the minimum program security that reasonably ensures public safety is a report detailing the department's recommendation for disposition and interventions to address the youth's criminogenic needs in the most appropriate and least restrictive environment that reasonably ensures public safety. The PDR (DJJ/IS Form 8, April 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(a) The PDR shall include an intervention plan that recommends the most appropriate placement to meet the youth's needs at the minimum restrictiveness level that reasonably ensures public safety and the youth's accountability.

(b) While the JPO has the final responsibility for making recommendations, the youth and parent(s)/guardian(s) shall be given an opportunity to be involved in the development of sanctions and intervention plans.

(c) If the PDR includes a recommendation for residential commitment, the recommendation must be the result of a pre-staffing between the JPO and JPOS, and a commitment conference with the Commitment Manager.

(d) The JPO shall submit the PDR within statutorily mandated timeframes.

(e) The JPO shall complete a Post-Disposition Report, which, like the predisposition report, indicates what the child's risks and priority needs are, but is only completed if residential

commitment has been ordered by the court without a predisposition report ever having been ordered when residential commitment has been ordered by the court without the benefit of a PDR. In order to ensure appropriate placement and services, the Post-Disposition Report shall be completed within 14 working days following the disposition. The Post-Disposition Report (DJJ/IS Form 8, April 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(7) The department is required to complete an Adult Sentencing Summary for youth being tried as an adult. This is a written summary regarding a youth's history with the Department of Juvenile Justice, which is used when the court is deciding whether a youth should be sentenced to the adult or juvenile justice system. This document provides detailed information relevant to the youth's current status and history with the department, programs and services provided or arranged by the department, family situation, any known special mental health or substance needs, and a recommendation as to whether the youth should be sentenced to the adult or juvenile justice system. This information is included in the Pre Sentence Investigation submitted to the court by the Department of Corrections. The Adult Sentencing Summary (DJJ/IS Form 29, February 2009) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145, 985.43, 985.565, 985.43, 985.435, 985.46 FS. History-New \_\_\_\_\_.

#### 63D-9.004 Risk and Needs Assessment.

(1) The JPO shall conduct a risk and needs assessment on all youth charged with a criminal or delinquent offense using the Positive Achievement Change Tool (PACT). The PACT Pre-Screen is completed while screening a youth for detention eligibility or during the initial intake conference.

(2) The JPO administering the PACT shall use the results to determine whether a referral for further assessment or immediate intervention shall be made. The JPO shall refer youth directly to the designated assessment provider(s) for the comprehensive assessment using the PACT Mental Health and Substance Abuse Screening Report and Referral Form. The PACT Mental Health and Substance Abuse Screening Report and Referral Form (DJJ/PACTFRM 1 10/2006) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Dr., Suite 1300, Tallahassee, FL 32399-3100.

(a) If the youth is to be released to the parent(s)/guardian(s), the parent(s)/guardian(s) shall be informed of the results of the PACT and shall be given information as to the location of the comprehensive assessment provider, the appointment time (if arranged by the JPO), and the importance of delivering the youth for

the follow-up appointment. The parent(s)/guardian(s) shall be provided a copy of the completed PACT Mental Health and Substance Abuse Screening Report and Referral Form.

(b) For detained youth, the PACT results shall be forwarded to the detention center where the youth is detained. The JPO shall provide written notification to the detention center using the PACT Mental Health and Substance Abuse Screening Report and Referral Form of any need for crisis intervention for youth who are indicated as at-risk for suicide, and shall notify the detention center of any need for referral to the center's mental health professional for youth who are in need of further mental health or substance abuse evaluation.

(3) through (4) No change.

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145 FS. History-New \_\_\_\_\_.

#### 63D-9.005 Comprehensive Assessment.

(1) A comprehensive assessment is a report on the youth's physical, psychological, educational, vocational, social condition and family environment as they relate to the youth's need for rehabilitative and treatment services, including substance abuse treatment services, literacy services, medical services, family services, and other specialized services, as appropriate. The comprehensive assessment is designed to guide the department to the right level of intervention based on the unique needs of the individual youth. A comprehensive assessment may be completed using either the Substance Abuse and Mental Health (SAMH 2 and SAMH 3) process or an equivalent department approved instrument. The SAMH 2 (DJJ/PP Form 36, February 2005) and SAMH 3 (DJJ/PP Form 37, February 2005) are incorporated, and are available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(2) The comprehensive assessment shall be administered in a timely fashion.

(a) The designated provider shall complete the comprehensive assessment within 10 calendar days for youth in secure detention. The provider shall complete the comprehensive assessment within 14 calendar days for youth not in secure detention. The timeframe for completion may be modified by order of the court.

(b) If a provider takes longer than 14 calendar days to complete a comprehensive assessment, the JPO shall notify the Chief Probation Officer (CPO) or designee, who shall notify the local Department of Children and Families (DCF) program administrator. The CPO shall request the program administrator to develop a plan to improve performance or change providers.

(3) through (7) No change.

(8) All individuals involved in the comprehensive assessment process shall comply with the confidentiality requirements of Section 985.04, F.S., ~~and other applicable provisions of Florida Statutes.~~

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145 FS. History-New \_\_\_\_\_.

#### 63D-9.006 Comprehensive Evaluation.

(1) The comprehensive evaluation builds on the information gathered in previous assessments, screenings, and interviews with the youth and parent(s)/guardian(s) to provide a summary of the youth's life that focuses on the following areas: vocational, academic, medical, mental health and substance abuse. The comprehensive evaluation is designed to guide the department to the right level of intervention, usually delivered in a residential setting, based on the unique needs of the individual youth.

(2) The JPO shall forward the signed authorization and referral packet to the provider that is responsible for completing the comprehensive evaluation. The referral packet shall include the following items:

- (a) School information such as grades, behavior records, attendance, and IQ scores,
- (b) Arrest affidavit, violation of supervision, or transfer request,
- (c) Victim statement(s) (if available),
- (d) PACT Mental Health and Substance Abuse Screening Report and Referral Form,
- (e) PACT results,
- (f) Any prior assessments available (i.e. SAMH 2, psychological, or bio-psychosocial),
- (g) Any prior medical information available,
- (h) Available job history and vocational training history,
- (i) Latest PDR (if available), and

(j) A signed Authority for Evaluation and Treatment (AET), which is the document that, when signed by a parent or guardian, gives the department the authority to assume responsibility for the provision of necessary and appropriate physical and mental health care to a youth in the department's physical custody. The AET (HS 002, May 2007) is incorporated into this rule and is accessible electronically at [http://www.djj.state.fl.us/forms/health services forms index.html](http://www.djj.state.fl.us/forms/health%20services%20forms%20index.html) (HS 002, May 2007).

(3) The JPO shall conduct a pre-conference review the youth's case with the JPO supervisor to determine whether or not to pursue a commitment recommendation for the youth. If the result of this review the pre-conference is a recommendation for commitment, then the JPO shall work with a DJJ commitment manager in order to conduct a multidisciplinary assessment as defined in subsection 63D-8.001(14), F.A.C. This information gathering exercise shall assist the department in determining the youth's priority risks and needs, and a plan for treatment that recommends the

most appropriate placement setting to meet the child's needs with the minimum program security needed that reasonably ensures public safety ~~schedule a comprehensive evaluation and a commitment conference. A DJJ commitment manager presides over the commitment staffing and, with the input of conference participants, and informed by the completion of a comprehensive evaluation, the commitment manager determines what the department's recommendation to the court will be.~~

(4) If a residential commitment is being considered or has been ordered by the court, a comprehensive evaluation shall be scheduled with the provider on contract with the circuit to complete the evaluations. The evaluation shall be provided to the commitment manager prior to the commitment conference. If the evaluation is not completed by the date of the commitment conference, the JPO shall make every effort to obtain a draft for the conference.

(5) A comprehensive evaluation is also required when youth on conditional release are pending transfer back to residential commitment, a comprehensive evaluation is required for the transfer staffing. If the comprehensive evaluation completed prior to commitment is over 12 months old, a new evaluation shall be completed to facilitate the transfer process.

(6) Providers shall ensure all staff conducting comprehensive evaluations are either licensed or certified under applicable law for the position they hold or, if not licensed or certified, they work under the direct supervision of a licensed mental health professional and have received a Master's degree in one of the academic disciplines required for licensure by statute.

Rulemaking Authority 985.14, 985.145, 985.64 FS. Law Implemented 985.14, 985.145, 985.18, 985.185 FS. History-New \_\_\_\_\_.

## DEPARTMENT OF JUVENILE JUSTICE

### Probation

RULE NOS.:	RULE TITLES:
63D-10.002	Diversion Services
63D-10.003	Community Supervision Services
63D-10.004	Violations of Supervision
63D-10.005	Residential Case Management and Transitional Planning
63D-10.006	Termination of Supervision

### 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

#### 63D-10.002 Diversion Services.

(1) Diversion services are non-judicial alternatives used to keep youth who have committed a delinquent act from being handled through the traditional juvenile justice system. These services are intended to intervene at an early stage of

delinquency, prevent subsequent offenses during and after participation in the programs, and provide an array of services to juvenile offenders. Referrals are determined based upon the youth's current offense, delinquency history, and Positive Achievement Change Tool (PACT) results. The PACT is the primary assessment instrument used to determine the youth's risk to re-offend, and to identify criminogenic needs, which are those critical factors identified during the assessment process that have been statistically proven to predict future criminal behaviors that require intervention. The PACT (September 10, 2007) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100.

(2) through (3) No change.

(4) Civil citation programs provide law enforcement with an alternative to taking youth into custody, while ensuring swift and appropriate consequences for youth who commit non-serious delinquent acts.

(a) A record check of the Juvenile Justice Information System (JJIS), which is the department's electronic information system used to gather and store information on youth having contact with the department is made by the department to determine program eligibility.

(b) Upon receipt of the citation, the department shall enter the appropriate information into JJIS.

(5) through (9) No change.

Rulemaking Authority 985.14, 985.435, 985.64 FS. Law Implemented 985.12, 985.145, 985.155, 985.16, 985.601(3)(a) FS. History—New \_\_\_\_\_.

### 63D-10.003 Community Supervision Services.

(1) These rules address the supervision of youth in the community, to include youth on probation, conditional release (CR), and post-commitment probation (PCP). The Youth-Empowered Success (YES) Plan is the document developed by the youth, parent(s)/guardian(s), and JPO to plan for the completion of court-ordered sanctions and address criminogenic needs. The Youth-Empowered Success (YES) Plan (DJJ/PACT Form 4, October 2006) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 105, Tallahassee, FL primary planning tool for administration and organization of case management services for the youth.

(2) No change.

(3) The JPO shall complete a risk and needs assessment using the PACT for all youth being supervised by the department on probation, CR, and PCP. The JPO shall update the previous assessment if one was done during the intake process. Otherwise, the JPO shall complete a new risk and needs assessment.

(a) All youth shall have a PACT Pre-Screen completed prior to the development of the initial YES Plan.

(b) If a youth is identified as a moderate-high or high risk to re-offend by the PACT, the JPO shall complete a PACT Full Assessment prior to the development of the initial YES Plan.

(4) The initial YES Plan shall be developed within 30 calendar days of disposition, in the case of probation, or release, in the case of CR or PCP, and must be signed by all parties, including the youth, parent(s)/guardian(s), JPO, and Juvenile Probation Officer Supervisor (JPOS).

(a) through (c) No change.

(d) For youth who are identified by the PACT as high risk to re-offend, the YES Plan shall include an evidence-based intervention as defined in Rule 63E-7.002, F.A.C., that targets one of the top three criminogenic needs, unless the JPO documents in writing barriers to participation, such as the lack of available services, lack of youth readiness to voluntarily participate, transportation difficulties, or lack of parental approval for participation.

(e) through (g) No change.

(5) No change.

(6) While the youth is under the supervision of the department on probation, CR, or PCP, the JPO shall make contacts in accordance with his or her professional discretion to ensure the youth's compliance with the court order and the completion of YES Plan sanctions and goals. The JPO shall document all case activities, including:

(a) through (c) No change.

(7) through (8) No change.

Rulemaking Authority 985.14, 985.435, 985.64 FS. Law Implemented 985.14, 985.435, 985.46, FS. History—New \_\_\_\_\_.

### 63D-10.004 Violations of Supervision.

(1) No change.

(2) The JPO shall investigate all known or reported possible violations of supervision. Such investigations shall include interviewing the supervised youth, parents/guardians, school officials, and other important collateral sources as deemed necessary.

(3) No change.

(4) Technical violations involve noncompliance with court-ordered sanctions, such as not reporting to the JPO as directed, failing to complete community service, failing to follow through with a referral, missing school, or failing to make restitution payments. Technical violations shall be addressed through the progressive response system, as defined in subsection 63D-8.001(21), F.A.C., which shall describe in detail how the JPO should respond when youth under supervision are noncompliant with court-ordered sanctions, considering that responses should be based on public safety, the assessed criminogenic needs and risks of the youth, and how effective the sanction will be in promoting compliant behavior. However, the JPO shall comply with orders of the court that require the reporting of any technical violations.

(a) through (b) No change.

(5) No change.

Rulemaking Authority 985.14, 985.64 FS. Law Implemented 985.14, 985.435, 985.439, 985.601 FS. History-New \_\_\_\_\_.

63D-10.005 Residential Case Management and Transitional Planning.

(1) through (4) No change.

(5) If the department concurs with the proposed release date, the JPO shall notify the committing judge of the program's intent to release and a plan for aftercare supervision using the Request for Release Letter. The Request for Release Letter (DJJ/IS Form 13, May 2009) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. The letter, along with a copy of the program's release Performance Summary, shall be delivered to the judge within three working days of receipt of the PRN. The Performance Summary is a written document used by staff of residential facilities to inform the youth, committing court, JPO, parent or guardian, and other pertinent parties of the youth's performance in the program, including status of and progress toward performance plan goals, academic status, behavior and adjustment to the program, significant incidents (positive and negative), and justification for a request for release, discharge or transfer, if applicable. A Performance Summary can be in the form of a Release Summary, Discharge Summary, or Transfer Summary. The Performance Summary form (RS 007, September 2006) is incorporated and is accessible electronically at [http://www.djj.state.fl.us/forms/residential\\_rule63E\\_forms.html](http://www.djj.state.fl.us/forms/residential_rule63E_forms.html). Copies of the letter shall be provided to the parent(s)/guardian(s), commitment program, and JPO. The JPO shall return the completed PRN to the commitment program within five working days of receipt of the form.

(6) through (7) No change.

(8) The residential commitment program shall not release any youth subject to the provisions of Chapter 394 F.S. until the DCF multidisciplinary team has determined eligibility and the state attorney's office has decided whether or not to file a petition. If it is determined that the youth will not be involuntarily committed to DCF, then the JPO shall notify the program using the Notification of the Decision to Not Involuntarily Commit to DCF form, which is the documentation required in order to release a Sexually Violent Predator (SVP) eligible youth from residential commitment. The form (JJIS Form 25, February 2005) is incorporated and is accessible electronically at [http://www.djj.state.fl.us/forms/health\\_services\\_forms\\_index.html](http://www.djj.state.fl.us/forms/health_services_forms_index.html).

(9) No change.

(10) While a youth is on post-residential supervision, he or she will typically reside with parent(s)/guardian(s). However, some youth may be referred to an independent living program.

(a) Independent living is a category that focuses on providing an array of specialized services, and for some youth, is an opportunity for a placement outside the family home. The program is intended for youth whose home environment is a barrier to a crime-free return to the community, youth who are homeless, and youth who cannot return to the family home.

(b) Youth with sexual offenses, developmental disabilities, and youth with histories of arson, cruelty to animals, or first-degree felonies shall be permitted to participate in an independent living program on a case-by-case basis, and documentation of the youth's appropriateness shall be maintained in the case file. The critical measure of appropriateness must be calculated based upon an assessment of the youth's suitability to live on his or her own with minimal adult supervision and with a greatly reduced risk to public safety.

(c) When a youth is prescribed psychotropic medications, a medication evaluation shall be completed prior to consideration of residential independent living placement.

(d) Youths whose adjudication of dependency precedes the adjudication of delinquency should be referred back to DCF for an assessment of eligibility for the independent living program operated for dependent children aging out of foster care.

Rulemaking Authority 985.435, 985.46, 985.64 FS. Law Implemented 985.14, 985.435, 985.46, FS. History-New \_\_\_\_\_.

63D-10.006 Termination of Supervision.

(1) through (2) No change.

(3) If the youth is on probation or PCP, the Progress Report form will be used to request termination, and shall include the status of all court-ordered sanctions completed by the youth. The Progress Report Form (DJJ/IS Form 12, December 2008) is incorporated, and is available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, FL 32399-3100. If the youth is on CR, the JPO will follow the procedure described in subsections 63D-10.005(4)-(5), ~~(4-5)~~ F.A.C., wherein the JPO will complete all documents required of residential commitment facilities.

(4) through (7) No change.

Rulemaking Authority 985.14, 985.64 FS. Law Implemented 985.14, 985.435, 985.601 FS. History-New \_\_\_\_\_.

**DEPARTMENT OF JUVENILE JUSTICE**

**Probation**

**RULE NOS.:**

63D-11.003

63D-11.004

63D-11.005

63D-11.006

**RULE TITLES:**

Safety and Security

Admission of Youth

Screening for Medical Conditions  
and Handling Medication

Responding to Gangs

## 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

## 63D-11.003 Safety and Security.

~~(1) All JACs shall comply with sanitation and health codes. Written reports of inspections by state or local authorities shall be kept on file as assurance of continuing compliance with these codes.~~

~~(2) All JACs that use holding cells for youth shall include in their process for utilization of these holding cells the following conditions:~~

~~(1)(a) Males and females shall never be placed together in the same holding cell,~~

~~(2)(b) Staff shall visually observe youth in holding cells every 10 minutes,~~

~~(3)(c) A behavioral review of the youth's behavior shall be held every 30 minutes for the purpose of assessing and documenting any signs or indications that the youth poses a risk to self or others.~~

~~(4)(d) The observations and reviews shall be documented in writing, and~~

~~(5)(e) If a holding cell is used by more than one youth at a time, a safety decision shall be made as to the potential risk of one youth to the other. Risk factors to consider are contagious disease, a marked difference in size, strength or age, predatory history, and emotional stability.~~

Rulemaking Authority 985.64 FS. Law Implemented 985.135(3), (4) FS. History-New \_\_\_\_\_.

## 63D-11.004 Admission of Youth.

(1) Each youth shall receive an initial medical and mental health clearance using the Probation Medical and Mental Health Clearance Form. The Juvenile Probation Officer (JPO) shall evaluate the condition of each youth prior to being accepted into the JAC for detention screening. The clearance process shall help ensure an appropriate response when law enforcement delivers a youth for screening who appears to be physically impaired due to drugs, alcohol, injury, or illness. The Probation Medical and Mental Health Clearance Form (HS 051, January 2008) is incorporated, and is available from the Office of Health Services at 2737 Centerview Drive, Suite 2426, Tallahassee, FL 32399-3100. Requirements governing the use of the form are detailed in Rule 63D-8.001, F.A.C.

~~(a) through (d) No change.~~

~~(e) During the initial JAC intake each youth shall be screened for suicide risk. The JPO shall complete the Assessment of Suicide Risk Form (MHSA 004, August 2006). The form shall be sent with the youth if he or she is admitted to secure detention. If the youth is released to the custody of the parent or legal guardian, then the parent or legal guardian must be provided the form entitled Suicide Risk Screening~~

Parent/Guardian Notification (MHSA 003, August 2006). Requirements governing the use of these forms are detailed in Rule 63D-9.004, F.A.C.

(2) There are circumstances where a youth who has already been admitted to the JAC becomes severely ill or injured while awaiting detention screening, transfer to detention, or release to the parent(s)/guardian(s). If it is obvious that the condition of the youth is severe or appears to be life threatening, the first person who becomes aware of the emergency shall call 911 immediately to request emergency medical services (EMS).

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

~~(c) If the youth requires hospitalization and has not been screened for detention, the JPO shall collect sufficient information telephonically and by other sources to complete the Detention Risk Assessment Instrument (DRAI) to make a preliminary determination as to the youth's qualification for secure detention, non-secure detention, or release with no detention status. Requirements governing the use of the DRAI are detailed in Rule 63D-9.002, F.A.C., and the DRAI is incorporated by reference in Rule 63D-9.001, F.A.C.~~

~~(d) through (e) No change.~~

~~(3) No change.~~

Rulemaking Authority 985.64 FS. Law Implemented 985.135 FS. History-New \_\_\_\_\_.

## 63D-11.005 Screening for Medical Conditions and Handling Medication Management.

~~(1) through (2) No change.~~

~~(3) If any youth taking the medication identified in Subsection (1) or (2) above is screened as eligible for secure detention, detention staff shall be notified immediately that a youth awaiting placement is using one of the critical medications. The JPO shall advise the parent(s)/guardian(s) to deliver the youth's medication as soon as possible. ~~Once the medication is available at the JAC, detention staff shall be required to retrieve and transport the youth as soon as possible, but no later than three hours following notification.~~~~

~~(4) through (5) No change.~~

Rulemaking Authority 985.64 FS. Law Implemented 985.135 FS. History-New \_\_\_\_\_.

## 63D-11.006 Responding to Street Gangs.

(1) During the screening, intake, and supervision process, the JPO shall collect information to be used in determining a youth's gang involvement or affiliation, if any. A referral for suspected gang involvement for known gang activity will be reviewed by the identified circuit gang liaison prior to submission to local law enforcement. A gang member alert shall be entered into the Juvenile Justice Information System (JJIS) for any youth identified as a member of a criminal street gang as defined by Section 874.03, F.S., as follows:

(a) Other Suspected Gang Affiliation – A referral has been submitted to local law enforcement with information that indicates youth's youths potential gang involvement or activities based on staff observations, youth statements, statements by other youth or sources, and or supplemental information such as pictures, drawings, or other documents.

(b) Documented Gang Associate – Written documentation has been received from law enforcement certifying youth as a gang associate per Sections 874.03(2)(a)-(b), F.S.

(c) Documented Gang Member – Written documentation has been received from law enforcement certifying youth as a gang member per Sections 874.03(3)(a)-(k), F.S.

(2) The methods and procedures in the interagency agreement shall ensure a coordinated effort between the department and local law enforcement agencies for the purpose of sharing information related to gang-involved youth. All gang-related information shall be shared with local law enforcement agencies, the assigned JPO and the educational provider or local school district providing educational services at a community based non-residential day treatment program. ~~While in the JAC, reasonable efforts shall be made to keep members of the same or rival gangs separated.~~

Rulemaking Authority 985.64 FS. Law Implemented 985.135 FS. History-New \_\_\_\_\_.

## DEPARTMENT OF JUVENILE JUSTICE

### Probation

RULE NOS.:	RULE TITLES:
63D-12.002	Safety and Administration
63D-12.003	Service Delivery
63D-12.004	Minimum-Risk Commitment

### 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. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

#### 63D-12.002 Safety and Administration.

(1) Safety and welfare standards of facilities shall incorporate the following:

(a) The physical plant of facilities shall meet the following standards:

1. All indoor areas and attached buildings shall be clean, neat, and well maintained. No graffiti shall be allowed to remain on walls, doors, or windows.

2. Weekly sanitation and safety inspections of all internal and external areas and equipment shall be conducted to ensure that the facility is clean and in good repair. Inspections shall be documented in writing.

3. To help ensure that the facility is clean and in good repair a maintenance and housekeeping plan shall be developed and employed.

4. For facilities that operate during evening hours, the facility perimeter and grounds shall be lit.

5. Separate bathroom facilities shall be provided for males and females. For every 30 males, and for every 30 females youth, there shall be at least one operable toilet and washbasin with hot and cold running water and antibacterial soap.

6. Space shall be available for private counseling, group meetings, and classrooms.

(b) Facilities shall have a comprehensive safety regimen that includes:

1. Fire prevention.

2. Smoking shall not be permitted in the facility. Any designated smoking areas shall be outside of the facility and clearly marked.

3. A fire alarm and automatic detection system is required. All facility staff and youth shall be trained in the operation of the alarm system.

4. Fire protection equipment shall be available at strategic locations throughout the facility, and shall be checked quarterly. All facility staff and youth shall be trained in the proper operation and use of available equipment.

5. Fire drill procedures ~~shall be approved by the State Fire Marshal or local fire officials~~, and shall include the following:

a. Unannounced fire drills conducted at least monthly.

b. Drills shall be conducted under varied conditions and across all shifts.

c. All fire drills shall be documented in the Fire Safety Log.

6. A Fire Safety Log shall be kept in the facility, and shall contain a record of annual fire safety inspections, a summary of all deficiencies found by fire officials, a record of corrections, and the results of periodic fire safety inspections and equipment checks.

(c) An evacuation plan shall specify routes of evacuation and provisions for medical care or hospital transportation for youth and facility staff.

1. The evacuation plan shall provide that the facility director or designee in charge shall make the decision to evacuate the facility, and the notice to evacuate shall be clearly communicated.

2. Facility staff in each area shall help control the exit of youth and visitors in an orderly manner.

3. Facility staff shall be alerted to the location of available alarm boxes and outside telephones.

4. A written emergency disaster plan shall be reviewed annually, updated as needed, and detail the procedures for fire, severe weather, hurricane and tornado warnings, flooding, youth riots, hostage taking, chemical spills and bomb threats.

5. A current listing of telephone numbers for local emergency departments shall be posted next to every facility telephone.

6. Facilities that allow youth to participate in water related recreational activities shall have a water safety plan. The facility shall provide one certified lifeguard for every eight participating youth. Youth shall take a swim test prior to any swimming activities.

(d) The facility shall provide for the prompt notification of a youth's parent or guardian in cases of serious illness, injury, or death.

(e) Facilities providing meals shall comply with the following requirements:

1. The food service and dining area shall be clean and well maintained.

2. The facility must provide youth special diets when prescribed for health reasons or to accommodate religious beliefs. A licensed dietitian shall annually approve the nutritional value of the food served.

3. There shall be a single menu for facility staff and youth.

4. The facility must not withhold food as a disciplinary measure.

(f) Facilities shall provide daily transportation to and from the facility, or shall arrange for such transportation.

1. All facility vehicles that transport youth shall be kept in safe and sound condition receive an annual inspection by a certified mechanic.

2. Facility staff transporting youth shall have current, valid driver's licenses.

3. Facility vehicles shall have current insurance and automobile registration.

4. A youth cannot be denied services or penalized because of the lack of transportation.

5. All vehicles shall be locked when not in use.

6. Youth and staff shall wear seat belts while the vehicle is in operation.

(2) Facilities shall meet the following standards of administration and operation:

(a) The facility director is responsible for maintaining information on the facility and reporting to the department.

(b) Monthly reports shall be submitted to the department detailing major developments, incidents, and population data.

(c) through (g) No change.

Rulemaking Authority 985.435, 985.601, 985.64 FS. Law Implemented 985.03, 985.433, 985.435, 985.601 FS. History—New

#### 63D-12.003 Service Delivery.

(1) through (3) No change.

(4) In addition to the requirements of Chapters 63D-9 and 63D-10, F.A.C., facilities shall also comply with the following:

(a) Facilities shall have a written document containing a mission statement that includes the department's mission to reduce juvenile crime, description of program design, educational goals, and objectives. A mission statement

~~encompassing the mission of the department shall be understood by facility staff, reviewed annually, and updated as necessary.~~

(b) through (d) No change.

(5) Mental Health and Substance Abuse Treatment Services. Mental health and substance abuse treatment services shall be provided in accordance with the following provisions:

(a) through (c) No change.

(d) Suicide Prevention Services. Youth who demonstrate suicide risk factors shall be referred for assessment of suicide risk or emergency mental health services if the youth is in crisis. Assessment of Suicide Risk Form (MHSA 004, August 2006) must be utilized when the assessment of suicide risk is conducted in a DJJ facility or program. If the youth is released to the custody of the parent or legal guardian, the parent/legal guardian must be provided the form entitled Suicide Risk Screening Parent/Guardian Notification (MHSA 003, August 2006). These forms are incorporated, and are available from the Assistant Secretary for Probation and Community Intervention at 2737 Centerview Drive, Suite 1300, Tallahassee, Florida 32399-3100.

(e) When a youth exhibits behaviors that constitute an imminent danger to self or others because of mental illness, the youth shall be referred for emergency mental health services in accordance with the provisions of Section 394.463, F.S.

(f) Treatment Plan Development and Implementation. When a comprehensive mental health or substance abuse evaluation indicates the youth is in need of mental health and/or substance abuse treatment, an individualized mental health and/or substance abuse treatment plan shall be developed, and timely treatment shall be provided based upon the youth's treatment plan. Pending development of an individualized mental health or substance abuse treatment plan, an initial plan is acceptable.

1. The individualized mental health treatment plan shall include the signatures of the youth, the mental health clinical staff person that prepared the plan, and any intervention and treatment team members who participated in its development. A licensed mental health professional shall review, sign and date the treatment plan within 10 days of completion.

2. The individualized substance abuse treatment plan shall include the signatures of the youth, the substance abuse clinical staff person that prepared the plan, and any intervention and treatment team members who participated in its development. The plan shall be completed by a qualified professional who is licensed under Chapter 458, 459, 490 or 491, F.S., or a substance abuse clinical staff person who is an employee of a service provider licensed under Chapter 397, F.S., or an employee in a facility so licensed. If a non-licensed substance abuse clinical staff person completes the treatment plan, it shall be reviewed as provided in Chapter Rule 65D-30.004, F.A.C.

(g) No change.

Rulemaking Authority 985.435, 985.601, 985.64 FS. Law Implemented 985.03, 985.433, 985.435, 985.601 FS. History—New \_\_\_\_\_.

#### 63D-12.004 Minimum-Risk Commitment.

In addition to the requirements of Rule 63D-12.003, F.A.C., the following applies to youth who are court-ordered to the facility under minimum-risk commitment:

(1) No change.

(2) Within 24 hours of a youth's admission to a facility, facility staff shall provide written notification to the youth's parent(s)/guardian(s).

(a) The notification shall include a brief overview of the program.

(b) The facility must allow a parent or guardian the opportunity to object to a youth's If the program includes scheduled recreational activities, the parent(s)/guardian(s) shall advise the facility if there is an objection to the youth's participation in recreational activities due to a physical or medical problem. Any such objection shall be accompanied by written documentation from a physician.

(3) No change.

Rulemaking Authority 985.435, 985.601, 985.64 FS. Law Implemented 985.03, 985.433, 985.435, 985.441, 985.601 FS. History—New \_\_\_\_\_.

## DEPARTMENT OF HEALTH

### Board of Physical Therapy Practice

RULE NO.: RULE TITLE:

64B17-3.002 Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Florida Jurisprudence Examination

#### NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

The Notice of Proposed Rulemaking summarized a Statement of Estimated Regulatory Costs (SERC). The language concerning the SERC should have read: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below. The following is a Summary of the Statement of Estimated Regulatory Costs:

- Over a five year period, an estimate of approximately 6,510 applications could be received.
- Applicants who reapply for licensure that passed the examination more than five (5) years prior to reapplying will be required to pay \$100 for the exam.
- Small businesses, small counties or small cities will not be affected by the proposed change.

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

This correction does not affect the substance of the rule as it appeared in the Florida Administrative Weekly as outlined above.

THE PERSON TO BE CONTACTED REGARDING THE ABOVE CORRECTION IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

## DEPARTMENT OF HEALTH

### Board of Physical Therapy Practice

RULE NO.: RULE TITLE:

64B17-4.002 Licensure Examination Subjects and Passing Score; Additional Requirements After Third Failure; Florida Jurisprudence Examination

#### NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 12, March 26, 2010 issue of the Florida Administrative Weekly.

The Summary of the rule shall read as follows:

**SUMMARY:** The rule amendment changes the name of the Florida Jurisprudence Examination and places a time limit on valid scores.

The Notice of Proposed Rulemaking summarized a Statement of Estimated Regulatory Costs (SERC). The language concerning the SERC should have read: A Statement of Estimated Regulatory Cost has been prepared and is available by contacting Allen Hall, Executive Director, at the address listed below. The following is a Summary of the Statement of Estimated Regulatory Costs:

- Over a five year period, an estimate of approximately 6,510 applications could be received.
- Applicants who reapply for licensure that passed the examination more than five (5) years prior to reapplying will be required to pay \$100 for the exam.
- Small businesses, small counties or small cities will not be affected by the proposed change.

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

This correction does not affect the substance of the rule as it appeared in the Florida Administrative Weekly as outlined above.

THE PERSON TO BE CONTACTED REGARDING THE ABOVE CORRECTION IS: Allen Hall, Executive Director, Board of Physical Therapy Practice, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

**DEPARTMENT OF FINANCIAL SERVICES****Division of Insurance Agents and Agency Services**RULE NO.:  
69B-231.110RULE TITLE:  
Penalties for Violation of Other  
Specific Provisions of the Florida  
Insurance Code**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. 36, No. 7, February 19, 2010 issue of the Florida Administrative Weekly.

69B-231.110 Penalties for Violation of Other Specific Provisions of the Florida Insurance Code.

If the licensee is found to have violated any of the following provisions of the Insurance Code, the following stated penalty shall apply:

(1) through (4) No change.

(5) Section 626.536, F.S. – administrative fine of not less than \$500 for the first violation and suspension of 2 months for the second and subsequent violations.

(6) Section 626.541, F.S. – not less than \$500 for the first violation and suspension of 2 months for the second and subsequent violations.

(7) through (34) No change.

(35) Section 626.901(1), F.S. – suspension 12 6 months.

(36) through (38) No change.

(39) Section 631.155, F.S. – revocation.

The remainder of the reads as previously published.

**FINANCIAL SERVICES COMMISSION****OIR – Insurance Regulation**RULE NO.:  
69O-137.002RULE TITLE:  
Annual Audited Financial Reports**NOTICE OF CONTINUATION**

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 12, March 26, 2010 Florida Administrative Weekly has been continued from June 8, 2010 to July 27, 2010.

## Section IV

### Emergency Rules

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

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

**DEPARTMENT OF THE LOTTERY**RULE NO.:  
53ER10-21RULE TITLE:  
Firecracker MILLIONAIRE  
RAFFLE™

**SUMMARY:** This emergency rule describes the on-line game “Firecracker MILLIONAIRE RAFFLE,” for which the Department of the Lottery will sell tickets beginning May 21, 2010.

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

**THE FULL TEXT OF THE EMERGENCY RULE IS:**

53ER10-21 Firecracker MILLIONAIRE RAFFLE™.

(1) How to Play Firecracker MILLIONAIRE RAFFLE.

(a) Firecracker MILLIONAIRE RAFFLE is an on-line number match game.

(b) Each Firecracker MILLIONAIRE RAFFLE ticket costs \$20.

(c) Firecracker MILLIONAIRE RAFFLE tickets will go on sale Friday, May 21, 2010. Sales of Firecracker MILLIONAIRE RAFFLE tickets will cease immediately after the 750,000th ticket is sold or at midnight on July 5, 2010, whichever occurs first.

(d) Each Firecracker MILLIONAIRE RAFFLE ticket will contain a unique ticket number that will be entered automatically into the Firecracker MILLIONAIRE RAFFLE drawing. Firecracker MILLIONAIRE RAFFLE tickets will automatically print from the terminal with ticket numbers issued in sequential order from 1 to 750000 as they are sold around the state. Each Firecracker MILLIONAIRE RAFFLE ticket will contain only one ticket number. Players cannot select their own ticket numbers.

(e) The overall odds of winning a prize in the Firecracker MILLIONAIRE RAFFLE drawing depend upon the number of tickets sold and are 1 in 295 if all 750,000 tickets are sold.

(f) Firecracker MILLIONAIRE RAFFLE tickets cannot be cancelled.

(2) Firecracker MILLIONAIRE RAFFLE Drawing and Prizes.

(a) A random computerized drawing from among all Firecracker MILLIONAIRE RAFFLE ticket numbers issued during the sales period will be held on July 6, 2010. A total of 2,540 prizes will be awarded. Prizes will be awarded in the order drawn. The 1st through 5th numbers drawn will win \$1 million cash, less applicable tax withholding. The 6th through 15th numbers drawn will win \$100,000, less applicable tax withholding, and will be alternates, in the order drawn, for a \$1 million prize in the event a top prize is not claimed within the

180-day claim period. The 16th through 40th numbers drawn will win \$10,000. The 41st through 2,540th numbers drawn will win \$500.

(b) The *Firecracker MILLIONAIRE RAFFLE* drawing will be held on July 6, 2010 and shall be public and witnessed by an accountant employed by an independent certified public accounting firm, as required by Section 24.105(10), Florida Statutes.

(c) The results of the drawing will be revealed on July 6, 2010 and will be available after the drawing on the Lottery's website at [www.flalottery.com](http://www.flalottery.com), by phone at 1(850)487-7777, or at a lottery retailer.

**(3) How to Claim a *Firecracker MILLIONAIRE RAFFLE* Prize.**

(a) *Firecracker MILLIONAIRE RAFFLE* prizes must be claimed by submitting the winning ticket for validation at a Lottery office or retailer within 180 days from the date of the drawing (by January 2, 2011) and, if the prize is not paid at that time, by submitting the winning ticket for payment at a Lottery office, as required by the Lottery's rule governing payment of prizes. Winning *Firecracker MILLIONAIRE RAFFLE* tickets of \$500 can be claimed at a retailer or at a Lottery office. Winning tickets of \$10,000 and \$100,000 must be presented to a Lottery office for payment. Tickets winning \$1 million must be submitted for payment at Lottery Headquarters. Failure of a prizewinner to claim a *Firecracker MILLIONAIRE RAFFLE* prize by submitting the winning ticket for validation and payment in accordance with the Lottery's rule governing payment of prizes shall result in forfeiture of the prize. Information about procedures for filing a claim can be obtained by calling (850)487-7777 [TDD (850)487-7784]. *Firecracker MILLIONAIRE RAFFLE* tickets are the only valid receipts to redeem a prize.

(b) A claim filed for a \$100,000 prize shall also be a contingent claim for a \$1 million prize. If a winning *Firecracker MILLIONAIRE RAFFLE* ticket bearing any of the first five winning numbers is not submitted for validation and payment in accordance with the Lottery's rule governing payment of prizes, the 6th through 15th prizewinners who have submitted their tickets for validation and payment in accordance with the Lottery's rule governing payment of prizes constitute contingent winners for the \$1 million prize and will be used in the order in which they were drawn to select a winner for the \$1 million top prize. The contingent winner will be awarded the cash difference between the \$100,000 prize and the \$1 million prize. If applicable, the Lottery will attempt to notify, for a period of two weeks, the first contingent winner drawn in the \$100,000 prize category. If the Lottery is unable to contact the first contingent winner, the Lottery will attempt to notify, for a period of two weeks, the second contingent winner drawn. This process will continue until a contingent

winner is contacted or the Lottery has exhausted the list of available contingent winners, in which case the \$1 million prize will not be awarded.

(c) Payment of all federal, state and/or local taxes will be the responsibility of the winner. Federal withholding taxes will be deducted from the \$1 million, \$100,000 and \$10,000 cash payments.

**(4) Instant Win Prizes.**

(a) Players who purchase a *Firecracker MILLIONAIRE RAFFLE* ticket early may be an instant winner of cash and Universal Orlando® prizes. A total of ninety-two (92) instant win prizes will be given away randomly from May 21 through June 17, 2010, including:

1. Forty (40) Hotel Prizes each consisting of \$1,000 cash plus two (2) 2-night hotel accommodations, room and tax only, for two (2) adults in a maximum of one (1) standard or garden view room at an on-site hotel at Universal Orlando Resort as selected by Universal and two (2) 2-day 2-park passes for admission for two (2) adults to Universal Studios Florida and Universal's Islands of Adventure theme parks. Hotel accommodations do not include meals, incidentals, tips, telephone calls, or any other personal expenses incurred during the trip, not specified here. The approximate retail value of each hotel prize is \$1,818.00.

2. Fifty-two (52) Ticket Prizes each consisting of \$500 cash plus one (1) pair of 2-day 2-park passes for admission for two (2) adults to Universal Studios Florida and Universal's Islands of Adventure theme parks, one park per day. The approximate retail value of each ticket prize is \$770.00.

(b) If a *Firecracker MILLIONAIRE RAFFLE* ticket is an instant winner, the terminal will play a tune and an Instant Win Prize Voucher will automatically print after issuance of the *Firecracker MILLIONAIRE RAFFLE* ticket. *Firecracker MILLIONAIRE RAFFLE* instant winning tickets will contain a Lottery Prize Alert symbol and a message that the ticket holder is an instant winner. Should any issues arise concerning the transaction and/or prize, it is the player's responsibility to seek resolution of these issues with the retailer and the Lottery prior to leaving the retail location.

(c) Instant prize winners must file a claim for their Instant Win Vouchers at a Lottery office by September 3, 2010. The instant win prize winners will be required to execute a Florida Lottery Release and Authorization Form DOL-474. Form DOL-474, Eff. 10/08, is hereby incorporated by reference and may be obtained at any Lottery office or retailer, from the Florida Lottery's website at [www.flalottery.com](http://www.flalottery.com), or by writing the Florida Lottery, Public Information, 250 Marriott Drive, Tallahassee, Florida 32399-4016. The cash portion of all instant prizes will be paid by the Florida Lottery at the time the claim is filed, subject to paragraph 8 below. The pair of Universal Orlando 2-day park tickets will be mailed to prize winners within two weeks following Universal Orlando's receipt of prize winner's name from the Florida Lottery. A

member of Universal Orlando's Promotion Fulfillment Department will contact the prize winner, who will in turn be responsible for making the necessary travel arrangements.

(d) Hotel prize winners of a Universal Orlando Resort 2-night hotel stay will also be contacted by a member of Universal Orlando's Promotion Fulfillment Department within two weeks following Universal Orlando's receipt of prize winner's name from the Florida Lottery. The prize winner will be responsible for making the necessary travel arrangements directly with Universal Orlando Resort.

(e) All Universal Orlando Resort instant win prizes must be claimed by September 3, 2010 and travel must be completed no later than December 31, 2010. Blockout dates or other restrictions may apply as directed by hotel. Winner travel arrangements must be made a minimum of fourteen (14) days prior to winner travel and are subject to availability. All elements of the Universal Orlando instant win prizes must be redeemed at the same time, and no changes will be permitted after confirmation of a reservation. If the winner is unable to fulfill his or her hotel prize during above-referenced time period, the winner forfeits the non-cash portion of the prize package. Winners of hotel prizes must be 21 years of age or older unless accompanied by a parent or legal guardian, who is at least 21 years of age, in order to check in to on-site hotel. Minor traveling companion(s), if any, must be accompanied by a parent or legal guardian. Trips are non-transferable and have no cash value. All unclaimed and/or unused Universal Orlando prize packages will remain the property of Universal Orlando and may not be sold, exchanged or otherwise transferred by winner. Winner and guests must travel at the same time. Winners who do not meet these specified requirements will forfeit the right to the hotel stay; however, the value of the hotel stay will remain taxable income to the winner. Universal Orlando Resort hotel stays and park tickets cannot be redeemed for cash.

(f) All the Universal Orlando theme park tickets are valid during normal operating hours only. Operating hours and availability of attractions and shows are subject to change without notice. Some special events may be separately ticketed. Universal reserves the right to change the name of all tickets. All tickets specifically exclude admission to special or separately ticketed "hard ticket" entertainment events at either of the theme parks, hotels, or within any of the Universal CityWalk venues such as Hard Rock Live® and the Blue Man Group show.

(5) Payment of federal, state and/or local taxes on instant win prizes is the responsibility of the winner. Federal income taxes are required to be withheld from a prize awarded to a nonresident alien claimant at the rate of thirty percent (30%) pursuant to applicable provisions of the Internal Revenue Code. The reporting and subsequent payment of any additional federal, state and/or local taxes shall be the responsibility of the nonresident winner.

(6) Universal Orlando Resort Offer Coupon.

(a) All *Firecracker MILLIONAIRE RAFFLE* tickets that are not instant winners will receive a Resort Offer Coupon for a special offer from Universal Orlando Resort. As purchasers of *Firecracker MILLIONAIRE RAFFLE* tickets, players can book a Universal Orlando Resort on-site hotel for 3 nights or more from May 21 – July 31, 2010, with travel from August 15 – October 7, 2010, and receive a discounted room rate starting from \$134 per night at Loews Royal Pacific Resort and a \$75 dining credit for all qualified bookings. A minimum 3 night stay is required. The offer is limited to one (1) \$75 food and beverage credit per booking. Consumers must book their hotel room at Universal's website and present their Florida Lottery *Firecracker Millionaire Raffle* discount coupon upon check-in at the on-site hotel at Universal Orlando Resort to receive the \$75 dining credit. No duplications, replications or facsimiles will be accepted. Credit applies to select hotel restaurants only, and days/hours of operation may vary. The offer is non-transferable and cannot be combined with any other offers, promotions, or discounts. The offer is subject to hotel availability. Any unused portions are non-transferable and non-refundable. Blockout dates or other restrictions may apply as directed by hotel.

(7) Players must be at least 18 years of age. Persons prohibited by Section 24.116, Florida Statutes, from purchasing a Florida Lottery ticket are not eligible to play. A winner's right to a prize cannot be assigned to another person or entity.

(8) If a winner of a prize valued at \$600 or more is identified as owing an outstanding debt to a state agency, child support collected through a court, or spousal support or alimony as provided in subsection 24.115(4), Florida Statutes, in an amount less than the cash portion of the prize, the non-cash portion of the prize, if any, and the cash portion of the prize less the amount owed, shall be awarded. If the winner is identified as owing such a debt in an amount greater than the cash portion of the prize, the winner's entire cash portion of the prize will be applied toward the outstanding debt as provided in Section 24.115, Florida Statutes, and the winner will receive the remaining non-cash portion of the prize, if any.

(9) All *Firecracker MILLIONAIRE RAFFLE* prizes are subject to the provisions of Chapter 24, Florida Statutes, and rules promulgated thereunder. Prizes will be paid in accordance with the rules of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Rulemaking Authority 24.105(9), 24.109(1) FS. Law Implemented 24.105(9), 24.115(1) FS. History—New 6-2-10. Replaces 53ER10-19.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 2, 2010

## DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER10-22 RULE TITLE: Instant Game Number 1027, MONTHLY BONUS

**SUMMARY:** This emergency rule describes Instant Game Number 1027, "MONTHLY BONUS," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

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

**THE FULL TEXT OF THE EMERGENCY RULE IS:**

### 53ER10-22 Instant Game Number 1027, MONTHLY BONUS.

(1) Name of Game. Instant Game Number 1027, "MONTHLY BONUS."

(2) Price. MONTHLY BONUS lottery tickets sell for \$2.00 per ticket.

(3) MONTHLY BONUS lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning MONTHLY BONUS lottery ticket, the ticket must meet the applicable requirements of Rule 53ER10-1, F.A.C.

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

1	2	3	4	5	6	7	8	9	10
ONE	TWO	THREE	FOUR	FIVE	SIX	SEVEN	EIGHT	NINE	TEN
11	12	13	14	15	16	17	18	19	20
ELEVEN TWELVE THIRTY FOURTH FIFTH SIXTH SEVENTH EIGHTH NINETH TWENTIETH									
<b>BONUS</b>									

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

1	2	3	4	5	6	7	8	9	10
ONE	TWO	THREE	FOUR	FIVE	SIX	SEVEN	EIGHT	NINE	TEN
11	12	13	14	15	16	17	18	19	20
ELEVEN TWELVE THIRTY FOURTH FIFTH SIXTH SEVENTH EIGHTH NINETH TWENTIETH									

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

\$1.00	\$2.00	\$4.00	\$5.00	\$10.00	\$20.00	\$25.00
ONE	TWO	FOUR	FIVE	TEN	TWENTY	Twenty Five

\$30.00	\$40.00	\$100	\$200	\$1,000	\$2,000	\$2,500
THIRTY	Forty	One Hundred	Two Hundred	One Thousand	Two Thousand	Two Five Thousand

(7) The legends are as follows:

WINNING NUMBERS	YOUR NUMBERS
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### (8) Determination of Prizewinners.

(a) A ticket having a play symbol and corresponding play symbol caption in the "YOUR NUMBERS" play area that matches a play symbol and corresponding play symbol caption in the "WINNING NUMBERS" play area shall entitle the claimant to the corresponding prize shown for that symbol. A ticket having a "BONUS" symbol in the "YOUR NUMBERS" play area shall entitle the claimant to all 10 prizes shown.

(b) The prizes are: \$1.00, \$2.00, \$4.00, \$5.00, \$10.00, \$20.00, \$25.00, \$30.00, \$40.00, \$100, \$200, \$1,000, \$2,000 and \$2,500 month/1 yr.

### (9) Prize Payment Options.

(a) The winner of a \$2,500 a month for one year prize may choose one of two payment options for receiving his or her prize. Payment options are "Cash Option" and "Monthly Payment." At the time the \$2,500 a month for one year prize is claimed, the terminal will produce a player claim instructions ticket. The winner has sixty (60) days from the date the player claim instructions ticket is produced to file a claim choosing the Cash Option. If a winner does not choose the Cash Option within such time, the Monthly Payment option will be applied. Once the winner files a claim and exercises the winner's chosen option, the election of that option shall be final.

(b) Cash Option prizes will be paid in one (1) lump sum cash payment of \$30,000 less applicable withholding taxes.

(c) Monthly Payment prizes claimed by an individual will be paid in twelve monthly installments of \$2,500 each, less applicable withholding taxes.

(10) The estimated odds of winning, value, and number of prizes in Instant Game Number 1027 are as follows:

GAME PLAY	WIN	1 IN	NUMBER OF WINNERS IN 60 POOLS OF 180,000 TICKETS
	ESTIMATED ODDS OF		PER POOL
\$1 x 2	\$2	25.00	432,000
\$2	\$2	16.67	648,000
\$1 x 4	\$4	50.00	216,000
(\$1 x 2) + \$2	\$4	75.00	144,000
\$2 x 2	\$4	50.00	216,000
\$4	\$4	50.00	216,000
\$1 x 5	\$5	250.00	43,200
(\$1 x 3) + \$2	\$5	250.00	43,200
\$1 + (\$2 x 2)	\$5	250.00	43,200
\$1 + \$4	\$5	250.00	43,200
\$5	\$5	250.00	43,200
\$1 x 10 (BONUS)	\$10	375.00	28,800
\$1 x 10	\$10	375.00	28,800
\$2 x 5	\$10	375.00	28,800
\$5 x 2	\$10	375.00	28,800
\$10	\$10	375.00	28,800
\$2 x 10 (BONUS)	\$20	750.00	14,400
\$2 x 10	\$20	750.00	14,400
\$4 x 5	\$20	750.00	14,400
\$10 x 2	\$20	750.00	14,400

<u>\$20</u>	<u>\$20</u>	<u>750.00</u>	<u>14,400</u>
<u>(\$2 x 8) + \$4 + \$5</u>	<u>\$25</u>	<u>1,200.00</u>	<u>9,000</u>
<u>(BONUS)</u>			
<u>(\$4 x 5) + \$5</u>	<u>\$25</u>	<u>1,800.00</u>	<u>6,000</u>
<u>\$5 x 5</u>	<u>\$25</u>	<u>1,800.00</u>	<u>6,000</u>
<u>\$5 + (\$10 x 2)</u>	<u>\$25</u>	<u>1,800.00</u>	<u>6,000</u>
<u>\$25</u>	<u>\$25</u>	<u>1,800.00</u>	<u>6,000</u>
<u>(\$2 x 5) +</u>	<u>\$30</u>	<u>1,800.00</u>	<u>6,000</u>
<u>(\$4 x 5) (BONUS)</u>			
<u>(\$2 x 5) + (\$4 x 5)</u>	<u>\$30</u>	<u>3,000.00</u>	<u>3,600</u>
<u>\$5 x 6</u>	<u>\$30</u>	<u>1,800.00</u>	<u>6,000</u>
<u>\$10 x 3</u>	<u>\$30</u>	<u>1,800.00</u>	<u>6,000</u>
<u>\$30</u>	<u>\$30</u>	<u>1,800.00</u>	<u>6,000</u>
<u>(\$4 x 10) (BONUS)</u>	<u>\$40</u>	<u>2,400.00</u>	<u>4,500</u>
<u>\$5 x 8</u>	<u>\$40</u>	<u>2,400.00</u>	<u>4,500</u>
<u>\$10 x 4</u>	<u>\$40</u>	<u>2,400.00</u>	<u>4,500</u>
<u>\$20 x 2</u>	<u>\$40</u>	<u>3,000.00</u>	<u>3,600</u>
<u>\$40</u>	<u>\$40</u>	<u>3,000.00</u>	<u>3,600</u>
<u>\$10 x 10 (BONUS)</u>	<u>\$100</u>	<u>3,000.00</u>	<u>3,600</u>
<u>\$10 x 10</u>	<u>\$100</u>	<u>3,750.00</u>	<u>2,880</u>
<u>\$25 x 4</u>	<u>\$100</u>	<u>3,750.00</u>	<u>2,880</u>
<u>\$20 + (\$40 x 2)</u>	<u>\$100</u>	<u>3,750.00</u>	<u>2,880</u>
<u>\$100</u>	<u>\$100</u>	<u>3,600.00</u>	<u>3,000</u>
<u>\$20 x 10 (BONUS)</u>	<u>\$200</u>	<u>22,500.00</u>	<u>480</u>
<u>(\$10 x 5) + (\$30 x 5)</u>	<u>\$200</u>	<u>22,500.00</u>	<u>480</u>
<u>\$25 x 8</u>	<u>\$200</u>	<u>22,500.00</u>	<u>480</u>
<u>\$100 x 2</u>	<u>\$200</u>	<u>22,500.00</u>	<u>480</u>
<u>\$200</u>	<u>\$200</u>	<u>22,500.00</u>	<u>480</u>
<u>\$100 x 10 (BONUS)</u>	<u>\$1,000</u>	<u>90,000.00</u>	<u>120</u>
<u>\$100 x 10</u>	<u>\$1,000</u>	<u>180,000.00</u>	<u>60</u>
<u>(\$100 x 2) + (\$200 x 4)</u>	<u>\$1,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$200 x 5</u>	<u>\$1,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$1,000</u>	<u>\$1,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$200 x 10 (BONUS)</u>	<u>\$2,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$200 x 10</u>	<u>\$2,000</u>	<u>180,000.00</u>	<u>60</u>
<u>(\$200 x 5) + \$1,000</u>	<u>\$2,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$1,000 x 2</u>	<u>\$2,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$2,000</u>	<u>\$2,000</u>	<u>180,000.00</u>	<u>60</u>
<u>\$2,500/MONTH/YEAR</u>	<u>\$30,000</u>	<u>1,080,000.00</u>	<u>10</u>

(11) The estimated overall odds of winning some prize in Instant Game Number 1027 are 1 in 4.49. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(12) For reorders of Instant Game Number 1027, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(13) Payment of prizes for MONTHLY BONUS lottery tickets shall be made in accordance with the rule of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Rulemaking Authority 24.105(9)(a), (b), (c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a), (b), (c), 24.115(1) FS. History—New 6-4-10.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 4, 2010

## DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER10-23 RULE TITLE: Instant Game Number 1061, PIRATE'S GOLD

SUMMARY: This emergency rule describes Instant Game Number 1061, "PIRATE'S GOLD," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value and number of prizes in the game.

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

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER10-23 Instant Game Number 1061, PIRATE'S GOLD.

(1) Name of Game. Instant Game Number 1061, "PIRATE'S GOLD."

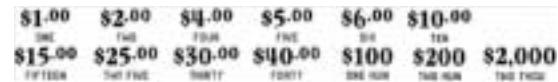
(2) Price. PIRATE'S GOLD lottery tickets sell for \$1.00 per ticket.

(3) PIRATE'S GOLD lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning PIRATE'S GOLD lottery ticket, the ticket must meet the applicable requirements of Rule 53ER10-1, F.A.C.

(4) The play symbols and play symbol captions are:



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

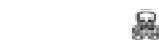


(6) The legend is as follows:

PLAY AREA

(7) Determination of Prizewinners.

(a) A ticket having a "HM" play symbol and corresponding play symbol caption in the play area shall entitle the claimant to the prize shown for that symbol. A ticket



having a “SKULL” play symbol and corresponding play symbol caption in the play area shall entitle the player to all six (6) prizes shown.

(b) The prizes are: \$1.00, \$2.00, \$4.00, \$5.00, \$6.00, \$10.00, \$15.00, \$25.00, \$30.00, \$40.00, \$100, \$200 and \$2,000.

(8) The estimated odds of winning, value and number of prizes in Instant Game Number 1061 are as follows:

GAME PLAY	WIN	ESTIMATED ODDS OF	NUMBER OF WINNERS IN 50 POOLS OF 240,000 TICKETS
\$1	\$1	10.71	1,120,000
\$1 x 2	\$2	25.00	480,000
\$2	\$2	33.33	360,000
\$1 x 4	\$4	300.00	40,000
(\$1 x 2) + \$2	\$4	150.00	80,000
\$2 x 2	\$4	150.00	80,000
\$4	\$4	300.00	40,000
\$1 x 6 (SKULL/ CROSSBONES)	\$6	750.00	16,000
(\$1 x 2) + (\$2 x 2)	\$6	750.00	16,000
\$2 x 3	\$6	750.00	16,000
\$2 + \$4	\$6	750.00	16,000
\$6	\$6	750.00	16,000
(\$1 x 2) + (\$2 x 4)		500.00	24,000
(SKULL/CROSSBONES)	\$10		
\$4 + \$6	\$10	500.00	24,000
\$2 + (\$4 x 2)	\$10	500.00	24,000
\$5 x 2	\$10	500.00	24,000
\$10	\$10	500.00	24,000
\$1 + (\$2 x 3) + (\$4 x 2)	\$15	1,500.00	8,000
(SKULL/CROSSBONES)			
\$1 + \$2 + (\$4 x 3)	\$15	1,500.00	8,000
\$1 + (\$4 x 2) + \$6	\$15	1,500.00	8,000
\$1 + \$4 + \$10	\$15	1,500.00	8,000
\$15	\$15	1,500.00	8,000
\$1 + \$2 + (\$4 x 3) + \$10	\$25	5,000.00	2,400
(SKULL/CROSSBONES)			
\$1 + (\$4 x 2) + \$6 + \$10	\$25	5,000.00	2,400
\$1 + \$4 + (\$10 x 2)	\$25	5,000.00	2,400
\$10 + \$15	\$25	5,000.00	2,400
\$25	\$25	5,000.00	2,400
(\$4 x 5) + \$10	\$30	8,000.00	1,500
(SKULL/ CROSSBONES)			
\$6 x 5	\$30	8,000.00	1,500
\$10 x 3	\$30	8,000.00	1,500
\$15 x 2	\$30	8,000.00	1,500
\$30	\$30	8,000.00	1,500
(\$6 x 5) + \$10 (SKULL/ CROSSBONES)	\$40	9,600.00	1,250
\$10 x 4	\$40	9,600.00	1,250
\$10 + (\$15 x 2)	\$40	9,600.00	1,250
\$15 + \$25	\$40	9,600.00	1,250
\$40	\$40	9,600.00	1,250
(\$15 x 5) + \$25 (SKULL/ CROSSBONES)	\$100	12,000.00	1,000
\$10 + (\$15 x 2) + (\$30 x 2)	\$100	16,000.00	750

\$25 x 4	\$100	16,000.00	750
(\$30 x 2) + \$40	\$100	20,000.00	600
\$100	\$100	16,000.00	750
\$15 + \$25 + (\$40 x 4)	\$200	120,000.00	100
(SKULL/CROSSBONES)			
\$40 x 5	\$200	120,000.00	100
(\$25 x 4) + \$100	\$200	120,000.00	100
\$100 x 2	\$200	120,000.00	100
\$200	\$200	120,000.00	100
\$2,000	\$2,000	120,000.00	100

(9) The estimated overall odds of winning some prize in Instant Game Number 1061 are 1 in 4.86. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(10) For reorders of Instant Game Number 1061, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(11) Payment of prizes for PIRATE'S GOLD lottery tickets shall be made in accordance with the rule of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Rulemaking Authority 24.105(9)(a), (b), (c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a), (b), (c), 24.115(1) FS. History-New 6-4-10.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 4, 2010

## DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER10-24 RULE TITLE: Instant Game Number 1056, THE PRICE IS RIGHT®

SUMMARY: This emergency rule describes Instant Game Number 1056, “THE PRICE IS RIGHT®,” for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.

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

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER10-24 Instant Game Number 1056, THE PRICE IS RIGHT®.

(1) Name of Game. Instant Game Number 1056, "THE PRICE IS RIGHT®."

(2) Price. THE PRICE IS RIGHT® lottery tickets sell for \$5 per ticket.

(3) THE PRICE IS RIGHT® lottery tickets shall have a series of numbers in machine readable code (or bar code) on the back of the ticket, along with a validation number under the latex area on the ticket. To be a valid winning THE PRICE IS RIGHT® lottery ticket, the ticket must meet the applicable requirements of Rule 53ER10-1, F.A.C.

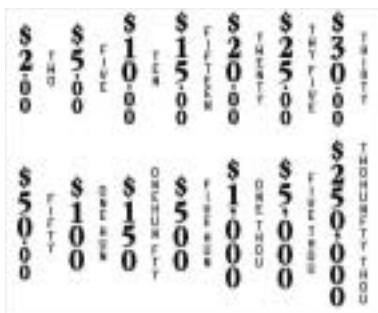
(4) Design of Ticket. There are three games on each THE PRICE IS RIGHT® lottery ticket: PLINKO®, SHOWCASE SHOWDOWN™ and SPIN THE WHEEL™. Each game is played separately.

(5) The symbols for "PLINKO®" are as follows:

(a) The play symbols and play symbol captions are as follows:



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



(6) The symbols for "SHOWCASE SHOWDOWN™" are:

(a) The YOUR BID play symbols and play symbol captions are as follows:



(b) The ACTUAL BID play symbols and play symbol captions are as follows:



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



(d) The legends are as follows:

SHOWCASE 1 SHOWCASE 2 ACTUAL  
YOUR BID YOUR BID PRICE

(7) The prize symbols and prize symbol captions for "SPIN THE WHEEL™" are as follows:

\$2.00	\$5.00	\$10.00	\$15.00	\$20.00	\$25.00	\$30.00
\$50.00	\$100	\$150	\$500	\$1,000	\$5,000	\$250,000
ONE HUNDRED						

(8) Determination of Prizewinners. Each of the three games in Instant Game Number 1056, THE PRICE IS RIGHT®, uses a different play methodology. Players may win in one or more games. The determination of prizewinners for each game is as follows.

(a) PLINKO®. A ticket having a "WIN" play symbol and corresponding play symbol caption in the play area directly above a prize amount and corresponding prize amount caption shall entitle the claimant to a prize of that amount. The prize amounts are: \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$150, \$500, \$1,000, \$5,000 and \$250,000.

(b) SHOWCASE SHOWDOWN™. A ticket having a bid in the YOUR BID play area that is less than the ACTUAL PRICE within the same SHOWCASE play area entitles the claimant to the prize shown for that SHOWCASE. A ticket having a bid in the YOUR BID play area that matches the ACTUAL PRICE within the same SHOWCASE play area entitles the claimant to both showcase prizes. The prizes are: \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$150, \$500, \$1,000, \$5,000 and \$250,000.

(c) SPIN THE WHEEL™. A ticket having three like prize amounts and corresponding prize amount captions shall entitle the claimant to a prize of that amount. The prize amounts are: \$2.00, \$5.00, \$10.00, \$15.00, \$20.00, \$25.00, \$30.00, \$50.00, \$100, \$150, \$500, \$1,000, \$5,000 and \$250,000.

(9) The estimated odds of winning, value, and number of prizes in Instant Game Number 1056 are as follows:

GAME PLAY	WIN	NUMBER OF WINNERS IN	
		ESTIMATED ODDS OF	64 POOLS OF 120,000 TICKETS
\$5	\$5	10.00	768,000
\$5 x 2	\$10	20.00	384,000
\$10	\$10	20.00	384,000
(\$2 x 5) + \$5	\$15	300.00	25,600
\$5 x 3	\$15	300.00	25,600
(\$5 x 2) + \$5	\$15	300.00	25,600
\$5 + \$10	\$15	300.00	25,600
\$15	\$15	300.00	25,600
\$2 x 10	\$20	300.00	25,600
\$5 x 4	\$20	300.00	25,600
(\$5 x 2) + \$10	\$20	300.00	25,600
\$10 x 2	\$20	300.00	25,600
\$20	\$20	300.00	25,600
(\$2 x 5) + (\$5 x 3)	\$25	1,200.00	6,400
\$5 x 5	\$25	1,200.00	6,400
(\$5 x 3) + \$10	\$25	1,200.00	6,400
\$5 + (\$10 x 2)	\$25	1,200.00	6,400
\$25	\$25	1,200.00	6,400
(\$2 x 10) + \$10	\$30	2,400.00	3,200
\$5 x 6	\$30	2,400.00	3,200

\$10 x 3	\$30	2,400.00	3,200
\$15 x 2	\$30	2,400.00	3,200
\$30	\$30	2,400.00	3,200
<u>(\$2 x 5) + (\$5 x 4)</u>	<u>\$50</u>	<u>1,200.00</u>	<u>6,400</u>
<u>+ (\$10 x 2)</u>			
\$5 x 10	\$50	1,200.00	6,400
\$10 x 5	\$50	1,200.00	6,400
\$25 x 2	\$50	1,200.00	6,400
\$50	\$50	1,200.00	6,400
<u>(\$5 x 2) + (\$10 x 9)</u>	<u>\$100</u>	<u>1,500.00</u>	<u>5,120</u>
\$10 x 10	\$100	1,500.00	5,120
\$25 x 4	\$100	1,500.00	5,120
<u>(\$10 x 4) + (\$30 x 2)</u>	<u>\$100</u>	<u>1,500.00</u>	<u>5,120</u>
\$50 x 2	\$100	1,500.00	5,120
\$100	\$100	1,500.00	5,120
<u>(\$10 x 7) + (\$20 x 4)</u>	<u>\$150</u>	<u>12,000.00</u>	<u>640</u>
<u>(\$20 x 5) + (\$25 x 2)</u>	<u>\$150</u>	<u>12,000.00</u>	<u>640</u>
\$30 x 5	\$150	12,000.00	640
\$50 + \$100	\$150	12,000.00	640
\$150	\$150	12,000.00	640
<u>(\$25 x 8) + (\$100 x 3)</u>	<u>\$500</u>	<u>20,000.00</u>	<u>384</u>
<u>(\$50 x 6) + (\$100 x 2)</u>	<u>\$500</u>	<u>20,000.00</u>	<u>384</u>
\$100 x 5	\$500	20,000.00	384
<u>(\$100 x 2) + (\$150 x 2)</u>	<u>\$500</u>	<u>24,000.00</u>	<u>320</u>
\$500	\$500	20,000.00	384
<u>(\$50 x 2) + (\$100 x 9)</u>	<u>\$1,000</u>	<u>40,000.00</u>	<u>192</u>
\$50 + (\$100 x 5)	\$1,000	40,000.00	192
<u>+ (\$150 x 3)</u>			
\$100 + (\$150 x 6)	\$1,000	40,000.00	192
\$500 x 2	\$1,000	40,000.00	192
\$1,000	\$1,000	40,000.00	192
\$500 x 10	\$5,000	384,000.00	20
\$5,000	\$5,000	384,000.00	20
\$250,000	\$250,000	1,536,000.00	5

(10) The estimated overall odds of winning some prize in Instant Game Number 1056 are 1 in 4.02. Prizes, including the top prizes, are subject to availability at the time of ticket purchase. Prizes may be unavailable due to prior sale or other causes occurring in the normal course of business including, but not limited to, ticket damage, defect, theft, or loss.

(11) For reorders of Instant Game Number 1056, the estimated odds of winning, value, and number of prizes shall be proportionate to the number of tickets reordered.

(12) Payment of prizes for THE PRICE IS RIGHT® lottery tickets shall be made in accordance with the rule of the Florida Lottery governing payment of prizes.

A copy of the current rule can be obtained from the Florida Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011.

Rulemaking Authority 24.105(9)(a), (b), (c), 24.109(1), 24.115(1) FS. Law Implemented 24.105(9)(a), (b), (c), 24.115(1) FS. History—New 6-4-10.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 4, 2010

## DEPARTMENT OF THE LOTTERY

RULE NO.: 53ER10-25 RULE TITLE: The Price is Right® Second Chance Drawing

SUMMARY: The Department of the Lottery will conduct a The Price is Right® Second Chance Drawing between June 8, 2010 and November 24, 2010, in which special prizes will be awarded.

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

### THE FULL TEXT OF THE EMERGENCY RULE IS:

#### 53ER10-25 The Price is Right® Second Chance Drawing.

(1) Beginning Tuesday, June 8, 2010, players can enter their non-winning THE PRICE IS RIGHT® Florida Lottery Scratch-off tickets in The Price is Right® Second Chance Drawing on the Florida Lottery Web site to win a trip to Las Vegas to participate in The Price Is Right® Live! Experience Game.

(2) Six (6) Second Chance Drawings will be held between July 7 and November 24, 2010 from entries received by midnight the night before each drawing. Entries will be good for one drawing only. The draw dates are:

Drawing	Draw Date	From Entries Received
1	<u>Wednesday, July 7, 2010</u>	<u>June 8 – July 6, 2010</u>
2	<u>Wednesday, August 4, 2010</u>	<u>July 7 – August 3, 2010</u>
3	<u>Wednesday, September 1, 2010</u>	<u>August 4 – August 31, 2010</u>
4	<u>Wednesday, September 29, 2010</u>	<u>September 1 – September 28, 2010</u>
5	<u>Wednesday, October 27, 2010</u>	<u>September 29 – October 26, 2010</u>
6	<u>Wednesday, November 24, 2010</u>	<u>October 27 – November 23, 2010</u>

(3) In each of the six (6) The Price is Right® Second Chance Drawings, four (4) grand prize winners will win a trip to Las Vegas to participate in The Price is Right® Live! Experience Game for a chance to play for merchandise prizes and up to \$1 million cash. In each of the Second Chance Drawings, fifteen (15) second prize winners will win a

Nintendo Wii™ video game system with The Price is Right® video game. A total of 24 grand prizes and 90 second prizes will be awarded in the Second Chance Drawings.

(4) To enter a non-winning ticket into The Price Is Right® Second Chance Drawing, visit the Florida Lottery's Web site at flalottery.com, click on The Price is Right® Second Chance Drawing icon and follow the directions.

The ticket number is located below the play instructions on the front of a THE PRICE IS RIGHT® Scratch-Off ticket. Scratch off the latex covering to reveal the 24-digit ticket number. Winning THE PRICE IS RIGHT® tickets cannot be used for entry in the Second Chance Drawings. The odds of winning are dependent upon the number of entries received.

At the time of entering a non-winning THE PRICE IS RIGHT® ticket, players will be provided an option to enter the Second Chance Drawings directly or play The Price Is Right® Interactive game on the Web site where the point value assigned to the ticket will be revealed. In The Price Is Right® Interactive game, players will collect points by playing the PLINKO® and SPIN THE WHEEL™ games.

Each non-winning THE PRICE IS RIGHT® Scratch-off ticket has a point value from 4,000 points to 25,000 points. Point values will be converted into entries into one of the monthly drawings; every 1,000 points equals one (1) entry into The Price Is Right® Second Chance Drawing. Each non-winning THE PRICE IS RIGHT® Scratch-off ticket will be entitled to four (4) to twenty-five (25) entries in the applicable drawing. If players choose not to play the game or if they experience technical problems while playing The Price Is Right® Interactive game, the points that would have been revealed in the course of playing the game will be credited to their entry account for that draw period.

(5) Players may enter as many times as they wish during the contest period. However, each valid ticket number may only be used one time, for one opportunity to receive entries into one (1) The Price Is Right® Second Chance Drawing. Tickets should not be mailed to the Lottery unless players are contacted by the Florida Lottery and requested to do so. Non-winning tickets received in the mail by the Florida Lottery will not be entered into the drawing and will not be returned.

(6) In each of the six (6) drawings, the first four valid entries drawn will win the Grand Prize of The Price Is Right® Las Vegas Trip, and the fifth through nineteenth valid entries drawn will win a second prize of a Nintendo Wii™ video game system with The Price is Right® game. The fifth through nineteenth valid entries will be used in the order in which they were drawn to select an alternate grand prize winner in the event the grand prize cannot be awarded.

The prizewinners in each Second Chance Drawing will be posted on flalottery.com on the day of the draw. The Florida Lottery will attempt to notify each winner by telephone, U.S. mail or e-mail using the contact information provided in the winner's registration data no later than one (1) week after the winners are drawn. If the Florida Lottery is unable to contact a grand prize winner within three (3) weeks of the date of the drawing, the winner will forfeit his or her right to claim the prize and the Florida Lottery will award the prize to an alternate winner as described above. If the Florida Lottery is unable to contact the alternate winner within three (3) weeks of the date of award of the prize, the alternate winner will forfeit his or her right to claim the prize and the Florida Lottery will award the prize to a second alternate winner. This process will continue until an alternate is contacted or the Florida Lottery has exhausted the list of available alternates, provided that, to meet the anticipated schedule for the Las Vegas trip in February 2011, the last date upon which the Lottery will attempt to contact an alternate winner will be January 5, 2011. If the Lottery is unable to contact an alternate by that date, the grand prize will not be awarded. An alternate winner who has not claimed the second prize at the time of notification will be awarded only the grand prize. An alternate winner who has claimed the second prize at the time of notification may retain the second prize.

If the Florida Lottery is unable to contact a second prize winner within three (3) weeks of the date of the drawing, the winner will forfeit his or her right to claim the prize and the second prize will not be awarded.

(7) All entries are subject to validation by the Florida Lottery and may be disqualified if eligibility requirements are not met. To claim a prize in a The Price is Right® Second Chance Drawing, the player must submit to the Florida Lottery the original valid non-winning THE PRICE IS RIGHT® ticket bearing the entry number selected in the drawing. Without such ticket, the player will forfeit his or her right to claim a prize. Winners must submit the valid entry ticket along with a completed Winner Claim Form DOL 173-2, or Spanish Winner Claim Form DOL 173-2S, as referenced in Rule 53ER10-1, F.A.C., and appropriate identification. Winners must also submit a notarized Florida Lottery Release and Authorization Form DOL-474, revised 10/08. All forms must be submitted within seven (7) days of notification by the Florida Lottery that they are a winner. If the winner does not return the required forms within seven (7) days of notification, the winner will forfeit his or her right to claim the prize and the Florida Lottery will award the prize to an alternate winner as described above.

(8) Upon the Florida Lottery's receipt of a winner's required documentation, the Lottery will notify the fulfillment company of the name of the winner. The fulfillment company will ship the Wii™ and The Price is Right® video game package prizes to second prize winners within approximately fifteen (15) business days after notification from the Florida

Lottery. The estimated retail value of the second prize is three hundred dollars (\$300). The fulfillment company will contact the grand prize winners within approximately ten (10) days to make arrangements for the trip to Las Vegas for The Price Is Right® Live! Experience Game.

(9) Each grand prize winner will win a four-day, three-night trip to Las Vegas, Nevada for the prizewinner and one (1) guest. Each trip includes coach airfare for two (2) from any U.S. airport to McCarran International Airport in Las Vegas, all ground transfers between the airport and the hotel and studio, one (1) double occupancy deluxe hotel room for three (3) nights, two (2) tickets to The Price Is Right® Live! Experience Game and five-thousand dollars (\$5,000.00) cash. The Florida Lottery shall withhold from the \$5,000 cash portion of the Grand Prize Trip federal income tax withholding on the value of the Grand Prize Trip. The estimated retail value of the grand prize is ten thousand dollars (\$10,000).

The Grand Prize Trip does not include mileage, gratuities, meals, parking fees, departure fees, excess baggage fees, alcoholic beverages (other than those served without charge at any reception or party), any items not expressly specified and personal expenses such as telephone calls, valet service, laundry and the like, as well as revision or cancellation fees which may be charged by the hotel or other suppliers.

(10) Each grand prize winner must be 21 years of age or older to be eligible to play The Price Is Right® Live! Experience Game stage show. If the prizewinner is under the age of 21, he/she may designate a proxy or request that one be designated by the Florida Lottery or Scientific Games International, Inc. ("SGI") to play on his/her behalf. If a winner designates a proxy, the proxy will be classified as the winner's guest; if a winner has a proxy designated by the Florida Lottery or SGI, one (1) guest will be permitted to accompany the winner on the trip. The winner is solely responsible for the actions of the guest who accompanies the winner on the trip. If a winner's guest is a minor, the winner must be the parent or legal guardian of such guest.

The grand prize winner or the winner's guest must have a valid credit card or shall be required to post a cash deposit to cover incidental costs to check into the hotel. Grand prize winner and guest must have all necessary identification and/or travel documents (e.g., a valid U.S. driver's license or passport).

(11) The grand prize trip is not transferable or assignable without the express written consent of the Florida Lottery. If the prizewinner advises the Florida Lottery in advance that he or she is unable to take the grand prize trip, the prizewinner will receive the cash portion of the grand prize and may designate a proxy to use the travel portion of the grand prize in his or her stead and participate on the game show; in such event, the prizewinner shall receive any prize won by the proxy and the grand prize trip and all prizes won by the proxy on the game show will be taxable to the prizewinner.

If the grand prize winner is traveling via air and fails to appear at the designated time and place of departure, the airfare portion of the prize shall be forfeited and prizewinner shall be responsible for making alternative arrangements to travel to Las Vegas at his or her own expense.

Unless prior alternative arrangements have been made, if the grand prize winner fails to check into the hotel when he or she arrives in Las Vegas, the hotel portion of the prize shall be forfeited. Unless prior alternative arrangements have been made, if the prizewinner fails to arrive at the theater for his or her scheduled Experience Game, that portion of his or her prize shall be forfeited.

In the event that a grand prize winner is unable to attend the trip due to unforeseen circumstances, and there is insufficient time to designate a person to take the trip in his or her stead as described above, the Florida Lottery or SGI will appoint a proxy to play The Price Is Right® Experience Game for the prizewinner. The prizewinner shall receive any prize won by the proxy:

(12) At the scheduled Experience Game, each prizewinner will be randomly mixed with other The Price Is Right® Florida Lottery prizewinners and assigned to one (1) of four (4) color coded groups of six (6) prizewinners upon entering The Price Is Right® theater. Prizewinners' guests will sit with them in their color coded section but will not be eligible to be contestants. One (1) prizewinner from each color group will then be randomly selected to "Come On Down!" to Contestant's Row and bid on an item for a chance to go on stage and participate as a prizewinner contestant in The Price Is Right® Experience Game with the host and play one of the famous The Price Is Right® pricing games. Four (4) new audience participants will be selected for each round. All twenty-four (24) prizewinners will visit Contestant's Row during the show and six (6) prizewinner contestants will play pricing games on stage and vie for a chance to participate in the SHOWCASE SHOWDOWN™ for a chance to win a The Price Is Right® prize package.

Payment of all federal, state and/or local taxes on prizes awarded in conjunction with a winner's participation in The Price Is Right® Live! Experience Game will be the responsibility of the winner.

(13) One prizewinner from each color coded group (four (4) total) will be randomly selected to participate in the Big Money Wheel Bonus Spin, for a chance to qualify to win cash prizes from \$1,000 to \$1,000,000. The Big Money Wheel Bonus Spin will be conducted in accordance with SGI's Big Money Wheel Bonus Spin procedures. Prizes won shall be paid by SGI and federal withholding taxes, if applicable, shall be withheld by SGI from the Big Money Wheel Bonus Spin cash prizes. A check and an IRS Form W-2G shall be mailed to the prizewinner within ten (10) business days.

(14) Grand prizes are not transferable or assignable, and no substitutes for prizes are available, except by the Florida Lottery, which reserves the right, in its sole discretion, to substitute different prizes of comparable value should the grand prize become unavailable.

(15) The Florida Lottery, Scientific Games International, Inc., MDI Entertainment, LLC, What's Up, LLC, FremantleMedia North America Inc., and their respective parent companies, affiliates, subsidiaries, directors, officers, agents and employees assume no liability or responsibility for damages, losses, or injury resulting from this promotion or the acceptance or use of a prize and provide no warranty for any prizes won on The Price Is Right® Live! Experience Game. Any warranties and guarantees are those of the manufacturer only.

(16) All entries are subject to validation by the Florida Lottery and may be disqualified if eligibility requirements are not met.

(17) Except as specifically mentioned herein, all federal, state and/or local taxes or other fees on the prizes won in The Price is Right® Second Chance Drawing and during the Las Vegas trip will be the responsibility of the winner.

Federal income taxes are required to be withheld from a prize awarded to a nonresident alien claimant at the rate of thirty percent (30%) pursuant to applicable provisions of the Internal Revenue Code. Because there is no cash awarded in connection with the second prizes in the Second Chance Drawing from which to withhold taxes, a nonresident alien claimant who is selected as a winner of a second prize will be required to pay the withholding tax or forfeit the prize. The reporting and subsequent payment of any additional federal, state and/or local taxes shall be the responsibility of the nonresident alien winner.

(18) No cash option is available in lieu of The Price is Right® Second Chance Drawing prizes.

(19) If the winner of a grand prize in The Price is Right® Second Chance Drawings is identified as owing an outstanding debt to a state agency or child support collected through a court, the debt will be collected in accordance with Section 24.115, Florida Statutes. If the debt is an amount less than the cash portion of the prize, the non-cash portion of the prize and the cash portion of the prize less withholding taxes and the amount owed, shall be awarded. If the winner is identified as owing such a debt in an amount greater than the cash portion of the prize, the winner's entire cash portion of the prize will be applied toward the outstanding debt as provided in Section 24.115, Florida Statutes, and the winner will receive the remaining non-cash portion of the prize, if any.

(20) All prizes are subject to the provisions of Chapter 24, Florida Statutes, and rules promulgated thereunder.

(21) Players must be at least 18 years of age. Persons prohibited by Section 24.116, Florida Statutes, from purchasing a Florida Lottery ticket are not eligible to play.

(22) By entering The Price Is Right® Second Chance Drawing, a player gives his or her permission for the Florida Lottery to provide the player's address and telephone number to Scientific Games International for prize fulfillment purposes.

(23) By entering The Price Is Right® Second Chance Drawing, a player gives his or her permission for the Florida Lottery to photograph and/or videotape and record the prizewinner with or without prior notification and to use the name, photograph, videotape, and/or recording of the prizewinner for advertising or publicity purposes without additional compensation.

(24) The Price Is Right® second chance drawings shall be public, held in Tallahassee, Florida, and witnessed by an accountant employed by an independent certified public accounting firm. The results of each drawing will be available after the drawing on the Florida Lottery's Web site at flalottery.com.

(25) This offer is void where prohibited by law.

Rulemaking Authority 24.105(9), 24.109(1) FS. Law Implemented 24.105(9), 24.115(1) FS. History—New 6-4-10.

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE DEPARTMENT OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE.

EFFECTIVE DATE: June 4, 2010

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

## Section V

### Petitions and Dispositions Regarding Rule Variance or Waiver

## DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT on May 26, 2010, the Department of Community Affairs, Florida Communities Trust has issued an order.

Petitioner, City of Crystal River, filed a Petition for Waiver seeking to waive subsection 9K-7.003(8), F.A.C., which prohibits Florida Forever funds from being utilized as a portion of the applicant's match funding. Petitioner stated that failure to waive this prohibition would create substantial hardship on Petitioner's ability to acquire this environmentally sensitive

property. On April 5, 2010, the Petition was heard by the FCT Governing Board and upon hearing the evidence presented, the waiver was granted.

A copy of the Order may be obtained by contacting: Paula P. Ford, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100.

#### **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**

NOTICE IS HEREBY GIVEN THAT on May 28, 2010, the St. Johns River Water Management District, received a petition for variance from Bryan D. Flynn, as agent for Florida Department of Environmental Protection Division of Recreation and Parks. Pursuant to Section 373.414(17), F.S., the Division of Recreation and Parks seeks a variance from paragraph 40C-4.302(1)(c), F.A.C., and the associated portions of the Applicant's Handbook: Management and Storage of Surface Waters, including Sections 10.1.1(c), 12.1.1(d), and 12.2.5(c), with respect to Environmental Resource Permit Application 40-009-75850-7, to convert an existing fishing pier to a dock for emergency vessel use only. The Division of Recreation and Parks proposes to construct directly in the Sebastian Inlet, which is classified by the Department of Agriculture and Consumer Services as conditionally restricted for shellfish harvesting. The petition has been assigned F.O.R. Number 2010-26. Comments on this petition should be filed with: Sandra Bertram, Acting District Clerk, St. Johns River Water Management District, P. O. Box 1429, Palatka, Florida 32178-1429, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Karen Coffman, Assistant General Counsel at the same address, or by telephone at (386)329-4288.

#### **DEPARTMENT OF MANAGEMENT SERVICES**

NOTICE IS HEREBY GIVEN THAT on June 9, 2010, the Agency for Workforce Innovation, received a petition for Temporary Waiver of paragraph 60BB-8.201(4)(a), F.A.C., which provides requirements for conducting parent orientation sessions for parents registering their children for the VPK program. The Petition was filed by the: Early Learning Coalition of Marion County, 3304 S. E. Lake Weir Ave., Suite 2, Ocala, FL 34471.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Stephanie Savestanan, Agency for Workforce Innovation, Office of Early Learning, 107 East Madison Street, MSC #140, Tallahassee, Florida 32399.

#### **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Alliance Elevator Consultants, Inc., c/o Galleria International, LLC, West Palm Beach, Florida. Petitioner seeks a variance to the requirements of A17.3, Section 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for firefighters' emergency operations when travel is greater than 25'0". The Petitioner states that the elevators only exceed the allowable 25 foot distance by 32 inches and reconstruction would pose a significant economic/financial hardship. Additionally the elevator will soon be modernized taking into account future fire service codes.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Larry E. Collier Jr., Gainesville Downtown Inn Venture., d/b/a Holiday Inn University Center, Gainesville, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/Larry E. Collier Jr., Fortune Street Partners, LTD., d/b/a Howard Johnson/Holiday Inn City Center, Tampa, Florida. Petitioner seeks a variance to the requirements of A17.3 (1996), as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator switch keys and lockboxes which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Larry E. Collier Jr., St. Petersburg/Clearwater Airport Associates, LLC., d/b/a Holiday Inn Select, Clearwater, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for firefighters' emergency operations which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on June 2, 2010, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for a Routine Variance for subsection 61C-4.010(6), Florida Administrative Code; Paragraph 6-501.115(A), 2001 Food Code from Crab's, Gulf Breeze, FL. The above referenced F.A.C. addresses the requirements that live animals are not allowed on the premise of a public food service establishment except as specifically provided in rule. They are requesting to have a bird on the premise.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@dbpr.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Carroll O. Crawford, Ocean Place, Delray Beach, Florida. Petitioner seeks a emergency variance to the requirements of A17.3, 2.7.4, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for door restrictors which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 19, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Safe Elevator Corporation – Chrissy Cronin, Spinnaker Point Condominiums, Stuart, Florida. Petitioner seeks a emergency variance to the requirements of A17.3, 2.7.4, 3.3.2, 3.10.6, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for door restrictors which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Florida Power & Light – Martin Power Plant, FPL – Martin Plant Unit 1&2 Boiler Structure, Indiantown, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that

requires upgrading the elevator for firefighters' emergency operations which is budgeted and a bid request sent out for elevator replacement.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on June 3, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for an Emergency Variance for Subparagraph 3-305.11(A)(2), 2001 FDA Food Code, Paragraph 3-305.14, 2001 FDA Food Code, Paragraph 6-202.15, 2001 FDA Food Code, Paragraph 6-202.16, 2001 FDA Food Code, subsections 61C-4.010(1), (6), Florida Administrative Code, from Fredy's Lunch Truck, Orlando, FL. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Lydia.Gonzalez@DBPR.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

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NOTICE IS HEREBY GIVEN THAT on May 21, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants has issued an order.

The Department received a Petition for a Routine Variance on May 12, 2010 for Subparagraph 3-305.11(A)(2), 2001 FDA Food Code, Paragraph 3-305.14, 2001 FDA Food Code, Paragraph 6-202.15, 2001 FDA Food Code, Paragraph 6-202.16, 2001 FDA Food Code, subsections 61C-4.010(1), (6), Florida Administrative Code, from H & S Catering, Tallahassee, FL. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

The Petition was published on Vol. 36, No. 21 on 5/28/10 and approval is contingent upon the Petitioner ensuring that each pan within the steam table is properly covered with an individual lid, the steam table is enclosed within a cabinet with tight-fitting doors and protected by an air curtain installed and operated according to manufacturer's specifications that protects against flying vermin or other environmental contaminants; all steam table foods must be properly reheated for hot holding at approved commissaries and held hot at the

proper minimum temperature per the parameters of the currently adopted FDA Food Code; and steam table food is to be dispensed by the operator with no customer self-service. The Petitioner shall also strictly adhere to the operating procedures and copies of the variance and operating procedures are to be present on the MFDV during all periods of operation.

A copy of the Order may be obtained by contacting: Lydia.Gonzalez@DBPR.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

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NOTICE IS HEREBY GIVEN THAT on May 14, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants has issued an order.

The Department received a Petition for a Routine Variance on May 5, 2010 for Section 509.221(1)(b), Florida Statutes, paragraph 61C-1.004(2)(a), subsections 61C-4.010(6), (7), Florida Administrative Code, and Section 6-402.11, 2001 FDA Food Code, subsection 61C-1.004(1), Florida Administrative Code and Section 5-203.13, 2001 FDA Food Code from The Hot Dawg Shack. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers and employees and at least one service sink is provided for the cleaning of mops or similar cleaning tools and the disposal of mop water. They are requesting to share the bathroom and mop sink with an adjacent licensed public food service establishment.

The petition posted in Vol. 36, No. 20 on 5/21/10 and approval was contingent upon the Petitioner ensuring the bathroom and mop sink facilities located within Vedu's Fish Shack are maintained in a clean and sanitary manner and provided with hot and cold running water under pressure and are available during all hours of operation. The Petitioner shall also ensure directional signage is installed in the establishment clearly stating the location of the bathrooms. If the owner of Vedu's Fish Shack changes, an updated signed agreement is required to be provided to the Division immediately.

A copy of the Order may be obtained by contacting: Lydia.Gonzalez@DBPR.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

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NOTICE IS HEREBY GIVEN THAT on June 2, 2010, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants has issued an order.

The Department received an Emergency Variance petition on May 24, 2010 for subsections 61C-4.010(6), (7), Florida Administrative Code, from Hungry Howie's Pizza, Plantation, FL. The above referenced F.A.C. addresses the requirement that at least one accessible bathroom be provided for use by customers. They are requesting to utilize bathrooms located within another business.

The variance petition will be posted in Vol. 36, No. 23 on June 11, 2010 and approval is contingent upon the Petitioner ensuring the bathrooms located within Goofles Ice and Custards are maintained in a clean and sanitary manner and are provided with cold running water under pressure, soap, approved hand drying devices, and available during all hours of operation. The Petitioner shall also ensure directional signage is installed within or outside the establishment clearly stating the location of the bathrooms. If the ownership of Goofles Ice and Custards changes, an updated signed agreement for use of the bathroom facilities is required immediately.

A copy of the Order may be obtained by contacting: Lydia.Gonzalez@dbpr.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

NOTICE IS HEREBY GIVEN THAT on May 10, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for an emergency variance from Patrick Jolly on behalf of The Manions at Vanderbilt Beach. Petitioner seeks a waiver/variance of the requirements of Sections 2.7.4 and 3.11.3, ASME A17.3, 1996, as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires restricted door openings and Fire Fighter Service Phase I & II. Petitioner states that additional time is needed to raise the funds, bid, contract and complete these extensive upgrades. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 10, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for emergency variance from: Kim Kazar on behalf of Capri Lagoons Club, Treasure Island, FL. Petitioner seeks a waiver/variance of the requirements of Section 3.11.3, ASME A17.3, 1996 edition as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires Fire Fighter Service Phase I and II. Petitioner states that additional time is needed to raise funds, bid the work and complete the extensive upgrades. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from James D. Kelley, Waterside Professional Building, Stuart, Florida. Petitioner seeks a emergency variance to the requirements of A17.3, 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for firefighters' emergency operations which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 21, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants has issued an order.

The Department received a Petition for a Routine Variance on May 10, 2010 for Subparagraph 3-305.11(A)(2), 2001 FDA Food Code, Paragraph 3-305.14, 2001 FDA Food Code, Paragraph 6-202.15, 2001 FDA Food Code, Paragraph 6-202.16, 2001 FDA Food Code, subsections 61C-4.010(1), (6), Florida Administrative Code, from Lunch Time Catering, Orlando, FL. The above referenced F.A.C. addresses the requirement for proper handling and dispensing of food. They are requesting to dispense bulk potentially hazardous foods other than frankfurters from an open air mobile food dispensing vehicle.

The Petition was published in Vol. 36, No. 21 on 5/28/10 and approval is contingent upon the Petitioner ensuring that each pan within the steam table is properly covered with an individual lid, the steam table is enclosed within a cabinet with tight-fitting doors and protected by an air curtain installed and operated according to manufacturer's specifications that protects against flying vermin or other environmental contaminants; all steam table foods must be properly reheated for hot holding at approved commissaries and held hot at the proper minimum temperature per the parameters of the currently adopted FDA Food Code; and steam table food is to be dispensed by the operator with no customer self-service. The Petitioner shall also strictly adhere to the operating

procedures and copies of the variance and operating procedures are to be present on the MFDV during all periods of operation.

A copy of the Order may be obtained by contacting: Lydia.Gonzalez@DBPR.state.fl.us, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

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NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Lori Shelquist-Hardin, Mg Tower, LLC d/b/s Clearwater Garden Tower., Clearwater, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for firefighters' emergency operations which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 7, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for received a petition for emergency variance from Lee Rigby on behalf of Marion Block Building, Ocala, FL. Petitioner seeks a waiver/variance of the requirements of Section 3.11.3, ASME A17.3, 1996 edition as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires Fire Fighter Service Phase I and II. Petitioner states that the elevator is only 10 inches past the 25 foot limit triggering this requirement. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 10, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for emergency variance from Becky Preidus on behalf of Emeritus of Clearwater in Clearwater. Petitioner seeks a waiver/variance of the requirements of Section 3.11.3, ASME A17.3, 1996 edition as adopted by paragraph

61C-5.001(1)(a), Florida Administrative Code, that requires Fire Fighter Service Phase I and II and restricted door openings. Petitioner states that additional time is needed to raise funds, bid the work and complete the extensive upgrades. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 19, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurant, received a petition for/from Julie Rhames, Culbreath Key Bayside Condominium Assoc., Inc., Tampa, Florida. Petitioner seeks a variance to the requirements of A17.1 (2005), as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires not allowing security camera recording equipment in the machine room.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 7, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for emergency variance from Lee Rigby on behalf of Pineda Ocean Club, St. Patrick Shores, FL. Petitioner seeks a waiver/variance of the requirements of Sections 2.7.4 and 3.11.3, ASME A17.3, 1996 edition as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires Fire Fighter Service Phase I and II and restricted door openings. Petitioner states that additional time is needed to raise funds, bid the work and complete the extensive upgrades. Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on June 20, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Anthony Sanders, Moffitt Cancer Center, Tampa, Florida. Petitioner seeks a emergency variance to the requirements of A17.1 (2005), paragraph 61C-5.001(7)(c), F.A.C., as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code that requires upgrading the elevators for switch keys and lockboxes which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 14, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from Seminole Isle Condominium Association, Inc., Building D, E, and F, Seminole, Florida. Petitioner seeks a emergency variance to the requirements of A17.1 (2004), as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 11, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, Bureau of Elevator Safety, received a petition for an emergency temporary variance from Seminole Isle Condominium Association in Seminole. Petitioner seeks a waiver/variance of the requirements of Rule 8.6.7.4, ASME A17.1, as adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires the pits to be kept free of water. Petitioner states that a contract has been signed to seal the pits but time is needed to schedule the work so as to not strand the elderly residents without verticla transportation. Any interested person may file comments within 14 days of the

publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 14, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from WRE, Inc., 1915 Building, Tampa, Florida. Petitioner seeks a emergency variance to the requirements of A17.3, Section 3.11.3, as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevators for firefighters' emergency operations which poses a significant economic/financial hardship. Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from John Willingham – Shands Healthcare – UF, Gainesville, Florida. Petitioner seeks a variance to the requirements of A17.3, 2.7.4; A17.1, 2.12.7.3; as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for door restrictors which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from John Willingham – Shands Healthcare – UF, Gainesville, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.3.3; A17.1, 1206.7 and 204.4; as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires

upgrading the elevator for door restrictors, firefighters' service, and toe guards which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/John Willingham – Shands Healthcare – UF, Gainesville, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.3.3; A17.1, 1206.7 and 204.4; as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for door restrictors, firefighters' service, and toe guards which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

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NOTICE IS HEREBY GIVEN THAT on May 17, 2010, the Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for/from John Willingham – Shands Healthcare – UF, Gainesville, Florida. Petitioner seeks a variance to the requirements of A17.3, 3.3.3; A17.1, 1206.7 and 204.4; as adopted by Chapter 30, Section 3001.2 Florida Building Code adopted by paragraph 61C-5.001(1)(a), Florida Administrative Code, that requires upgrading the elevator for door restrictors, firefighters' service, and toe guards which poses a significant economic/financial hardship.

Any interested person may file comments within 14 days of the publication of this notice with: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013 (VW 2010-331).

A copy of the Petition for Variance or Waiver may be obtained by contacting: Mark Boutin, Bureau of Elevator Safety, 1940 North Monroe Street, Tallahassee, Florida 32399-1013, (850)488-1133.

NOTICE IS HEREBY GIVEN THAT on May 18, 2010, the Electrical Contractors' Licensing Board, received a petition for Kenneth D. Blakeney, seeking a variance or waiver of Rule 61G6-6.017, Florida Administrative Code, which requires for the purpose of certification, a passing examination score on any part of the examination shall be valid only for a period of two (2) years from the date of the examination.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783. Comments on this petition should be filed with: The Electrical Contractors' Licensing Board within 14 days of publication of this notice.

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NOTICE IS HEREBY GIVEN THAT on June 1, 2010, the Electrical Contractors' Licensing Board has issued an order.

The Order is regarding the Petition for Waiver or Variance which was filed on January 5, 2010, by Britt Knight. The Notice of Petition for Variance/Waiver was published in Vol. 36, No. 4, of the January 29, 2010, Florida Administrative Weekly. Petitioner sought a waiver or variance from subsection 61G6-5.002(1), F.A.C., entitled Application for Certification by Examination; Reexamination, which requires that an applicant for certification by examination or by endorsement shall submit the complete application form together with all supporting data including information required to be submitted under Rules 61G6-5.003 and 61G6-5.004, F.A.C., if applicable. Petitioner also sought a variance or waiver of subsection 61G6-5.002(3), F.A.C., which requires that the initial Business Computer-Based Test portion may be taken from the professional testing service at any time after the applicant has been approved to sit for the initial paper and pencil Technical/Safety Examination. The Board considered the instant Petition at a duly-noticed public meeting, held March 19, 2010, in Cocoa Beach, Florida.

The Boards' Order denied the petition, finding Petitioner had failed to demonstrate that application of the rule to his circumstances would violate the principles of fairness and would impose a substantial hardship on him.

A copy of the Order may be obtained by contacting: Juanita Chastain, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750.

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The Board of Professional Engineers hereby gives notice that it has received a petition for Declaratory Statement or in the alternative, Petition for Variance or Waiver of Rule 61G15-20.0015, F.A.C., filed on April 22, 2010, by Alan C. Grossman. The Petitioner seeks the Declaratory Statement as to his eligibility for licensure or in alternative a Variance from Rule 61G15-20.0015, F.A.C., when applicant has held a valid

professional engineers license in another state for 15 years and has 20 years of continuous professional-level engineering experience with a non- engineering degree.

Comments on this petition should be filed with: The Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, FL 32303-5268, within 14 days of publication of this notice.

For a copy of the petition, contact: Carrie Flynn, Executive Director, Board of Professional Engineers, at the above address or telephone (850)521-0500.

## 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."

NOTICE IS HEREBY GIVEN THAT on April 27, 2010, the Bureau of Beaches and Coastal Systems, received a petition for allowing a silt content up to 9.7% for beach placement, pursuant to Section 120.542, Florida Statutes, and Chapter 28-104, F.A.C. The petition requests a variance from paragraph 62B-41.007(2)(j), F.A.C., which provides for a silt limitation of not more than 5% for beach placement. The petition was received from: Eric Summa, Environmental Director, Jacksonville District of the United States Army Corps of Engineers, regarding application #0295427-002-BV. The project is located at various locations along Miami-Dade County in the Atlantic Ocean, Class III waters, particularly those areas between DEP/DNR reference monuments R-37.75 and R-50.7 off Collins Ave near 62nd St. The offshore borrow area, SGC-extension is located in federal waters.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Dr. Merrie Beth Neely at [merrie.neely@dep.state.fl.us](mailto:merrie.neely@dep.state.fl.us) or at the mailing address to follow. Any comments should be filed in writing with: The Department at 3900 Commonwealth Blvd., M.S. 300, Tallahassee, Florida 32399-3000, and should be submitted within 14 days of the date of this publication.

## DEPARTMENT OF HEALTH

NOTICE IS HEREBY GIVEN THAT on May 25, 2010, the Board of Medicine, received a petition for waiver or variance filed on behalf of Majeed Kaun, M.D., from subsection 64B8-4.009(5), F.A.C., with regard to the requirement for submission of documentation of medical education directly from Petitioner's medical school. Comments on this petition should be filed with: The Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Larry McPherson, Jr., Executive Director, Board of Medicine, at the above address or telephone (850)245-4131.

NOTICE IS HEREBY GIVEN THAT on May 24, 2010, the Board of Medicine, received a petition for waiver or variance filed by Maria Elena G. Rodriguez, M.D., from Rule 64B8-2.001, F.A.C., with regard to the requirement for the passing score on the FLEX examination to be obtained in one administration of the examination. Comments on this petition should be filed with: The Board of Medicine, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3053, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Larry McPherson, Jr., Executive Director, Board of Medicine, at the above address or telephone (850)245-4131.

NOTICE IS HEREBY GIVEN THAT on June 3, 2010, the Board of Nursing, received a petition for waiver or variance filed on behalf of Michel Pierre Bouchard, from Rule 64B9-3.014, F.A.C., with regard to the requirement for the number of hours for certain courses in psychiatric theory and clinical medical nursing. Comments on this petition should be filed with: The Board of Nursing, 4052 Bald Cypress Way, Bin #C02, Tallahassee, Florida 32399-3252, within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Joe Baker, Jr., Executive Director, Board of Nursing, at the above address or telephone (850)245-4620.

NOTICE IS HEREBY GIVEN THAT on May 27, 2010, the Department of Health, Bureau of Radiation Control, received a petition for Digidrad Imaging Solutions, Inc. The petitioner is seeking a variance of Rule 64E-5.614, F.A.C., which requires a medical use licensee authorized to administer radiopharmaceuticals shall possess a dose calibrator and use it to measure the amount of activity administered to each patient or human research subject. The petitioner is also seeking a variance of Rule 64E-5.616, F.A.C., which requires a medical use licensee to determine by assay or direct measurement within 30 minutes before each radiopharmaceutical dosage and record the activity of each dosage before medical use.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Paul E. Vause, Jr., Environmental Administrator, Bureau of Radiation Control, Radioactive Materials Program, Bin #C21, 4052 Bald Cypress Way, Tallahassee, FL 32399-1741, (850)245-4545. Comments on this petition should be filed with the Bureau of Radiation Control within 14 days of this notice.

NOTICE IS HEREBY GIVEN THAT on June 1, 2010, the Florida Department of Health, Division of Emergency Medical Operations, Bureau of Emergency Medical Services, received

a petition for emergency variance of paragraphs 64J-1.0201(4)(a), (d) and (e), Florida Administrative Code, from Fortis Institute FKA Florida Career Institute.

**Nature of Rule:** Sets forth the minimum qualifications for Adjunct Instructors at Florida-approved EMS Training Programs. To be eligible for approval as an EMS Training Program, applicants must provide documentation that each instructor has met the standards for their position as listed in the school's Application for Approval of an Emergency Medical Services Training Program, DH Form 1698, December 2008.

The petitioner is requesting a temporary variance of the above-described rule until January 1, 2013 for any newly hired instructors to meet the Instructor Core Curriculum or exemption requirements.

All comments regarding this emergency petition must be received in writing by June 23, 2010.

A copy of the Petition for Variance or Waiver may be obtained by contacting: John Bixler, Chief, Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin #C-18, Tallahassee, Florida 32399-1738, (850)245-4055, Fax: (850)488-9408, john\_bixler@doh.state.fl.us.

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NOTICE IS HEREBY GIVEN THAT on June 1, 2010, the Florida Department of Health, Division of Emergency Medical Operations, Bureau of Emergency Medical Services, received a petition for variance of paragraph 64J-1.0201(3)(a), Florida Administrative Code, from Manatee Technical Institute.

**Nature of Rule:** Sets forth the minimum qualifications for Program Directors at Florida-approved EMS Training Programs. To be eligible for approval as an EMS Training Program, applicants must provide documentation that each instructor has met the standards for their position as listed in the school's Application for Approval of an Emergency Medical Services Training Program, DH Form 1698, December 2008.

The petitioner is requesting a temporary variance of the above-described rule until September 30, 2010 for any newly hired instructors to meet the Instructor Core Curriculum or exemption requirements.

All comments regarding this petition must be received in writing by July 2, 2010.

A copy of the Petition for Variance or Waiver may be obtained by contacting: John Bixler, Chief, Bureau of Emergency Medical Services, 4052 Bald Cypress Way, Bin #C-18, Tallahassee, Florida 32399-1738, (850)245-4055, Fax: (850)488-9408, john\_bixler@doh.state.fl.us.

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## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE IS HEREBY GIVEN THAT on April 2, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Gulf Coast Community Care and Felton Gorman, assigned Case No.: 10-025W. Subsection 65C-15.017(3), F.A.C., requires staff responsible for supervision shall have a bachelor's or master's degree in social work or a related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on May 13, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-14.055(1), Florida Administrative Code, from New Haven Dominion, Inc. and Velvet George, assigned Case No.: 10-033W. Subsection 65C-14.055(1), F.A.C., requires the Executive Director who is responsible for the general management and administration of the agency is required to have a bachelor's degree in social work or a related area of study from an accredited college or university and three years of experience in management supervision.

A copy of the Petition for Variance or Waiver may be obtained by contacting: The Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on April 2, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Gulf Coast Community Care and Tracy Foster, assigned Case No.: 10-034W. Subsection 65C-15.017(3), F.A.C., requires staff responsible for supervision shall have a bachelor's or master's degree in social work or a related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on April 2, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Gulf Coast Community Care and Gloria Doyle-Neloms, assigned Case No.: 10-035W. Subsection 65C-15.017(3), F.A.C., requires staff responsible for supervision shall have a bachelor's or master's degree in social work or a related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd. Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on April 2, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Gulf Coast Community Care and Frances Chisler, assigned Case No.: 10-036W. Subsection 65C-15.017(3), F.A.C., requires staff responsible for supervision shall have a bachelor's or master's degree in social work or a related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

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NOTICE IS HEREBY GIVEN THAT on April 2, 2010, the Department of Children and Families, received a petition for waiver of subsection 65C-15.017(3), Florida Administrative Code, from Gulf Coast Community Care and Susan Watson, assigned Case No.: 10-037W. Subsection 65C-15.017(3), F.A.C., requires staff responsible for supervision shall have a bachelor's or master's degree in social work or a related area of study from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Faginal Jones at (850)921-8132.

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## Section VI Notices of Meetings, Workshops and Public Hearings

### DEPARTMENT OF STATE

The **Friends of the Museums of Florida History, Inc.** announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, June 17, 2010, 9:00 a.m. – 11:00 a.m.

PLACE: R. A. Gray Building, 500 S. Bronough St., Tallahassee, FL 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting.

A copy of the agenda may be obtained by contacting: Elyse Cornelison, Museum of Florida History at (850)245-6413.

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

(850)245-6413. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Elyse Cornelison, Museum of Florida History at (850)245-6413.

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The **Division of Historical Resources**, Bureau of Historic Preservation, The Friends of Florida Main Street announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, June 25, 2010, 10:00 a.m.

PLACE: Kissimmee City Hall, 101 Church Street, Kissimmee, Florida 34741

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Friends of Florida Main Street Board will meet to conduct the regular business of the organization.

A copy of the agenda may be obtained by contacting: Joan Jefferson, Florida Main Street Coordinator, Department of State, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250, 1(800)847-7278.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Joan Jefferson at jsjefferson@dos.state.fl.us or 1(800)847-7278. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Joan Jefferson at jsjefferson@dos.state.fl.us or 1(800)847-7278.

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### DEPARTMENT OF EDUCATION

The **Division of Vocational Rehabilitation**, Bureau of Rehabilitation and Reemployment Services announces a public meeting to which all persons are invited.

DATE AND TIME: June 16, 2010, 8:30 a.m. – 12:30 p.m.

PLACE: Betty Easley Conference Center at 4075 Esplanade Way, Tallahassee, FL

DATE AND TIME: June 18, 2010, 8:30 a.m. – 12:30 p.m.

PLACE: Hurston Building (South) Conference Room A&B, 400 W Robinson St., Orlando, FL

DATE AND TIME: June 22, 2010, 8:30 a.m. – 12:30 p.m.

PLACE: Trammell Building Conference Room #605, 1313 North Tampa St., Tampa, FL

DATE AND TIME: July 7, 2010, 8:30 a.m. – 12:30 p.m.

PLACE: Gore Building Conference Room #104B, 201 W. Broward Blvd., Ft. Lauderdale, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Subsection 6A-22.003(2), F.A.C., Mandatory Electronic submission, BRRS Electronic Web Portal.

A copy of the agenda may be obtained by contacting: Betty Gibson.

The **Education Practices Commission** announces a hearing to which all persons are invited.

DATE AND TIMES: A Teacher Hearing Panel, June 25, 2010, 9:00 a.m. or as soon thereafter as can be heard; Training for the New Commission Member, 1:30 p.m. or as soon thereafter

PLACE: Senate Office Building (Room 401), 404 South Monroe Street, Tallahassee, Florida 32399, (850)245-0455

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Hearing Panel of the Education Practices Commission will consider final agency action in matters dealing with the disciplining of certified educators.

A copy of the agenda may be obtained by contacting: Education Practices Commission, 325 W. Gaines Street, 224 Turlington Building, Tallahassee, Florida 32399-0400.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Kathleen M. Richards at (850)245-0455. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Janice Harris or Kathleen M. Richards at (850)245-0455.

## DEPARTMENT OF TRANSPORTATION

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: May 19, 2010; May 26, 2010; June 16, 2010; July 21, 2010; August 18, 2010; September 15, 2010; October 20, 2010; November 17, 2010; December 15, 2010; 10:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict7](http://www.dot.state.fl.us/contractsadministrationdistrict7))

PLACE: Florida Department of Transportation, 11201 North McKinley Drive, Tampa, Florida 33612

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by District Seven Contracts Office.

A copy of the agenda may be obtained by contacting: SharlenaKorman@dot.state.fl.us or Sharlena Korman, District Contracts Process and Records Technician, 11201 North McKinley Drive, Tampa, Florida 33612.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: email: SharlenaKorman@dot.state.fl.us, Sharlena Korman, District Contracts Process and Records Technician, Attn: District Contracts, 11201 North McKinley Drive, Tampa, Florida 33612, (813)975-6036. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: June 25, 2010; July 30, 2010; August 27, 2010; September 24, 2010; October 29, 2010; November 17, 2010; December 15, 2010, 8:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict7](http://www.dot.state.fl.us/contractsadministrationdistrict7))

PLACE: Florida Department of Transportation, 11201 North McKinley Drive, Tampa, Florida 33612

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by District Seven Contracts Office.

A copy of the agenda may be obtained by contacting: SharlenaKorman@dot.state.fl.us or Sharlena Korman, District Contracts Process and Records Technician, 11201 North McKinley Drive, Tampa, Florida 33612.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: SharlenaKorman@dot.state.fl.us or writing: Sharlena Korman, District Contracts Process and Records Technician, Attn: District Contracts, 11201 North McKinley Drive, Tampa, Florida 33612, (813)975-6036. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 1, 2010; July 28, 2010; September 2, 2010; September 30, 2010; November 4, 2010; December 2, 2010; December 30, 2010, 2:00 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict1](http://www.dot.state.fl.us/contractsadministrationdistrict1))

PLACE: Florida Department of Transportation, 801 North Broadway Avenue, Bartow, Florida 33830

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District One Contracts Office.

A copy of the agenda may be obtained by contacting: [Cheryl.sanchious@dot.state.fl.us](mailto:Cheryl.sanchious@dot.state.fl.us), Cheryl L. Sanchious, District Contracts Administrator, Attn.: MS #1-18, 801 North Broadway Avenue, Bartow, Florida 33830.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: [Cheryl.sanchious@dot.state.fl.us](mailto:Cheryl.sanchious@dot.state.fl.us), Cheryl L. Sanchious, District Contracts Administrator, Attn.: MS #1-18, 801 North Broadway Avenue, Bartow, Florida 33830, (863)519-2598. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 1, 2010; August 5, 2010; September 2, 2010; October 7, 2010; November 4, 2010; November 24, 2010, 2:30 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict6](http://www.dot.state.fl.us/contractsadministrationdistrict6))

PLACE: Florida Department of Transportation, Adam Leigh Cann Building, 1000 N. W. 111th Avenue, Miami, FL 33172

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District Six Contracts Office.

A copy of the agenda may be obtained by contacting: Kenneth Robertson, District Contracts Administrator, Florida Department of Transportation, 1000 N. W. 111th Avenue, Miami, Florida 33172, (305)470-5404, [kenneth.robertson@dot.state.fl.us](mailto:kenneth.robertson@dot.state.fl.us).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Kenneth Robertson, District Contracts Administrator, Florida Department of Transportation, 1000 N. W. 111th Avenue, Miami, Florida 33172, (305)470-5404,

[kenneth.robertson@dot.state.fl.us](mailto:kenneth.robertson@dot.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIMES: July 6, 2010, 10:00 a.m.; August 10, 2010, 10:00 a.m.; September 7, 2010, 1:00 p.m.; October 5, 2010, 10:00 a.m.; November 9, 2010, 1:00 p.m.; December 7, 2010, 9:00 a.m.; January 4, 2011, 10:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict1](http://www.dot.state.fl.us/contractsadministrationdistrict1))

PLACE: Florida Department of Transportation, 801 North Broadway Avenue, Bartow, Florida 33830

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the District One Contracts Office.

A copy of the agenda may be obtained by contacting: [Cheryl.sanchious@dot.state.fl.us](mailto:Cheryl.sanchious@dot.state.fl.us) or by writing: Cheryl L. Sanchious, District Contracts Administrator, Attn.: MS #1-18, 801 North Broadway Avenue, Bartow, Florida 33830.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: [Cheryl.sanchious@dot.state.fl.us](mailto:Cheryl.sanchious@dot.state.fl.us) or by writing: Cheryl L. Sanchious, District Contracts Administrator, Attn.: MS #1-18, 801 North Broadway Avenue, Bartow, Florida 33830, (863)519-2598. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 6, 2010; August 10, 2010; September 7, 2010; October 12, 2010; November 9, 2010; December 14, 2010, 2:00 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/cc-admin](http://www.dot.state.fl.us/cc-admin))

PLACE: Florida Department of Transportation, 605 Suwannee St., Tallahassee, FL 32399-0450

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the Central Office Contracts Office.

A copy of the agenda may be obtained by contacting: [contracts.admin@dot.state.fl.us](mailto:contracts.admin@dot.state.fl.us) or writing: Juanita Moore, Contracts Manager, MS #55, 605 Suwannee St., Tallahassee, FL 32399-0450.

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

contacting: contracts.admin@dot.state.fl.us or writing: Juanita Moore, Contracts Manager, MS #55, 605 Suwannee St., Tallahassee, FL 32399-0450, (850)414-4000. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIMES:** July 7, 2010, 3:00 p.m.; August 11, 2010, 1:00 p.m.; September 8, 2010, 1:00 p.m.; October 13, 2010, 1:00 p.m.; November 10, 2010, 1:00 p.m.; December 15, 2010, 1:00 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/](http://www.dot.state.fl.us/) cc-admin)

**PLACE:** Florida Department of Transportation, 605 Suwannee St., Tallahassee, FL 32399-0450

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the Central Office Contracts Office.

A copy of the agenda may be obtained by contacting: contracts.admin@dot.state.fl.us or writing: Juanita Moore, Contracts Manager, MS #55, 605 Suwannee St., Tallahassee, FL 32399-0450.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: contracts.admin@dot.state.fl.us or writing: Juanita Moore, Contracts Manager, MS #55, 605 Suwannee St., Tallahassee, FL 32399-0450, (850)414-4000. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIME:** July 8, 2010; July 29, 2010; August 26, 2010; September 30, 2010; October 28, 2010; November 22, 2010; December 21, 2010, 8:30 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict2](http://www.dot.state.fl.us/contractsadministrationdistrict2))

**PLACE:** Florida Department of Transportation, District Two, 1109 S. Marion Avenue, Lake City, Florida 32025-5874

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District Two Contracts Office.

A copy of the agenda may be obtained by contacting: patsy.elkins@dot.state.fl.us or in writing: Patsy Elkins, 1109 S. Marion Avenue, MS #2015, Lake City, Florida 32025-5874.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: patsy.elkins@dot.state.fl.us or in writing: Patsy Elkins, 1109 S. Marion Avenue, MS #2015, Lake City, Florida 32025-5874, (386)758-3703. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIMES:** July 12, 2010, 3:00 p.m.; August 9, 2010, 1:30 p.m.; September 13, 2010, 9:00 a.m.; October 11, 2010, 9:00 a.m.; November 8, 2010, 9:00 a.m.; November 29, 2010, 1:30 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict6](http://www.dot.state.fl.us/contractsadministrationdistrict6))

**PLACE:** Florida Department of Transportation, Adam Leigh Cann Building, 1000 N. W. 111th Avenue, Miami, FL 33172

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the District Six Contracts Office.

A copy of the agenda may be obtained by contacting: Kenneth Robertson, District Contracts Administrator, Florida Department of Transportation, 1000 N. W. 111th Avenue, Miami, Florida 33172, (305)470-5404, kenneth.robertson@dot.state.fl.us.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Kenneth Robertson, District Contracts Administrator, Florida Department of Transportation, 1000 N. W. 111th Avenue, Miami, FL 33172, (305)470-5404, kenneth.robertson@dot.state.fl.us. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIME:** July 13, 2010; August 3, 2010; August 31, 2010; October 5, 2010; November 2, 2010; November 30, 2010; December 28, 2010, 8:30 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict2](http://www.dot.state.fl.us/contractsadministrationdistrict2))

**PLACE:** Florida Department of Transportation, District Two, 1109 S. Marion Avenue, Lake City, Florida 32025-5874

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District Two Contracts Office.

A copy of the agenda may be obtained by contacting: patsy.elkins@dot.state.fl.us or in writing: Patsy Elkins, 1109 S. Marion Avenue, MS #2015, Lake City, Florida 32025-5874.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: patsy.elkins@dot.state.fl.us or in writing: Patsy Elkins, 1109 S. Marion Avenue, MS #2015, Lake City, Florida 32025-5874, (386)758-3703. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 14, 2010; August 11, 2010; September 8, 2010; October 6, 2010; November 10, 2010; December 8, 2010, 10:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict4](http://www.dot.state.fl.us/contractsadministrationdistrict4))

PLACE: Florida Department of Transportation, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District Four Contracts Office.

A copy of the agenda may be obtained by contacting: Lizz.Holmes@dot.state.fl.us, Lizz Holmes, District Contracts Supervisor, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lizz.Holmes@dot.state.fl.us, Lizz Holmes, District Contracts Supervisor, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 15, 2010; August 12, 2010; September 16, 2010; October 14, 2010; December 16, 2010, 3:00 p.m.; (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict5](http://www.dot.state.fl.us/contractsadministrationdistrict5))

PLACE: Florida Department of Transportation, 719 South Woodland Blvd., DeLand, Florida 32720

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the District Five Contracts Office.

A copy of the agenda may be obtained by contacting: Vickie.Wyche@dot.state.fl.us, Vickie Wyche, District Contracts Administrator, Attn.: MS #4-524, 719 South Woodland Blvd., DeLand, Florida 32720.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Vickie.wyche@dot.state.fl.us, Vickie H. Wyche, District Contracts Administrator, Attn.: MS #4-524, 719 South Woodland Blvd., DeLand, Florida 32720, (386)943-5525. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: July 16, 2010; August 13, 2010; September 10, 2010; October 8, 2010; November 12, 2010; December 10, 2010, 10:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationdistrict4](http://www.dot.state.fl.us/contractsadministrationdistrict4))

PLACE: Florida Department of Transportation, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309

GENERAL SUBJECT MATTER TO BE CONSIDERED: These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the District Four Contracts Office.

A copy of the agenda may be obtained by contacting: Lizz.Holmes@dot.state.fl.us, Lizz Holmes, District Contracts Supervisor, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Lizz.Holmes@dot.state.fl.us, Lizz Holmes, District Contracts Supervisor, 3400 West Commercial Blvd., Ft. Lauderdale, Florida 33309. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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The **Department of Transportation** announces a public meeting to which all persons are invited.

DATES AND TIME: June 21, 2010; July 26, 2010; August 23, 2010; September 27, 2010; October 25, 2010; November 23, 2010; December 27, 2010, 11:00 a.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contractsadministrationturnpike](http://www.dot.state.fl.us/contractsadministrationturnpike))

PLACE: Florida Department of Transportation, Florida's Turnpike Enterprise Headquarters Office, Mile Post 263, Bldg. 5315, Turkey Lake Service Plaza, Ocoee, FL 34761

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Technical/Award Review Committee Meetings for review of issues relating to projects where bids were received by the Turnpike Contracts Office.

A copy of the agenda may be obtained by contacting: Richardjr.Nethercote@dot.state.fl.us, Richard Nethercote, Jr., District Contracts Administrator, Florida's Turnpike Enterprise Headquarters Office, Mile Post 263, Bldg. 5315, Turkey Lake Service Plaza, Ocoee, FL 34761.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Richardjr.Nethercote@dot.state.fl.us, Richard Nethercote, Jr., District Contracts Administrator, Florida's Turnpike Enterprise Headquarters Office, Mile Post 263, Bldg. 5315, Turkey Lake Service Plaza, Ocoee, FL 34761, (407)264-3885. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIME:** July 22, 2010; August 26, 2010; September 23, 2010; October 28, 2010; November 18, 2010; December 16, 2010, 1:30 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contracts/administrationdistrict3](http://www.dot.state.fl.us/contracts/administrationdistrict3))

**PLACE:** Florida Department of Transportation, 1074 Hwy. 90, Chipley, Florida 32428

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Technical Review Committee Meetings for review of technical issues relating to projects where bids were received by the District Three Contracts Office.

A copy of the agenda may be obtained by contacting: richard.norris@dot.state.fl.us, Richard Norris, District Contracts Administrator, Attn.: Procurement, 1074 Hwy. 90, Chipley, Florida 32428.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: richard.norris@dot.state.fl.us, Richard Norris, District Contracts Administrator, Attn.: Procurement, 1074 Hwy. 90, Chipley, Florida 32428, (850)638-0250. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

The **Department of Transportation** announces a public meeting to which all persons are invited.

**DATES AND TIME:** July 26, 2010; August 30, 2010; September 27, 2010; November 1, 2010; November 22, 2010; December 20, 2010, 2:00 p.m. (Changes to meeting Date and Time will be posted at: [www.dot.state.fl.us/contracts/administrationdistrict3](http://www.dot.state.fl.us/contracts/administrationdistrict3))

**PLACE:** Florida Department of Transportation, 1074 Hwy. 90, Chipley, Florida 32428

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** These are the Awards Committee Meetings to determine the Departments intent to award or reject projects where bids were received by the District Three Contracts Office.

A copy of the agenda may be obtained by contacting: richard.norris@dot.state.fl.us, Richard Norris, District Contracts Administrator, Attn.: Procurement, 1074 Hwy. 90, Chipley, Florida 32428.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: richard.norris@dot.state.fl.us, Richard Norris, District Contracts Administrator, Attn.: Procurement, 1074 Hwy. 90, Chipley, Florida 32428 (850)638-0250. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## **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."

## **PUBLIC SERVICE COMMISSION**

The Florida **Public Service Commission** announces a public hearing in the following docket to which all persons are invited.

**TITLE:** Application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC. Docket Number: 090478-WS

### **HEARING CONFERENCE:**

**DATES AND TIME:** July 7-8, 2010, 10:00 a.m.

**PLACE:** Southwest Florida Water Management District's Board Room, 2379 Broad Street, Brooksville, Florida 34604-6899

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To address the application for original certificates for proposed water and wastewater system, in Hernando and Pasco Counties, and request for initial rates and charges, by Skyland Utilities, LLC.

**Emergency Cancellation of Customer Meeting:** If a named storm or other disaster requires cancellation of the meeting, Commission staff will attempt to give timely direct notice to the parties. Notice of cancellation of the meeting will also be provided on the Commission's website (<http://www.psc.state.fl.us/>) under the Hot Topics link found on the home page. Cancellation can also be confirmed by calling: The Office of the General Counsel at (850)413-6199.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodation at this meeting because of a physical impairment is asked to advise the agency at least 48 hours before the meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, (850)413-6770. If you are hearing or speech impaired, please contact the Agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Florida Public Service Commission, Office of Commission Clerk, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850.

## EXECUTIVE OFFICE OF THE GOVERNOR

**The Office of Suicide Prevention** announces a public meeting to which all persons are invited.

**DATE AND TIME:** June 21, 2010, 2:00 p.m. – 4:00 p.m.

**PLACE:** Conference Room 2103, The Capitol, Tallahassee, FL  
**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Suicide Prevention Council, this meeting takes the place of the June 30 meeting. The June 30 meeting is canceled.

A copy of the agenda may be obtained by contacting: Erin MacInnes at (850)922-0498.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Erin MacInnes at (850)922-0498. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Erin MacInnes at (850)922-0498.

**The Florida Film and Entertainment Advisory Council** announces a public meeting to which all persons are invited.

**DATE AND TIME:** June 23, 2010, 9:00 a.m. – 1:00 p.m.

**PLACE:** One Ocean Resort, Atlantic Beach, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To discuss issues concerning the film and entertainment industry, general administrative matters of the Advisory Council and hear public input and advisement.

A copy of the agenda may be obtained by contacting: Office of Film and Entertainment at (850)410-4765.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: The Office of Film and Entertainment at (850)410-4765. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: The Office of Film and Entertainment at (850)410-4765.

**The Florida Energy and Climate Commission** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Wednesday, June 30, 2010, 1:00 p.m. – until completion

**PLACE:** Jim King Room, 401 Senate Office Building, 404 South Monroe Street, Tallahassee, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Florida Energy & Climate Commission (Commission) will hold a meeting to hear presentations on energy and climate change, discuss and consider mechanisms for implementing the American Recovery and Reinvestment Act Spending Plan, and other Commission business. Staff will conduct the conference call from Jim King Room, 401 Senate Office Building, 404 South Monroe Street, Tallahassee, FL, where members of the public are invited to attend. Members of the public are also invited to listen to the call, but due to noise considerations are asked to dial-in from a land line and keep their phone lines muted until the public comment section of the agenda. Conference Call: 1(866)233-5216, Conference Code: 5654699#.

A copy of the agenda may be obtained by contacting: Brittany Cummins at (850)487-3800.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Brittany Cummins at (850)487-3800. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## REGIONAL PLANNING COUNCILS

**The Withlacoochee Regional Planning Council** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Withlacoochee Regional Planning Council (CEDS) Strategy Committee, Friday, July 9, 2010, 2:30 p.m.

PLACE: Withlacoochee Regional Planning Council, 1241 S. W. 10th Street, Ocala, FL 34471-0323

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the annual business of updating of the Region's Comprehensive Economic Development Strategy (CEDS). The Council maintains a CEDS through coordination with the U.S. Commerce Department's Economic Development Administration.

Pursuant to 13 CFR Sections 303.6 and 303.7 [75 FR 4259 published January 27, 2010], copies of the proposed annual CEDS plan update shall be available for public review and comment at least 30 days. By July 16, 2010, an electronic copy of proposed modifications to the region's EDA-accepted CEDS may be downloaded from WRPC's website through the link labeled: "Proposed 2010 CEDS Update" on the main page. Also upon request, a hard copy of the CEDS is available from the Withlacoochee Regional Planning Council offices, 1241 S. W. 10th Street, Ocala, FL.

For more information or to submit comments, please contact: David Connolly, Senior Planner, by email at [dconnolly@wrpc.cc](mailto:dconnolly@wrpc.cc) or by phone at (352)732-1315, ext. 223.

A copy of the agenda may be obtained by contacting: The Executive Director, Withlacoochee Regional Planning Council at 1241 S. W. 10th Street, Ocala, FL 34471-0323.

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The **Central Florida Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIME: June 25, 2010, 10:00 a.m.

PLACE: Avon Park Air Force Range, Commanders Conference Room, 29 South Boulevard, Avon Park, FL 33825-9381

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Avon Park Air Force Range Joint Land Use Study (JLUS) Policy Committee will meet to review the JLUS Report.

A copy of the agenda may be obtained by contacting: Melissa Zerth at [mzerth@cfrpc.org](mailto:mzerth@cfrpc.org).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Helen Sears, Principal Planner, 555 East Church Street, Bartow, FL 33830, (863)534-7130, ext. 124, [hsears@cfrpc.org](mailto:hsears@cfrpc.org).

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The **Tampa Bay Regional Planning Council**, Agency on Bay Management announces a public meeting to which all persons are invited.

DATE AND TIME: August 12, 2010, 9:00 a.m.

PLACE: 4000 Gateway Centre Blvd., Suite 100, Pinellas Park, FL 33782

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct the regular business of the Agency on Bay Management.

A copy of the agenda may be obtained by contacting: [www.tbrpc.org](http://www.tbrpc.org).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Wren Krahel at (727)570-5151, ext. 22. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Suzanne Cooper at (727)570-5151, ext. 32.

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The **Southwest Florida Regional Planning Council**, Lee County MPO announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, July 19, 2010, 5:00 p.m. – 7:00 p.m.

PLACE: Harborside Event Center, 1375 Monroe Street, Fort Myers, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Lee County Metropolitan Planning Organization (MPO) will be holding a Long Range Transportation Plan (LRTP) Workshop to receive public input on the transportation needs for Lee County through the year 2035.

A copy of the agenda may be obtained by contacting: Ms. Meghan Marion at (239)338-2550, ext. 219 or email: [mmarion@swfrpc.org](mailto:mmarion@swfrpc.org).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Meghan Marion at (239)338-2550, ext. 219 or [mmarion@swfrpc.org](mailto:mmarion@swfrpc.org). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: <http://www.mpo-swfl.org/>.

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The **South Florida Regional Planning Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, July 12, 2010, 10:30 a.m.

PLACE: South Florida Regional Planning Council, 3440 Hollywood Boulevard, Suite 140, Hollywood, FL 33021

GENERAL SUBJECT MATTER TO BE CONSIDERED: Any Development Order received prior to the meeting. Any proposed Local Government Comprehensive Plan received prior to the meeting. Any adopted Local Government Comprehensive Plan received prior to the meeting. Any

Proposed Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Amendments received prior to the meeting. Proposed Local Government Comprehensive Plan Amendment for Parkland; Any proposed Local Government Comprehensive Plan Amendment received prior to the meeting. Any Adopted Public Education Facilities Element (PEFE)/Capital Improvements Element (CIE) Amendments received prior to the meeting. Any adopted Local Government Comprehensive Plan Amendment received prior to the meeting. Meeting on monthly Council business; Executive Committee meeting at 10:00 a.m. at the above location. Council related committees may meet periodically before (9:00 a.m.) and following the regularly scheduled Council meetings. Any party desirous of ascertaining schedules of the sub-committees should call: Council Offices at (954)985-4416 (Broward).

A copy of the agenda may be obtained by contacting: (954)985-4416.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: (954)985-4416. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: (954)985-4416.

## WATER MANAGEMENT DISTRICTS

**The St. Johns River Water Management District**, Projects and Land Committee announces a public meeting to which all persons are invited.

**DATE AND TIME:** Monday, July 12, 2010, 5:00 p.m., Projects and Land Committee Business Meeting

**PLACE:** District Headquarters, Room 162, Executive Building, 4049 Reid Street (Hwy 100 West), Palatka, FL 32177

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Projects and Land Committee will discuss agenda items, followed by committee recommendations to be approved by the full Governing Board.

**NOTE:** In the event a quorum of the Committee is not available for the business meeting at the date, time and place set forth above, the Committee shall meet on Tuesday, July 13, 2010, 8:00 a.m. at District Headquarters, 4049 Reid Street (Hwy. 100 West), Palatka, FL 32177. One or more Governing Board members may attend and participate in the meetings by means of communications media technology.

A copy of the agenda may be obtained by contacting: Heather Barnes, 4049 Reid Street, Palatka, FL 32177, (386)329-4347, or by visiting the District's website: [www.sjrwmd.com](http://www.sjrwmd.com).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: District Clerk at (386)329-4500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

**The St. Johns River Water Management District** announces a public meeting to which all persons are invited.

**DATE AND TIMES:** Tuesday, July 13, 2010

8:15 a.m. Chair's Meeting

9:00 a.m. Finance, Administration and Audit Committee

10:00 a.m. Regulatory Committee followed by Governing Board meeting, Public Hearing on Land Acquisition and discussion of budget information and consideration of a tentative millage rate and tentative budget for Fiscal Year October 1, 2010 through September 30, 2010. The agenda may identify a time certain for considering specific agenda items.

**PLACE:** District Headquarters, 4049 Reid Street (Hwy. 100 West), Palatka, FL 32177

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Discussion and consideration of District business including regulatory and non-regulatory matters. Staff may recommend approval of external amendments which affect the adopted budget.

**NOTE:** One or more Governing Board members may attend and participate in the meetings by means of communications media technology.

A copy of the agenda may be obtained by contacting: St. Johns River Water Management District, Attention: Missy McDermont, 4049 Reid Street, Palatka, Florida 32177, (386)329-4101 or by visiting the District's website: [www.sjrwmd.com](http://www.sjrwmd.com).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: District Clerk at (386)329-4500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

**The Southwest Florida Water Management District (SWFWMD)** announces a workshop to which all persons are invited.

DATE AND TIME: Thursday, June 24, 2010, 8:00 a.m.

PLACE: Hyatt Regency Sarasota, 1000 Boulevard of the Arts, Sarasota, FL 34236

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regional Water Conservation Policy Summit: Discussion of regional conservation efforts. One or more Governing or Basin Board members may attend.

A copy of the agenda may be obtained by contacting: Peace River Regional Water Supply Authority, Linda Stewart at (941)316-1776, [www.regionalwater.org](http://www.regionalwater.org).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: SWFWMD Human Resources Director at 1(800)423-1476 (FL Only) or (352)796-7211, ext. 4702; TDD (FL Only) 1(800)231-6103 or email: [ADACoordinator@swfwmd.state.fl.us](mailto:ADACoordinator@swfwmd.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: [Lou.Kavouras@watermatters.org](mailto:Lou.Kavouras@watermatters.org), 1(800)423-1476 (FL Only) or (352)796-7211, ext. 4606 (Ad Order EXE0047).

**NOTICE OF CANCELLATION – The Southwest Florida Water Management District (SWFWMD)** announces a workshop to which all persons are invited.

DATE AND TIME: Wednesday, June 30, 2010, 9:00 a.m.

PLACE: Ocala Hilton Hotel, 3600 S. W. 36th Avenue, Ocala, FL 34474

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board and Withlacoochee Regional Water Supply Authority Workshop: Workshop cancellation.

For more information, you may contact: [Luanne.Stout@watermatters.org](mailto:Luanne.Stout@watermatters.org) 1(800)423-1476 (FL only) or (352)796-7211, ext. 4605 (Ad Order EXE0045).

**The Southwest Florida Water Management District (SWFWMD)** announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, June 29, 2010, 9:00 a.m.

PLACE: SWFWMD Headquarters, 2379 Broad Street, Brooksville, FL 34604

GENERAL SUBJECT MATTER TO BE CONSIDERED: Governing Board Meeting, Committee Meetings and Public Hearing: Consider SWFWMD business including review of the fiscal year 2011 Recommended Annual Service Budget. Some Board members may participate in the meeting via communications media technology. This is a change of date, time and place from the published annual calendar.

A copy of the agenda may be obtained by contacting: WaterMatters.org – Boards, Meetings & Event Calendar, 1(800)423-1476 (FL Only) or (352)796-7211.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: SWFWMD Human Resources Director at 1(800)423-1476 (FL Only) or (352)796-7211, ext. 4702, TDD (FL Only) 1(800)231-6103 or email: [ADACoordinator@swfwmd.state.fl.us](mailto:ADACoordinator@swfwmd.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: [Luanne.Stout@watermatters.org](mailto:Luanne.Stout@watermatters.org) 1(800)423-1476 (FL only) or (352)796-7211, ext. 4605 (Ad Order EXE0046).

## **DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

The **Department of Business and Professional Regulation** announces a public meeting to which all persons are invited.

DATE AND TIME: July 20, 2010, 9:00 a.m. – 1:00 p.m.

PLACE: Reedy Creek Improvement District, Building & Safety, 1900 Hotel Plaza Blvd., Lake Buena Vista, FL 32830

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Elevator Safety Technical Advisory Council will meet to discuss issues pertaining to elevator safety within the State of Florida.

A copy of the agenda may be obtained by contacting: [doug.melvin@dbpr.state.fl.us](mailto:doug.melvin@dbpr.state.fl.us).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: [doug.melvin@dbpr.state.fl.us](mailto:doug.melvin@dbpr.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: [doug.melvin@dbpr.state.fl.us](mailto:doug.melvin@dbpr.state.fl.us).

The **Construction Industry Licensing Board** announces a telephone conference call to which all persons are invited.

**DATE AND TIME:** Tuesday, July 13, 2010, 10:00 a.m. or soon thereafter

**PLACE:** Conference Call: 1(888)808-6959, Conference Code: 4879516#

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** CE/Exams/Public Awareness committee meeting of the board.

A copy of the agenda may be obtained by contacting: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, FL 32399-1039, (850)922-2701.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, Florida 32399-1039, (850)922-2701. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, FL 32399-1039, (850)922-2701.

The **Construction Industry Licensing Board** announces a public meeting to which all persons are invited.

**DATES AND TIMES:** Wednesday, July 14, 2010, 12:00 Noon; Thursday, July 15, 2010, 8:30 a.m.; Friday, July 16, 2010, 8:30 a.m. or soon thereafter

**PLACE:** The Casa Monica Hotel, 95 Cordova Street, St. Augustine, FL 32084

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** General business, disciplinary and committee meetings of the board.

A copy of the agenda may be obtained by contacting: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, FL 32399-1039, (850)922-2701.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, FL 32399-1039,

(850)922-2701. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Amanda Wynn, Government Analyst II, 1940 North Monroe Street, Tallahassee, FL 32399-1039, (850)922-2701.

The **Electrical Contractors' Licensing Board** announces a public meeting to which all persons are invited.

**DATES AND TIMES:** July 14, 2010, 4:00 p.m.; July 15, 2010, 8:30 a.m.; July 16, 2010, 8:30 a.m.

**PLACE:** Celebration Hotel, 700 Bloom Street, Celebration, FL 34747

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** July 14, 2010: Probable Cause Panel (portions closed to the public); July 15, 2010: Discipline & General Business; July 16, 2010: General Business.

A copy of the agenda may be obtained by contacting: Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0771, (850)487-8304.

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

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, FL 32399-0771, (850)487-8304.

The **Board of Landscape Architecture** announces a public meeting to which all persons are invited.

**DATE AND TIME:** July 22, 2010, 9:00 a.m.

**PLACE:** Hilton University of Florida Conference Center Gainesville, 1714 S. W. 34th Street, Gainesville, FL 32607, (352)371-3600.

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** General Board and Business meeting.

A copy of the agenda may be obtained by contacting: Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, FL 32399, (850)922-7154.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, FL 32399, (850)922-7154. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Board of Landscape Architecture, 1940 North Monroe Street, Tallahassee, FL 32399, (850)922-7154.

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The **Florida State Boxing Commission** announces a telephone conference call to which all persons are invited.

DATE AND TIME: July 7, 2010, 10:30 a.m.

PLACE: Conference Call: 1(888)808-6959, Conference Code: 4137430#

GENERAL SUBJECT MATTER TO BE CONSIDERED: To conduct general business concerning Chapter 61K1-1, F.A.C.

A copy of the agenda may be obtained by contacting: Mary Horne at (850)488-8500.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Mary Horne at (850)488-8500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Mary Horne at (850)488-8500.

## 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."

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The **Department of Environmental Protection** announces a public meeting to which all persons are invited.

DATE AND TIME: June 29, 2010, 10:00 a.m. – 11:30 a.m.

PLACE: Sylvan Lake Park, 845 Lake Markham Rd., Sanford, Florida 32771

GENERAL SUBJECT MATTER TO BE CONSIDERED: This is a Public meeting to discuss issues related to the Lake Jesup Basin Management Action Plan (BMAP). The BMAP is the means for implementation of the Lake Jesup Nutrient Total Maximum Daily Loads (TMDLs). The primary topic of discussion during this meeting will be water quality monitoring coordination.

A copy of the agenda may be obtained by contacting: Ms. Samantha Budd, Watershed Planning and Coordination Section, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS #3565, Tallahassee, Florida 32399-2400, or by e-mail: [samantha.budd@dep.state.fl.us](mailto:samantha.budd@dep.state.fl.us).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Ms. Samantha Budd at (850)245-8418. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## DEPARTMENT OF HEALTH

The Florida Coordinating Council for the **Deaf and Hard of Hearing Technology Committee** announces a telephone conference call to which all persons are invited.

DATE AND TIME: June 30, 2010, 4:00 p.m. – 5:00 p.m. (EDT)

PLACE: Conference Call: 1(888)808-6959, Conference Code: 5221678031#

Computer-assisted real-time translation (CART) services will be provided remotely via the following weblink: <http://www.streamtext.net/text.aspx?event=FCCDH>

GENERAL SUBJECT MATTER TO BE CONSIDERED: The subject of the meeting will concern maximization of the Council's resources in the coming fiscal year, the content, length and other particulars of a PSA for the Council.

A copy of the agenda may be obtained by contacting: internet: [info@fcdhh.org](mailto:info@fcdhh.org), email: [MaryGrace\\_Tavel@doh.state.fl.us](mailto:MaryGrace_Tavel@doh.state.fl.us), (850)245-4913, TTY: (850)245-4914, Toll-free TTY: 1(866)602-3276.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: [info@fcdhh.org](mailto:info@fcdhh.org), email: [MaryGrace\\_Tavel@doh.state.fl.us](mailto:MaryGrace_Tavel@doh.state.fl.us), (850)245-4913, TTY: (850)245-4914, Toll-free TTY: 1(866)602-3276. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: info@fcdhh.org, MaryGrace\_Tavel@doh.state.fl.us, (850)245-4913, TTY: (850)245-4914, Toll-free TTY: 1(866)602-3276.

**The Board of Orthotics and Prosthetics** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Friday, July 16, 2010, 9:00 a.m.

**PLACE:** St. Petersburg College, School of Orthotics and Prosthetics, Health Education Center Teaching Auditorium, 7200 66th Street, North, Pinellas Park, Florida

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** General board business.

A copy of the agenda may be obtained by contacting: Sharon Guilford, Acting Executive Director, Board of Orthotists and Prosthetists, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3257 or accessing: [www.doh.state.fl.us/mqa/orthPros/index.html](http://www.doh.state.fl.us/mqa/orthPros/index.html).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Christy Robinson, Acting Executive Director at (850)245-4161. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

**The Board of Pharmacy**, Probable Cause Panel announces a telephone conference call to which all persons are invited.

**DATE AND TIME:** June 29, 2010, 9:00 a.m.

**PLACE:** Conference Call: 1(888)808-6959, Conference Code: 5642037#

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Reconsideration cases.

A copy of the agenda may be obtained by contacting: Board of Pharmacy at (850)245-4292.

**The Council of Licensed Midwifery** announces a telephone conference call to which all persons are invited.

**DATE AND TIME:** Friday, July 9, 2010, 10:00 a.m.

**PLACE:** Conference Call: 1(888)808-6959, Conference Code: 2454594#

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Regular council business.

A copy of the agenda may be obtained by contacting: Christy Robinson, Acting Executive Director, 4052 Bald Cypress Way, #C-06, Tallahassee, FL 32399-3256, (850)245-4161.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Christy Robinson, Acting Executive Director at (850)245-4161. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

**The Children's Medical Services Newborn Screening Program** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Friday, July 16, 2010, 10:00 a.m. – 3:00 p.m.

**PLACE:** Florida Department of Health, Children's Medical Services, 4025 Esplanade Way, Room 301 (3rd Floor), Tallahassee, Florida 32399-1707

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The Genetics and Newborn Screening Advisory Council will be meeting to discuss topics relevant to Florida genetics and newborn screening.

A copy of the agenda may be obtained by contacting: Laura Coleman, Department of Health at (850)245-4672, [laura\\_coleman@doh.state.fl.us](mailto:laura_coleman@doh.state.fl.us).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Laura Coleman, Department of Health at (850)245-4672, [laura\\_coleman@doh.state.fl.us](mailto:laura_coleman@doh.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Laura Coleman, Department of Health at (850)245-4672, [laura\\_coleman@doh.state.fl.us](mailto:laura_coleman@doh.state.fl.us).

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

**The Shared Service Alliance of Okeechobee and the Treasure Coast** announces a public meeting to which all persons are invited.

**DATE AND TIME:** June 25, 2010, 8:30 a.m. – 10:30 a.m.

**PLACE:** Children's Service Council St. Lucie County, 546 N. W. University Blvd., Suite 201, Port St. Lucie, FL 34986

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Bi-monthly meeting.

A copy of the agenda may be obtained by contacting: Linda Poston at (772)467-4177.

**The Shared Services Alliance of Okeechobee and the Treasure Coast** announces a public meeting to which all persons are invited.

DATE AND TIME: June 25, 2010, 8:30 a.m. – 10:30 a.m.

PLACE: Children's Service Council St. Lucie County, 546 N. W. University Blvd., Suite 201, Port St. Lucie, FL 34986

GENERAL SUBJECT MATTER TO BE CONSIDERED: Bi-monthly meeting.

A copy of the agenda may be obtained by contacting: Linda Poston at (772)467-4177.

**The Child and Family Connections of Palm Beach** announces a public meeting to which all persons are invited.

DATE AND TIME: Monday, June 21, 2010, 4:00 p.m.

PLACE: Child and Family Connections of Palm Beach, Conference Rooms A and B, 4100 Okeechobee Boulevard, West Palm Beach, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Independent and Transitional Living Services for Children in Foster Care and Young Adults Formerly in Foster Care.

A copy of the agenda may be obtained by contacting: Judith Warren, CEO, Child and Family Connections, email: [jwarren@cfcpc.org](mailto:jwarren@cfcpc.org), (561)352-2500.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Judith Warren, CEO, Child and Family Connections, email: [jwarren@cfcpc.org](mailto:jwarren@cfcpc.org), (561)352-2500. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Judith Warren, CEO, Child and Family Connections, email: [jwarren@cfcpc.org](mailto:jwarren@cfcpc.org), (561)352-2500.

**The Department of Children and Families** announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, June 30, 2010, 10:00 a.m. – 4:00 p.m.

PLACE: DCF, 9393 N. Florida Avenue, Tampa, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: Services to Young Adults Formerly in Foster Care.

A copy of the agenda may be obtained by contacting: Gay Frizzell, [Gay\\_Frizzell@DCF.state.fl.us](mailto:Gay_Frizzell@DCF.state.fl.us) at (850)921-3005.

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

contacting: Gay Frizzell, [Gay\\_Frizzell@DCF.state.fl.us](mailto:Gay_Frizzell@DCF.state.fl.us) at (850)921-3005. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

**The Department of Children and Families**, Refugee Services division announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, July 9, 2010, 10:00 a.m. – 12:00 Noon

PLACE: Miami-Dade College, 300 N. E. 2nd Avenue, Building 3, Room 3208-09, Miami, Florida 33132

GENERAL SUBJECT MATTER TO BE CONSIDERED: Southern Region, Refugee Task Force.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Adria Dilme at email: [Adria\\_Dilme@DCF.state.fl.us](mailto:Adria_Dilme@DCF.state.fl.us), Lourdes Leconte at email: [Lourdes\\_Leconte@DCF.state.fl.us](mailto:Lourdes_Leconte@DCF.state.fl.us) or Fax: (305)377-5399. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Adria Dilme at (305)377-7518, email: [Adria\\_Dilme@DCF.state.fl.us](mailto:Adria_Dilme@DCF.state.fl.us), Lourdes Leconte at (305)376-1947, email: [Lourdes\\_Leconte@DCF.state.fl.us](mailto:Lourdes_Leconte@DCF.state.fl.us) or Fax: (305)377-5399; Taddese Fessehaye at email: [Taddese\\_Fessehaye@DCF.state.fl.us](mailto:Taddese_Fessehaye@DCF.state.fl.us).

**The Department of Children and Families**, Division of Refugee Services announces a public meeting to which all persons are invited.

DATE AND TIME: Saturday, July 10, 2010, 9:30 a.m. – 11:00 a.m.

PLACE: Pinellas Park Library, 7770 52nd Street North, Conference Room, Pinellas Park, Florida 33549

GENERAL SUBJECT MATTER TO BE CONSIDERED: Suncoast Region, Refugee Advisory Panel.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Janet Blair at email: [Janet\\_Blair@DCF.state.fl.us](mailto:Janet_Blair@DCF.state.fl.us) or Fax: (813)558-5598. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Janet Blair at (813)558-5841, email: Janet\_Blair@dcf.state.fl.us or Fax: (813)558-5598; Taddese Fessehaye at email: Taddese\_Fessehaye@dcf.state.fl.us.

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**The Department of Children and Families, Division of Refugee Services** announces a public meeting to which all persons are invited.

**DATE AND TIME:** Saturday, July 10, 2010, 10:00 a.m. – 11:30 a.m.

**PLACE:** Center for Language and Culture, Duval County Public Schools, 7401 Old Kings Road South, Jacksonville, Florida 32217

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Northeast Region, Refugee Advisory Panel.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Debbie Ansbacher at email: Debbie\_Ansbacher@dcf.state.fl.us or Fax: (904)723-2144. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Debbie Ansbacher at (904)726-1540, email: Debbie\_Ansbacher@dcf.state.fl.us or Fax: (904)723-2144; Taddese Fessehaye at email: Taddese\_Fessehaye@dcf.state.fl.us.

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**The Agency For Persons with Disabilities** announces a public meeting to which all persons are invited.

iBudget Florida Stakeholders Group Workgroup on Service Review, Consumer and Family Control, and Quality Assurance and Algorithm, Assessment, Overall System Funding and Extraordinary and Changed needs

**DATE AND TIME:** June 30, 2010, 9:00 a.m. – 1:00 p.m.

iBudget Florida Stakeholder's Group Workgroup on Services, Providers, Waiver Support Coordinators and Administrative Issues

**DATE AND TIME:** July 1, 2010, 9:00 a.m. – 3:30 p.m.

**PLACE:** Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 301, Tallahassee, Florida 32399

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Meeting of stakeholders to discuss the agency's plan for individual budgets. These meetings may be conducted via conference call.

A copy of the agenda may be obtained by contacting: An agenda and telephone conference call numbers will be posted seven (7) days prior to the meeting at: <http://apdmyflorida.com/ibudget/meetings-and-schedules.htm>.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Hilary Brazzell, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)488-4877. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Hilary Brazzell, Agency for Persons with Disabilities, 4030 Esplanade Way, Suite 380, Tallahassee, Florida 32399, (850)488-4877.

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## FLORIDA HOUSING FINANCE CORPORATION

**The Florida Housing Finance Corporation** announces a public meeting to which all persons are invited.

**DATES AND TIMES:** Tuesday, June 29, 2010, 2:00 p.m.; Tuesday, July 13, 2010, 10:00 a.m. (Eastern Time)

**PLACE:** Rick Seltzer Conference Room, Suite 6000, Florida Housing Finance Corporation, 227 North Bronough Street, Tallahassee, Florida, 32301-1329

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The 1st Review Committee meeting will be to discuss and answer any questions the Review Committee may have regarding the proposals submitted for RFP 2010-05 for hearing officer services. The 2nd Review Committee meeting will be to evaluate and to give scores and rank the proposals submitted in response to Florida Housing Finance Corporation's Request for Proposals 2010-05 for hearing officer services.

A copy of the agenda may be obtained by contacting: Sherry Green at email: sherry.green@floridahousing.org or call (850)488-4197.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Sherry Green at (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

## DEPARTMENT OF FINANCIAL SERVICES

The **Fire and Emergency Incident Information System Technical Advisory Panel** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, July 16, 2010, 9:00 a.m.

PLACE: Sawgrass Marriott Golf Resort & Spa, Ponte Vedra Beach, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting.

A copy of the agenda may be obtained by contacting: [MaryAnn.Benson@myfloridacfo.com](mailto:MaryAnn.Benson@myfloridacfo.com).

The **Firefighters Employment, Standards and Training Council** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, July 16, 2010. Ten minutes after adjournment of the Fire and Emergency Incident Information System Technical Advisory Panel meeting which begins at 9:00 a.m.

PLACE: Sawgrass Marriott Golf Resort & Spa, Ponte Vedra Beach, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Meeting.

A copy of the agenda may be obtained by contacting: [MaryAnn.Benson@myfloridacfo.com](mailto:MaryAnn.Benson@myfloridacfo.com).

## DEPARTMENT OF MILITARY AFFAIRS

The **Department of Military Affairs** announces a public meeting to which all persons are invited.

DATE AND TIME: June 25, 2010, 8:30 a.m.

PLACE: Post Headquarters Conference Room, Camp Blanding Joint Training Center, Camp Blanding, FL 32091

GENERAL SUBJECT MATTER TO BE CONSIDERED: Armory Board Meeting. The Armory Board will consider action on contracts, leases, agreements and other business relative to real property and facility management issues under its control.

If a person decides to appeal any decision made by the Armory Board with respect to any matter considered at this meeting, that person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

IN ACCORDANCE WITH FLORIDA STATUTE 286.0105.

A copy of the agenda may be obtained by contacting: Sondra Vaughn at (904)823-0201.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Sondra Vaughn at (904)823-0201. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Sondra Vaughn at (904)823-0201.

## AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY

The **Agency for Enterprise Information Technology**, Chief Information Officers Council Steering Committee announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, July 2, 2010, 9:00 a.m. – 11:00 a.m.

PLACE: Collins Building, Room 138, 107 W. Gaines Street (Public Entrance on Bloxham Street), Tallahassee, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: To enhance communication among the Chief Information Officers of all state agencies and assist in identifying critical statewide information technology issues.

A copy of the agenda may be obtained by contacting: Margie (Rainey) Drury, Florida Department of Legal Affairs, Office of Information Technology at (850)414-3525, [margie.rainey@myfloridalegal.com](mailto:margie.rainey@myfloridalegal.com).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Margie (Rainey) Drury at (850)414-3525. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## LEON COUNTY RESEARCH AND DEVELOPMENT AUTHORITY

The Board of Governors of the **Leon County Research and Development Authority** announces a public meeting to which all persons are invited.

DATE AND TIME: June 29, 2010, 8:30 a.m.

PLACE: Innovation Park, Morgan Building, Conference Room101, 2035 East Paul Dirac Drive, Tallahassee, FL 32310

GENERAL SUBJECT MATTER TO BE CONSIDERED: The development and operation of Innovation Park and related matters. Any person who desires to appeal a decision of the Leon County Research and Development Authority will need a record of the proceedings of the Authority conducted at such meetings. Special accommodations for persons with disabling conditions should be requested at least 48 hours in advance.

For information regarding the proposed agenda, interested persons may contact: The Administrative Centre at (850)575-0031.

## ORANGE COUNTY RESEARCH AND DEVELOPMENT AUTHORITY

The **Orange County Research and Development Authority** announces a public meeting to which all persons are invited.

DATE AND TIME: July 8, 2010, 8:00 a.m.

PLACE: Central Florida Research Park, 12424 Research Parkway, Suite 100, Orlando, FL 32826

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business Meeting.

A copy of the agenda may be obtained by contacting: Joe Wallace at (407)282-3944.

## CENTER FOR INDEPENDENT LIVING IN CENTRAL FLORIDA, INC.

The **Center for Independent Living in Central Florida, Inc.** announces a public meeting to which all persons are invited.

DATE AND TIME: June 23, 2010, 5:00 p.m.

PLACE: 720 North Denning Drive, Winter Park, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Board Meeting.

A copy of the agenda may be obtained by contacting: Luana Kutz at (407)623-1070 or lkutz@cilorlando.org.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: Luana Kutz at (407)623-1070 or email: lkutz@cilorlando.org. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

## TECHNOLOGICAL RESEARCH AND DEVELOPMENT AGENCY

The **Technological Research and Development Agency (TRDA)** announces a public meeting to which all persons are invited.

DATE AND TIME: June 30, 2010, 9:00 a.m.

PLACE: Conference Room 117C, 1050 West NASA Boulevard, Ste. 125, Melbourne, FL 32901

GENERAL SUBJECT MATTER TO BE CONSIDERED: Audit Committee: Review of Proposals for Auditing Services.

A copy of the agenda may be obtained by contacting: dkershaw@trda.org, (321)872-1050, ext. 102.

## NORTHWOOD SHARED RESOURCE CENTER

The **NSRC Administration Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: June 24, 2010, 1:30 p.m.

PLACE: Department of State, 1949 N. Monroe, Suite 79, Room 115, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Subject Matter.

A copy of the agenda may be obtained by contacting: monica\_cash@nsrc.myflorida.com.

The **NSRC Finance Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: June 25, 2010, 9:00 a.m.

PLACE: Agency for Persons with Disabilities, Southwood 4030, Room 301, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General subject matter.

A copy of the agenda may be obtained by contacting: monica\_cash@nsrc.myflorida.com.

The **NSRC Technical Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: July 1, 2010, 3:00 p.m.

PLACE: Department of Juvenile Justice, DJJ Knight Bldg., Room 1134, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Subject Matter.

A copy of the agenda may be obtained by contacting: monica\_cash@nsrc.myflorida.com.

The **NSRC Administration Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: July 8, 2010, 1:30 p.m.

PLACE: Department of State, 1949 N. Monroe, Suite 79, Room 115, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Subject Matter.

A copy of the agenda may be obtained by contacting: monica\_cash@nsrc.myflorida.com.

The **NSRC Finance Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: July 9, 2010, 9:00 a.m.

PLACE: Agency for Persons with Disabilities, Southwood 4030, Room 301, Tallahassee, Florida 32399

GENERAL SUBJECT MATTER TO BE CONSIDERED: General Subject Matter.

A copy of the agenda may be obtained by contacting: [monica\\_cash@nsrc.myflorida.com](mailto:monica_cash@nsrc.myflorida.com).

### **SOUTHWOOD SHARED RESOURCE CENTER**

The **Southwood Shared Resource Center** announces a public meeting to which all persons are invited.

DATE AND TIME: Friday, June 25, 2010, 9:00 a.m.

PLACE: Burns Building, Room 129, 605 Suwannee Street, Tallahassee, FL

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular bi-monthly meeting of the SSRC Technology Committee. The committee is scheduled to meet every 2nd and 4th Friday depending on need.

Please contact: Faye Hall at (850)414-4772, [faye.hall@dot.state.fl.us](mailto:faye.hall@dot.state.fl.us) for meeting info and cancellations.

A copy of the agenda may be obtained by contacting: Faye Hall at (850)414-4772, [faye.hall@dot.state.fl.us](mailto:faye.hall@dot.state.fl.us).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 2 days before the workshop/meeting by contacting: Faye Hall at (850)414-4772, email: [faye.hall@dot.state.fl.us](mailto:faye.hall@dot.state.fl.us). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Faye Hall at (850)414-4772, [faye.hall@dot.state.fl.us](mailto:faye.hall@dot.state.fl.us).

### **CITIZENS ACTUARIAL AND UNDERWRITING COMMITTEE**

The **Citizens Actuarial and Underwriting Committee** announces a public meeting to which all persons are invited.

DATE AND TIME: July 7, 2010, 2:00 p.m. (EST)

PLACE: Telephonic 1(866)631-2413

GENERAL SUBJECT MATTER TO BE CONSIDERED: The item of discussion includes, but is not limited to, 2011 rates.

A copy of the agenda may be obtained by contacting: [www.citizensfla.com](http://www.citizensfla.com).

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 5 days before the workshop/meeting by contacting: Fawn Brown at 1(800)807-7647, extension 8331. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

For more information, you may contact: Fawn Brown at 1(800)807-7647, extension 8331.

### **FLORIDA CLERKS OF COURT OPERATIONS CORPORATION**

The **Florida Clerks of Court Operations Corporation** announces a public meeting to which all persons are invited.

DATE AND TIME: Tuesday, June 29, 2010, 3:20 p.m.

PLACE: St. Augustine Ballroom B, Renaissance Hotel World Golf Village, St. Augustine, Florida

GENERAL SUBJECT MATTER TO BE CONSIDERED: The Executive Council meeting will begin immediately after Annual Corporation meeting is adjourned.

A copy of the agenda may be obtained by contacting: [www.flccoc.org](http://www.flccoc.org).

For more information, you may contact: website: [www.flccoc.org](http://www.flccoc.org) or call the CCOC office at (850)386-2223.

### **SMALL BUSINESS REGULATORY ADVISORY COUNCIL**

The **Small Business Regulatory Advisory Council** announces a public meeting to which all persons are invited.

DATE AND TIME: June 25, 2010, 9:00 a.m. (Eastern Time); July 9, 2010, if needed

PLACE: Conference Call: 1(888)808-6959, Conference Code: 4737801#

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular council business, rule reviews, and other matters on the agenda to be published at [www.floridasbrac.org](http://www.floridasbrac.org).

A copy of the agenda may be obtained by contacting: Vicky Baker at (850)473-7816, [vicky.baker@floridasbrac.org](mailto:vicky.baker@floridasbrac.org).

For more information, you may contact: Vicky Baker at (850)473-7816 or email: [vicky.baker@floridasbrac.org](mailto:vicky.baker@floridasbrac.org).

### **POLK TRANSPORTATION PLANNING ORGANIZATION**

NOTICE OF CANCELLATION – The **Polk County Transportation Disadvantaged Local Coordinating Board** announces the cancellation of a public meeting for June 14, 2010. For additional information contact: Diane Slaybaugh at (863)534-6495.

### **SOIL AND WATER CONSERVATION DISTRICTS**

The **South Dade Soil and Water Conservation District** announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday June 17, 2010, 9:30 a.m.

PLACE: USDA Service Center, South Dade Soil and Water Conservation District, 1450 N. Krome Ave, Suite 102, Florida City, FL 33034

GENERAL SUBJECT MATTER TO BE CONSIDERED: Regular Agenda items for presentation to the Board of Supervisors; Nursery BMP & MIL Lab Reports, District Projects and Reports.

A copy of the agenda may be obtained by contacting: Norma H. Wilson, SDSWCD Administrative Assistant at (305)242-1288.

The **Madison Soil and Water Conservation District** announces a public meeting to which all persons are invited.  
DATE AND TIME: June 21, 2010, 8:15 a.m.  
PLACE: Madison Service Center, 1416 U.S. 90 E., Madison, FL  
GENERAL SUBJECT MATTER TO BE CONSIDERED: General Business.  
A copy of the agenda may be obtained by contacting: (850)973-65955.

## Section VII Notices of Petitions and Dispositions Regarding Declaratory Statements

### DEPARTMENT OF COMMUNITY AFFAIRS

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Joseph Belcher, representing the Aluminum Association of Florida (DCA09-DEC-351) on October 30, 2009. The following is a summary of the agency's disposition of the petition:

The Commission determined that according to Section 102.1, Florida Building Code, Building Volume (2007) the provisions in AAMA 2100 apply to the placement of receptacle outlets in sunrooms.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Tim Johnson of SnappBatt (DCA09-DEC-375) on November 20, 2009. The following is a summary of the agency's disposition of the petition:

The Commission determined that the Petitioner's product, which is used to add airspace to a tile roof system and has been classified by the Tile Roofing Institute as a shim, is not within the scope of Chapter 9B-72, Florida Administrative Code, and that by operation of section 104.11, Florida Building Code, Building Volume (2007), use of the product is subject to review and approval by the local authority having jurisdiction.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

NOTICE IS HEREBY GIVEN THAT the Florida Building Commission has issued an order disposing of the petition for declaratory statement filed by Kenneth Gregory of Holland Pools, DCA09-DEC-419, joined by Robert Deatherage, Osceola County Building Official on December 25, 2009. The following is a summary of the agency's disposition of the petition:

The Commission determined that Section 1004.1.1, Florida Building Code (FBC), Building Volume, applies to an outdoor public swimming pool with a cabana and deck, for the purpose of determining means of egress requirements, and that the plumbing fixture count for the pool and deck area must be in accordance with Section 403.8, FBC, Plumbing Volume, and the total plumbing fixture count must include the total fixture count required for the pool added to the total fixture count required for the cabana bath.

A copy of the Order Disposing of the Petition for Declaratory Statement may be obtained by contacting: Paula P. Ford, Commission Clerk, Department of Community Affairs, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100.

### BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

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

### DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

NOTICE IS HEREBY GIVEN THAT the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation, State of Florida, has received the petition for declaratory statement from Gulf Distributing Co. of Mobile, LLC and Goldring Gulf Distributing, LLC, Docket Number DS 2010-026094 on May 25, 2010. The petition seeks the agency's opinion as to the applicability of Section 561.5101, Florida Statutes, as it applies to the petitioner.

Whether an outside parking area contiguous to a Goldring Gulf Distributing, LLC (Goldring Gulf) branch warehouse in west Florida that is secure and under the control and supervision of Goldring Gulf employees can qualify to be part of the licensed premises of that branch warehouse provided that written approval from the county or municipality attesting to compliance with local ordinances is submitted to the Division in accordance with Section 561.01(11), Florida Statutes; and whether alcoholic beverages contained in Petitioners' trailer or

trailers parked and stationary for a period of time during the night or early morning hours in a parking lot that is identified as part of a Goldring Gulf licensed branch warehouse premises will meet the come-to-rest requirement of Section 561.5101, Florida Statutes.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Agency Clerk, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, Florida 32399.

Please refer all comments to: Michael Ross, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, Florida 32399.

## 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 FINANCIAL SERVICES

NOTICE IS HEREBY GIVEN THAT the Department of Financial Services, Division of State Fire Marshal has received the petition for declaratory statement from Louis Gagliardi on or before June 1, 2010. The petition seeks the agency's opinion as to the applicability of Sections 633.025(6) and 633.025(7), F.S.; NFPA 101, Life Safety Code Sections 3.3.28.3 and 31.3.4.5 as it applies to the petitioner.

Petitioner requests a declaratory statement regarding smoke alarms at the Banyan Bay Club Condominiums, 5250 Gulf of Mexico Drive, Longboat Key, FL. 1. Are the buildings within Banyan Bay Club "apartment buildings" per Life Safety Code Section 3.3.28.3? 2. If yes, does the Town Fire Marshal have the authority under Sections 633.025(6) and (7), F.S., to require units within Banyan Bay Club to immediately comply with Life Safety Code Section 31.3.4.5?

A copy of the Petition for Declaratory Statement may be obtained by contacting: Lesley Mendelson, Assistant General Counsel, 200 East Gaines Street, Tallahassee, Florida 32399-0340, (850)413-3604 or (850)413-4238; Fax: (850)922-1235 or (850) 488-0697 (please advise if you would like it mailed or faxed to you and please include your phone number on your request in case any question arises) or by e-mail your request to: Lesley.Mendelson@myfloridacfo.com.

## Section VIII

### Notices of Petitions and Dispositions Regarding the Validity of Rules

#### Notice of Petition for Administrative Determination has been filed with the Division of Administrative Hearings on the following rules:

Millercoors, LLC, A Delaware Limited Liability Company vs. Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco; Case No.: 10-2382RP; Rule Nos.: 61A-1.0101, 61A-1.01011, 61A-1.0104

Barbara M. Blanco vs. Department of Business and Professional Regulation, Regulatory Council of Community Association Managers; Case No.: 10-2905RX; Rule No.: 61E14-2.001(5)

Elmwood Terrace Limited Partnership vs. Florida Housing Finance Corporation; Case No.: 10-2799RX; Rule No.: 67-48.0072(10)

My Friend Home Care, Inc. vs. Agency for Health Care Administration; Case No.: 10-2657RU

#### Notice of Disposition of Petition for Administrative Determination have been filed by the Division of Administrative Hearings on the following rules:

Gamstop, Inc. vs. Department of Revenue; Case No.: 09-5759RX; Rule No.: 12A-1.074; Invalid

Florida Beer Wholesalers Association, Inc. vs. Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco and Retail Beverage Council of the Florida Retail Federation, Wine and Spirits Distributors of Florida, Inc., and Beer Industry of Florida, Inc. (Intervenors); Case Nos.: 08-1010RP, 08-4618RP; Rule Nos.: 61A-1.010, 61A-1.0109, 61A-1.0101, 61A-1.0102, 61A-1.0103, 61A-1.0104, 61A-1.0105, 61A-1.0106, 61A-1.0107, 61A-1.0108, 61A-1.01010, 61A-1.01011, 61A-1.01012, 61A-1.01013, 61A-1.01014, 61A-1.01015, 61A-1.01018, 61A-1.01022, 61A-1.01024; Withdrawal

Millercoors, LLC, A Delaware Limited Liability Company vs. Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco and Florida Beer Wholesalers Association, Inc., Anheuser-Busch, Inc., and Beer Industry of Florida, Inc. (Intervenors); Case No.: 10-2382RP; Rule Nos.: 61A-1.0101, 61A-1.01011, 61A-1.0104; Withdrawal

Anheuser-Busch, Inc. vs. Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco; Case No.: 08-4784RP; Rule No.: 61A-1.0109; Withdrawal

City College vs. Department of Health; Case No.: 10-2192RP; Rule No.: 64J-1.020; Voluntarily Dismissed

Ramdass Ramphal, Lucia Calventi, and Janice Wright vs. Department of Children and Family Services; Case No.: 09-2947RP; Rule No.: 65A-1.900; Dismissed

Ramidass Ramphal, Lucia Calventi, Janice Wright, and Esmeralda Cruz vs. Department of Children and Family Services; Case No.: 09-6125RP; Rule No.: 65A-1.900; Dismissed

Armando Cesar Santana vs. Department of Financial Services; Case No.: 09-0829RX; Rule No.: 69B-211.041(3), (11), 69B-211.042(3)(a), (8)(a), (b), (c), (9)(a), (b), (17)(b)2., (c)1., 2., 3., (21), 69B-211.042(8)(a),<sup>25</sup> (17)(c)3.; The following rule provisions are stricken as invalid exercises of delegated legislative authority: Florida Administrative Code, Rule 69B-211.042(8)(a),<sup>25</sup> and (17)(c)3.; the phrase in the last sentence of Florida Administrative Code Rule 69B-211.042(9)(a), “for each additional felony”; and the phrase in Florida Administrative Code Rule 69B-211.042(21), “, and are all of equal weight notwithstanding from which paragraph they are drawn.” The remainder of the Second Amended Petition is dismissed.

Ana Lezcano and All Florida Health Services, Inc. vs. Agency for Health Care Administration; Case No.: 10-2184RU; Voluntarily Dismissed

Hartman and Tyner, Inc., A Florida Corporation.; Gadsden Jai Alai, Inc., A Florida Corporation; and Washington County Kennel Club, Inc., A Florida Corporation, and Daytona Beach Kennel Club, Inc. (Intervenor) vs. Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering and Florida Quarterhorse Track Association, Inc. (Intervenor); Case No.: 08-5403RU; Dismissed

## Section IX Notices of Petitions and Dispositions Regarding Non-rule Policy Challenges

**NONE**

## Section X Announcements and Objection Reports of the Joint Administrative Procedures Committee

**NONE**

## Section XI Notices Regarding Bids, Proposals and Purchasing

### DEPARTMENT OF EDUCATION

#### NOTICE TO PROFESSIONAL CONSULTANTS:

The University of Florida Board of Trustees announces that Professional Services in the disciplines of engineering and architecture for Total Building Commissioning will be required for the project listed below:

Project: UF-362, UF&Shands UDC Building Renovation, Jacksonville

The facility will include an upgrade of the building envelope and utilities infrastructure, roof replacement, and selective renovation of approximately 20,860 gross square feet (GSF) of the UDC Building under several phases of construction that minimize disruption to the building occupants. The Shands Jacksonville UDC Building is a 3 story, 34,946 GSF facility, constructed in the mid-1950's, located on the Shands Jacksonville Medical Center campus. It has been utilized as a multi-purpose building providing student dormitory space and various hospital support functions over the years. Gold LEED-CI (Leadership in Energy and Environmental Design -Commercial Interiors) certification by the U.S. Green Building Council is mandatory. The scope of services shall include design phase peer review, completion and maintenance of the Owner's Project Requirements (OPR) document, development of the Commissioning Plan and Commissioning Specifications, and construction phase pre-functional, functional, and performance testing for mechanical, electrical, building automation, and building envelope systems. The consultant shall also support project efforts to achieve higher-than-normal energy efficiency and attain Gold LEED certification.

Blanket professional liability insurance will be required for this project in the amount of \$1,000,000.

#### INSTRUCTIONS:

Firms desiring to apply for consideration shall submit a proposal only after thoroughly reviewing the facilities program, Project Fact Sheet for Commissioning Consultants, and other background information. The proposal shall be limited to 20 single-sided pages OR 10 double-sided, consecutively-numbered pages and shall include:

1. A Letter of Application that concisely illustrates the applicant's understanding of the scope of services.
2. A completed, project-specific Commissioning proposal form with signed certification. Applications on any other form will not be considered.
3. Resumes, LEED accreditation, and other pertinent credentials for all proposed staff (applicant and consultants).
4. Proof of the applicant's corporate status in Florida (if applicable) and copies of current licenses for applicant consultants from the appropriate governing board.
5. Proof of the applicant's ability to be insured for the level of professional liability coverage demanded for this project.

At the time of application, the applicant must possess current design Professional Registration Certificate(s) from the appropriate governing board; must be properly registered to practice its profession in the State of Florida; and, if the applicant is a corporation, must be chartered by the Florida Department of State to operate in Florida. As required by Section 287.133, Florida Statutes, an applicant may not submit a proposal for this project if it is on the convicted vendor list for a public entity crime committed within the past 36 months. The selected applicant must warrant that it will neither utilize the services of, nor contract with, any supplier, subcontractor, or consultant in excess of \$15,000.00 in connection with this project for a period of 36 months from the date of their being placed on the convicted vendor list.

Incomplete proposals will be disqualified. Submittal materials will not be returned.

The Commissioning Services Proposal Form, Project Fact Sheet, UF Design Services Guide, UF Design and Construction Standards, FP&C non-technical specifications, standard University of Florida Owner-Commissioning Consultant agreement, and other project and process information can be found on the Facilities Planning and Construction website. Finalists may be provided with supplemental interview requirements and criteria as needed.

Provide the number of copies prescribed in the Project Fact Sheet. Submittals must be received in the Facilities Planning and Construction office by 3:00 p.m. (Local Time), Tuesday, July 6, 2010. Facsimile (FAX) submittals are not acceptable and will not be considered.

Facilities Planning and Construction  
232 Stadium / P. O. Box 115050  
Gainesville, FL 32611-5050  
Telephone: (352)273-4000; Fax: (352)273-4034  
Internet: [www.facilities.ufl.edu](http://www.facilities.ufl.edu)

#### Notice to Bidders

The School District of Lee County, Florida

Department of Procurement Services

#### BID REQUEST FOR:

#### FRESH MILK AND OTHER DAIRY PRODUCTS

Bid No. B106884GM Opening Date: Tuesday, June 29, 2010, 2: 00 p.m.

Request a bid package by:

Phone: (239)337-8123; Fax: (239)337-8200; In Person or

Mail: 2855 Colonial Blvd., Fort Myers, Florida 33966-1012

Complete Bid Package available only upon request.

By: Ginny Monroe

#### 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."

#### EXPRESSWAY AUTHORITIES

MDX PROCUREMENT/Contract No.: RFP-10-06

MDX PROJECT/SERVICE TITLE: TRAFFIC AND REVENUE CONSULTING SERVICES

The Miami-Dade Expressway Authority ("MDX" or "Authority"), requires the services of a qualified Consultant to provide Traffic and Revenue Services. For a copy of the RFP with information on the Scope of Services, Pre-qualification and submittal requirements, please logon to MDX's Website: [www.mdxway.com](http://www.mdxway.com) to download the documents under "Doing Business with MDX: Vendor Login", or call MDX's Procurement Department at (305)637-3277 for assistance. Note: In order to download any MDX solicitation, you must first be registered as a Vendor with MDX. This can only be facilitated through MDX's Website: [www.mdxway.com](http://www.mdxway.com) under "Doing Business with MDX: Vendor Registration". A Pre-Proposal Conference is scheduled for June 16, 2010 at 10:00 a.m. The deadline for submitting Proposals is July 7, 2010 by 2:00 p.m. (Eastern Time).

#### 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."

**FLORIDA HOUSING FINANCE CORPORATION****RFQ 2010-07 Housing Counseling Agencies for the Implementation of HFA Hardest Hit Fund Mortgage Intervention Strategy**

The Florida Housing Finance Corporation invites all qualified entities to submit proposals to deliver the Mortgage Intervention Strategy that will include: client intake; Screening for eligibility with Home Affordable Modification Program (HAMP); determination of eligibility with the Mortgage Intervention Strategy; continuing case management of clients assisted with the Mortgage Intervention Strategy and reporting activities. The Mortgage Intervention Strategy is designed to help unemployed or underemployed homeowners achieve the goal of sustainable homeownership by extending the time period for homeowners to become re-employed at a salary that is sufficient to either resume making full mortgage payments or qualify for a mortgage modification that will lower the payments and terms of the mortgage to an affordable level. Treasury has not yet approved the final terms of this strategy. Therefore, provisions of the RFQ are subject to change based upon final Treasury approval.

Proposals shall be accepted until 2:00 p.m. (Eastern Time), Tuesday, July 6, 2010, to the Attention: Sherry Green, Contracts Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. For questions or additional information, please contact: Sherry Green at (850)488-4197, sherry.green@floridahousing.org. To obtain a copy of the Request for Qualifications, which outlines selection criteria and applicant's responsibilities, please submit your request to: Attention: Sherry Green, or you can download the Request for Qualifications from the Florida Housing Finance Corporation web site at: [http://apps.floridahousing.org/StandAlone/FHFC\\_ECM/AppPage\\_LegalRFQs.aspx](http://apps.floridahousing.org/StandAlone/FHFC_ECM/AppPage_LegalRFQs.aspx).

Any modifications that occur to the Request for Qualifications will be posted at the web site and may result in an extension of the deadline.

**FLORIDA WORKERS' COMPENSATION JOINT UNDERWRITING ASSOCIATION, INC.****Notice of RFP for Financial Auditing Services**

The FWCJUA is issuing an RFP for financial auditing services for fiscal/calendar years 2010, 2011 and 2012, to include preparing a full consolidated statutory Financial Statement for these fiscal years.

The FWCJUA is a single-line insurer underwriting workers compensation and employers liability coverage in Florida since January 1, 1994. The FWCJUA is not a state agency. Accordingly, the RFP process is not governed by the contracting procedures applicable to state agencies set forth in Florida Statutes and Rules. Any entity which responds to the RFP must expressly acknowledge in its response its

understanding that the contracting procedure requirements which apply to state agencies do not apply to the FWCJUA. Interested parties may obtain the RFP on or after June 18, 2010 by written request to: Laura Torrence, Executive Director, FWCJUA, P. O. Box 48957, Sarasota, FL 34230 or by Facsimile: (941)487-2525. Responses to the RFP will be due at 4:00 p.m. (Eastern Time), July 23, 2010.

**Notice of RFP for Banking Services**

The FWCJUA is issuing an RFP for its primary banking services for a five year period beginning October 1, 2010 and ending September 30, 2015. Financial institutions interested in responding must meet the following qualifications: (1) institution must hold a charter from either the United States Government or the State of Florida; (2) institution must have deposit insurance under the provision of the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss. 1811 et seq.; (3) institution must be a member of (or have access to) the Federal Reserve System and have access to all Federal Reserve System services; (4) institution must be a State of Florida qualified depository for public funds and must be in compliance with the Florida Public Deposits Program (Chapter 280, Florida Statutes); (5) institution must be in compliance with all applicable laws, rules, regulations, and ordinances of Sarasota County, the State of Florida, and the United States.

The FWCJUA is a single-line insurer underwriting workers compensation and employers liability coverage in Florida since January 1, 1994. The FWCJUA is not a state agency. Accordingly, the RFP process is not governed by the contracting procedures applicable to state agencies set forth in Florida Statutes and rules. Any entity which responds to the RFP must expressly acknowledge in its response its understanding that the contracting procedure requirements which apply to state agencies do not apply to the FWCJUA. Interested parties may obtain the RFP on or after June 18, 2010 by written request to: Laura Torrence, Executive Director, FWCJUA, P. O. Box 48957, Sarasota, FL 34230 or by Facsimile: (941)487-2525. Responses to the RFP will be due at 4:00 p.m. (Eastern Time), July 23, 2010.

**Section XII**  
**Miscellaneous****DEPARTMENT OF STATE**

**2012 Special Category Grants-in-Aid Application Solicitation**  
The Division of Historical Resources is currently soliciting applications for Historic Preservation Special Category Grants-in-Aid.

**SPECIAL CATEGORY GRANTS PROGRAM**

The purpose of the Special Category Grants Program is to provide funding to assist major local, regional and state-wide efforts to preserve significant historic structures and

archaeological sites, to assist major archaeological excavations, and assist in the development, fabrication and installation of major museum exhibits that will promote knowledge and appreciation of the history of Florida. For the purpose of this program, the term "major" means projects with grant funding needs in excess of \$50,000. This program does not fund operational support for museums or historic preservation organizations.

#### SOLICITATION PERIOD

The solicitation period begins July 1, 2010, and extends through August 31, 2010. The online application is available at [www.flheritage.com/grants](http://www.flheritage.com/grants). Online applications must be submitted by 11:59 p.m. on August 31, 2010. In addition, one paper copy of the application and all required attachments must be delivered to: Bureau of Historic Preservation, R. A. Gray Building, 500 South Bronough Street, Tallahassee, Florida 32399-0250 no later than 5:00 p.m., August 31, 2010 OR be clearly postmarked on or before August 31, 2010, OR show evidence of submission to an express mail service on or before August 31, 2010. If access to the online application is not available, arrangements for the submission of paper applications may be made by calling: The Bureau at (850)245-6333 or toll free at 1(800)847-7278.

#### FUNDS AVAILABLE

Funding availability will depend upon legislative appropriation during the 2011 Legislative Session. Recommended grant awards will range from \$50,000 to \$350,000.

#### ADDITIONAL INFORMATION

Additional information can be accessed online at <http://www.flheritage.com/grants>, or by contacting: The Bureau of Historic Preservation grants staff at 1(800)847-7278 or (850)245-6333.

### DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES

#### Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of More than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that American Lifan Industry, Inc., intends to allow the establishment of Action Motorsports, Inc., as a dealership for the sale of motorcycles manufactured by Chong Qing Lifan Motorcycles (CHOL) at 939 Country Club Boulevard, Cape Coral (Lee County), Florida 33990, on or after June 8, 2010.

The name and address of the dealer operator(s) and principal investor(s) of Action Motorsports, Inc., are dealer operator(s): James Lynch, 939 Country Club Boulevard, Cape Coral, Florida 33990; principal investor(s): James Lynch, 939 Country Club Boulevard, Cape Coral, Florida 33990.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS #65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Cathy Zhang, American Lifan Industry, Inc., 10990 Petal Street Suite 500, Dallas, Texas 75238.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

#### Notice of Publication for a New Point Franchise Motor Vehicle Dealer in a County of Less than 300,000 Population

Pursuant to Section 320.642, Florida Statutes, notice is given that Galaxy Powersports, LLC, intends to allow the establishment of M&S Scooters, LLC, as a dealership for the sale of motorcycles manufactured by Zhejiang Xingyue Vehicle Co., Ltd. (ZXYV) at 14673 US Highway 301 South, Starke (Bradford County), Florida 32091, on or after June 4, 2010.

The name and address of the dealer operator(s) and principal investor(s) of M&S Scooters, LLC, are dealer operator(s): Mahmoud Montaser, 14673 US Highway 301 South, Starke, Florida 32091, principal investor(s): Mahmoud Montaser, 14673 US Highway 301 South, Starke, Florida 32091.

The notice indicates intent to establish the new point location in a county of less than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License

Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS #65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Paul Shen, Galaxy Powersports, LLC, 2667 Northaven Road, Dallas, Texas 75229.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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**Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population**

Pursuant to Section 320.642, Florida Statutes, notice is given that Classic Motorworks, Ltd., Inc., intends to allow the establishment of Palm City Corporation, Inc., d/b/a Tropic Powersports as a dealership for the sale of motorcycles manufactured by Royal Enfield Motorcycles (ENFI) at 11100 South Cleveland Avenue, Fort Myers (Lee County), Florida 33907, on or after July 1, 2010.

The name and address of the dealer operator(s) and principal investor(s) of Palm City Corporation, Inc., d/b/a Tropic Powersports are dealer operator(s): James Wilson, 2104 West First Street 1903, Fort Myers, Florida 33901; principal investor(s): James Wilson, 2104 West First Street 1903, Fort Myers, Florida 33901 and Lucille Wilson, 2104 West First Street 1903, Fort Myers, Florida 33901.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to Section 320.642, Florida Statutes, to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS #65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Kevin Mahoney, Classic Motorworks, Ltd., Inc., 1405 Cannon Circle, Suite 12, Faribault, Minnesota, 55021.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving

the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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**Notice of Publication for a New Point  
Franchise Motor Vehicle Dealer in a County of More  
than 300,000 Population**

Pursuant to Section 320.642, Florida Statutes, notice is given that Polaris Sales, Inc., intends to allow the establishment of Sky Powersports of Lakeland, Inc., as a dealership for the sale of motorcycles manufactured by Victory (VICO) at 1700 Fairbanks Highway, Lakeland (Polk County), Florida 33805, on or after June 7, 2010.

The name and address of the dealer operator(s) and principal investor(s) of Sky Powersports of Lakeland, Inc., are dealer operator(s): Charles R. Northey, 3640 Fentress Drive, Lakeland, Florida 33812; principal investor(s): Charles R. Northey, 3640 Fentress Drive, Lakeland, Florida 33812.

The notice indicates intent to establish the new point location in a county of more than 300,000 population, according to the latest population estimates of the University of Florida, Bureau of Economic and Business Research.

Certain dealerships of the same line-make may have standing, pursuant to section 320.642, Florida Statutes to file a petition or complaint protesting the application.

Written petitions or complaints must be received by the Department of Highway Safety and Motor Vehicles within 30 days of the date of publication of this notice and must be submitted to: Nalini Vinayak, Administrator, Dealer License Section, Department of Highway Safety and Motor Vehicles, Room A-312, MS #65, Neil Kirkman Building, 2900 Apalachee Parkway, Tallahassee, Florida 32399-0635.

A copy of such petition or complaint must also be sent by U.S. Mail to: Michael W. Malone, Polaris Sales, Inc., 2100 Highway 55, Medina, Minnesota 55340.

If no petitions or complaints are received within 30 days of the date of publication, a final order will be issued by the Department of Highway Safety and Motor Vehicles approving the establishment of the dealership, subject to the applicant's compliance with the provisions of Chapter 320, Florida Statutes.

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**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."

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION****NOTICE OF QUOTA LIQUOR LICENSE DRAWINGS**

The Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation announces Quota Liquor License Drawings to which all persons are invited for the following counties: BROWARD (1), CLAY (1), DADE (8), DUVAL (1), GULF (1), HERNANDO (1), HIGHLANDS (1), HILLSBOROUGH (3), LEE (1), ORANGE (1), OSCEOLA (1), PASCO (1), PINELLAS (1), POLK (1), ST JOHNS (1), SARASOTA (1), SEMINOLE (1), VOLUSIA (1)

**DATE AND TIME:** June 30, 2010, 9:00 a.m.

**PLACE:** Department of Business and Professional Regulation, Northwood Centre, Alcoholic Beverages and Tobacco Conference Room, 1940 North Monroe Street, Tallahassee, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To conduct double random computer drawings from the pool of qualified applicants for new quota liquor licenses in each of the above referenced counties and establish each qualified applicant's standing to receive one of the new licenses. Those applicants chosen in the drawings will be notified by certified mail of their eligibility to apply for a license.

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**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."

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**FLORIDA STATE CLEARINGHOUSE**

The state is coordinating reviews of federal activities and federally funded projects as required by Section 403.061(40), F.S. A list of projects, comments deadlines and the address for providing comments are available at [http://www.dep.state.fl.us/secretary/oip/state\\_clearinghouse/](http://www.dep.state.fl.us/secretary/oip/state_clearinghouse/). For information, call (850)245-2161. This public notice fulfills the requirements of 15 CFR 930.

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**DEPARTMENT OF HEALTH**

On June 4, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of J.L. Palmer, D.C. License #CH 9027. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On June 8, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Christina Cranford-Swaim, R.N. License #RN 9279654. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On June 8, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Karen Lynn Holcomb, R.N. License #RN 9230358. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On June 2, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Elena Maria Owens, R.N. License #RN 9208502. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On June 8, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Pamela A. Peterson, R.N. License #RN 2095272. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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On June 8, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of Michael Ryan Wade, R.N. License #RN 9232233. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and

welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

On June 3, 2010, Ana M. Viamonte Ros, M.D., M.P.H., State Surgeon General, issued an Order of Emergency Suspension Order with regard to the license of John C. Ward, R.Ph. License #PS 19869. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes. The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

#### Request for Public Comments on Florida's WIC Program

The WIC Program (the Special Supplemental Nutrition Program for Women, Infants, and Children) is soliciting comments and suggestions about its program and how service delivery can be improved to better meet the clients' needs. WIC is federally funded by the United States Department of Agriculture, and serves low- and moderate-income pregnant, breastfeeding, and postpartum women; infants; and children up to age 5. The program provides a combination of nutritious foods, nutrition education, breastfeeding support, and referrals for health care. WIC is available in all 67 counties in Florida. If you have any comments or suggestions, please direct them to: Cheryl Miller, Department of Health, WIC and Nutrition Services, BIN #A-16, 4052 Bald Cypress Way, Tallahassee, FL 32399-1726 or Fax: (850)922-3936. Your feedback is essential and is appreciated before August 15, 2010. In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write: USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call 1(800)795-3272 (Voice) or (202)720-6382 (TTY). USDA is an equal opportunity provider and employer.

#### DEPARTMENT OF FINANCIAL SERVICES

#### NOTICE TO ALL POLICYHOLDERS, CREDITORS AND CLAIMANTS HAVING BUSINESS WITH MAGNOLIA INSURANCE COMPANY

IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT, IN AND FOR LEON COUNTY, FLORIDA

CASE NO.: 2010-CA-1522

In Re: The Receivership of MAGNOLIA INSURANCE COMPANY, a Florida corporation.

#### NOTICE TO ALL POLICYHOLDERS, CREDITORS, AND CLAIMANTS HAVING BUSINESS WITH MAGNOLIA INSURANCE COMPANY

You are hereby notified that by order of the Circuit Court of the Second Judicial Circuit, in and for Leon County, Florida, entered the 30th day of April, 2010, the Department of Financial Services of the State of Florida was appointed as Receiver of MAGNOLIA INSURANCE COMPANY and was ordered to liquidate the assets located in Florida of said company.

Policyholders, claimants, creditors, and other persons in this State having claims against the assets of MAGNOLIA INSURANCE COMPANY, shall present such claims to the Receiver on or before 11:59:59 p.m. on Monday, May 2, 2011, or such claims shall be forever barred.

Requests for forms for the presentation of such claims and inquiries concerning this Receivership should be addressed to: The Division of Rehabilitation and Liquidation of the Florida Department of Financial Services, Receiver for MAGNOLIA INSURANCE COMPANY, Post Office Box 110, Tallahassee, Florida 32302-0110. Additional information may be found at: [www.floridainsurancereceiver.org](http://www.floridainsurancereceiver.org).

#### FINANCIAL SERVICES COMMISSION

##### NOTICE OF FILINGS

NOTICE IS HEREBY GIVEN THAT the Office of Financial Regulation, Division of Financial Institutions, has received the following application. Comments may be submitted to: The Director, 200 East Gaines Street, Tallahassee, Florida 32399-0371, for inclusion in the official record without requesting a hearing. However, pursuant to provisions specified in Chapter 69U-105, Florida Administrative Code, any person may request a public hearing by filing a petition with: The Clerk, Legal Services Office, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0379. The Petition must be received by the Clerk within twenty-one (21) days of publication of this notice (by 5:00 p.m., July 9, 2010):

##### APPLICATION TO ACQUIRE CONTROL

Financial Institution to be Acquired: Jacksonville Bancorp, Inc. (The Jacksonville Bank) Jacksonville, Florida  
Proposed Purchasers: CapGen Capital Group IV LP, CapGen Capital Group IV LLC and Eugene A. Ludwig (managing member)

Received: June 4, 2010

### Section XIII

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					61D-14.042	6/1/10	6/21/10	35/21	
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