

instrument and other equipment maintenance records. All records shall be kept in accordance with state law and rules regarding retention of records.

(g) Forms. Form DC4-621 is hereby incorporated by reference. Copies of this form may be obtained from any institution or from the Office of Security and Institutional Operations, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. If forms are to be mailed, the request must be accompanied by a self-addressed, stamped envelope. The effective date of this form is March 24, 1997.

Specific Authority 944.09, 944.472, 944.473 FS. Law Implemented 944.09, 944.472, 944.473 FS. History—New

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Hearing Services  
 RULE NO.: 59G-4.110

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999. The effect will be to incorporate by reference in the rule the current Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999.

SUBJECT AREA TO BE ADDRESSED: Hearing Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.906, 409.908 FS.

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

TIME AND DATE: 9:00 a.m. – 11:00 a.m., October 5, 1999  
 PLACE: Agency for Health Care Administration, 2728 Mahan Drive, Building 3, Conference Room D, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Helen Sancho, Medicaid Program Development, P. O. Box 12600, Tallahassee, Florida 32317-2600, (850)922-7322

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.110 Hearing Services.

(2) All physicians, audiologists and hearing aid specialists enrolled in the Medicaid program must comply with the provision of Florida Medicaid Hearing Services Coverage and Limitations Handbook, August 1999, ~~January 1998~~ incorporated by reference, and the Florida Medicaid Provider Reimbursement Handbook, HCFA-1500 and Child Health Check-Up 221, ~~EPSDT 221~~, which is incorporated in 59G-5.020, F.A.C. Both handbooks are available from the Medicaid fiscal agent.

Specific Authority 409.919 FS. Law Implemented 409.906, 409.908 FS. History—New 8-3-80, Amended 7-21-83, Formerly 10C-7.552, Amended 4-13-93, Formerly 10C-7.0522, Amended 12-21-97, 10-13-98,\_\_\_\_\_.

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Family Safety and Preservation**

RULE TITLES:	RULE NOS.:
License	65C-22.001
Training	65C-22.003
Food and Nutrition	65C-22.005
Record Keeping	65C-22.006

PURPOSE AND EFFECT: The modifications contained in this document will update statutory reference for change of ownership requirements; delineate requirements on how to obtain a director’s credential; increase the required training hours for child care personnel; change environmental health from unit to section; and eliminate the need to amend Chapter 65C-22, FAC, every time amendments to Chapter 64D-3, FAC occur.

SUBJECT AREA TO BE ADDRESSED: Child Day Care Standards.

SPECIFIC AUTHORITY: 402.305 FS.

LAW IMPLEMENTED: 402.305 FS.

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

TIME AND DATE: 9:00 a.m., November 1, 1999  
 PLACE: 1317 Winewood Blvd., Building 8, Room 232, Tallahassee, FL 32399

PURPOSE: The purpose of the workshop will be to draft rules. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Cindy Pace-Brown, Specialist, 1317 Winewood Blvd., Building 7, Tallahassee, FL 32399

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

**Section II  
 Proposed Rules**

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES:	RULE NOS.:
Definitions	3D-40.001
Changes of Address	3D-40.020
Application Procedure for Mortgage Broker License	3D-40.031
Mortgage Broker License Renewal and Reactivation	3D-40.043

Application Procedure for Mortgage Brokerage Business License 3D-40.051

Mortgage Brokerage Business License and Branch Office License Renewal and Reactivation 3D-40.053

Application Procedure for Mortgage Brokerage Business Branch Office License 3D-40.058

Branch Offices 3D-40.077

Change of Name, Change of Entity and Change in Control or Ownership 3D-40.099

Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender 3D-40.100

Branch Office License for Change in Ownership or Control of Saving Clause Mortgage Lender 3D-40.105

Third-Party Fee Accounts 3D-40.156

Principal Brokers 3D-40.160

Branch Brokers 3D-40.165

Books and Records 3D-40.170

Mortgage Brokerage and Lending Transaction Journal 3D-40.177

Application Procedure for Mortgage Lender License 3D-40.200

Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Renewal and Reactivation 3D-40.205

Mortgage Lender License Pursuant to Saving Clause Renewal 3D-40.210

Application Procedure for Correspondent Mortgage Lender License 3D-40.220

Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation 3D-40.225

Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License 3D-40.240

Independent Contractors 3D-40.245

Mortgage Brokerage and Lending Transaction Journal 3D-40.265

Financial Guaranty in Lieu of Uniform Single Audit 3D-40.270

Mortgage Lender Branch Office 3D-40.280

Noninstitutional Investor Funds Account 3D-40.285

Acts Requiring Licensure as a Mortgage Broker, Mortgage Brokerage Business, Mortgage Lender or Correspondent Mortgage Lender 3D-40.290

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-213, Laws of Florida, to adopt new application, renewal, and reactivation forms, to repeal unnecessary rules, and to make other technical and grammatical changes to Chapter 3D-40, FAC.

SUMMARY: Rules 3D-40.077, 3D-40.210, and 3D-40.280 are repealed. New application, renewal, and reactivation forms are being adopted for mortgage brokers, mortgage brokerage businesses, mortgage lenders, correspondent mortgage lenders, and branch offices. Other substantive and technical changes are being proposed to conform Chapter 3D-40, FAC., with changes made by Chapter 99-213, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 494.0011(2) FS.

LAW IMPLEMENTED: 494.0031, 494.0032, 494.0033, 494.0034, 494.0036, 494.0037, 494.0038, 494.0041, 494.0061, 494.0062, 494.0064, 494.0065, 494.0066, 494.0068, 494.0072 FS.

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

TIME AND DATE: 10:00 a.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle, Division of Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-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 Department's interpretation unless the language of the rule indicates to the contrary:

(1) through (5) No change.

(5) For the purposes of Section ~~§~~ 494.001(26)(20), F.S., "receive" means obtaining possession of money or a negotiable instrument prior to receipt by the lender or investor.

(6) For the purposes of Section ~~§~~ 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 Section ~~§~~ 494.0041(2)(i) and Section ~~§~~ 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 Section ~~§~~ 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 ~~or~~ is subjected to the right of the employer to direct and control the actions of the employee.

(9) No change.

(10) "Notice of non-compliance" means a notification by the Department 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) No change.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.001, 494.004(1), 494.0041(2)(a),(i), 494.0043, 494.0061(2), 494.0062(2), 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, \_\_\_\_\_.

3D-40.020 Changes of Address.

All licensees shall notify the Department of any change of address in writing to the Department of Banking and Finance, Division of Finance, Attention: Licensing Section, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

Specific Authority 494.0011(2) FS. Law Implemented 494.0031, 494.0032, 494.0033, 494.0034, 494.0036, 494.0039, 494.0061, 494.0062, 494.0064, 494.0065, 494.0065, 494.0066, 494.0067 FS. History—New 10-1-91, Amended 8-24-93, 7-25-96, \_\_\_\_\_.

3D-40.031 Application Procedure for Mortgage Broker License.

Each person desiring to obtain licensure as a mortgage broker shall apply to the Department by submitting the following:

(a) A ~~a~~ completed Application for Licensure as a Mortgage Broker, Form DBF-MB-101, revised 10/99 ~~9-3-95~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. The application must be completed and signed within thirty (30) days prior to receipt by the Department;

(b) The statutory, ~~a~~ non-refundable application fee required by Section 494.0033, F.S., of \$200 which shall be the fee for the biennial period beginning September 1 of each odd-numbered year or any part thereof; ~~and~~

(c) A ~~a~~ completed fingerprint card accompanied by a \$15 non-refundable processing fee; and

(d) Evidence that the applicant has completed the mortgage broker education requirements of Section 494.0033(3), F.S.

(2) through (6) No change.

(7) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 494.0011(2), 494.0033, 215.405 FS. Law Implemented 494.0033(2)(4) 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, \_\_\_\_\_.

3D-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., of \$150 and a completed renewal form. Form DBF-F-103, Mortgage Broker License Renewal and Reactivation Form, revised 10/99 ~~9-3-95~~, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) A mortgage broker license that is not renewed ~~Failure to submit the fee and form~~ as required in Subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status ~~automatically result in the license becoming inactive~~. An inactive ~~The~~ license may be reactivated within two (2) years after becoming inactive ~~the end of the biennial period~~ upon payment of the statutory renewal fee and a reactivation fees required by Section 494.0034, F.S., of \$100 and submission of a completed reactivation ~~renewal~~ form.

(3) A mortgage broker license that is not renewed within two (2) years after becoming inactive shall expire.

Specific Authority 494.0011(2), 494.0034(2) FS. Law Implemented ~~494.00171~~, 494.0034 FS. History—New 11-2-86, Amended 6-23-91, 11-12-91, 9-3-95, \_\_\_\_\_.

3D-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 Department by submitting the following:

(a) A completed Application for Licensure as a Mortgage Brokerage Business, Form DBF-MB-201, revised 10/99 ~~5-14-95~~, which is hereby incorporated by reference and

available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) The statutory, ~~A~~ non-refundable application fee required by Section 494.0031, F.S., of \$350 which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(2) Each ultimate equitable owner of 10% or greater interest, the chief executive officer and each director of an entity applying for licensure as a mortgage brokerage business, shall submit a completed fingerprint card and Biographical Summary, Form MBB-BIO96-1 (revised 10/99 effective 6/96), to the Department along with a \$15 nonrefundable processing fee. Form MBB-BIO96-1 is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350.

(a) through (7) No change.

(8) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 494.0011(2), 494.031(2), 215.405 FS. Law Implemented 494.0031(2) 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, 11-25-97, \_\_\_\_\_.

3D-40.053 Mortgage Brokerage Business License and Branch Office License Permit 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., of \$300 and a completed renewal form. Form DBF-MB-707, Mortgage Brokerage Business License Renewal and Reactivation Form, Form DBF-MB-707, revised 10/99 effective 10-1-91, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) A mortgage brokerage business license that is not renewed Failure to submit the fee and form as required in Subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status automatically result in a late renewal fee of \$100 being assessed. An inactive The license may be renewed within six (6) months after becoming inactive the end of the biennial period upon payment of the

statutory renewal fee and reactivation late fees required by Section 494.0032, F.S., and submission of a completed reactivation renewal form.

(3) Each active mortgage brokerage business branch office license permit shall be renewed in conjunction with the mortgage brokerage business license renewal upon submission of the statutory permit renewal fee required by Section 494.0032, F.S., of \$150 and a completed renewal form. Form DBF-MB-708, Mortgage Brokerage Business Branch Office License Permit Renewal and Reactivation Form, Form DBF-MB-708, revised 10/99 effective 10-1-91, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(4) A mortgage brokerage business branch office license that is not renewed Failure to submit the fee and form as required in Subsection (3) prior to September 1 of the renewal year shall revert from active to inactive status automatically result in a late renewal fee of \$100 being assessed. An inactive branch office license The permit may be renewed within six (6) months after becoming inactive the end of the biennial period upon renewal of the business license, payment of the statutory renewal fee and reactivation late fees required by Section 494.0032, F.S., and submission of a completed reactivation renewal form.

(5) A mortgage brokerage business license and branch office license that is permit not renewed within six (6) months after the end of the biennial period automatically expires.

Specific Authority 494.0011(2), 494.0032(2),(3), 494.0036(2) FS. Law Implemented 494.0032, 494.0036 FS. History--New 11-2-86, Amended 2-8-90, 10-1-91, \_\_\_\_\_.

3D-40.058 Application Procedure for Mortgage Brokerage Business Branch Office License Permit.

(1) Every mortgage brokerage business which conducts mortgage brokerage business in this state from a branch office shall apply to the Department for a license permit to operate a branch office by submitting the following:

(a) ~~A~~ a completed Application for Mortgage Brokerage Business Branch Office License Permit, Form DBF-MB-301, revised 10/99 5-14-95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) The statutory, a non-refundable license permit fee required by Section 494.0036, F.S., of \$150 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 Section 494.001(7), F.S. the name or advertising of a mortgage brokerage business shall be

~~displayed in such a manner as to reasonably lead the public to believe that such mortgage brokerage business may be conducted at such office, location or advertised address.~~

(3) No change.

(4) Amendment of Application. If the information contained in an Application for Mortgage Brokerage Business Branch Office License Permit becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall be responsible for correcting the inaccurate information within ten (10) days of the change occurring by following the procedures set forth in this subsection. 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 its receipt for filing. Otherwise the application may be amended only with prior written permission from the Department. Requests to make changes which are material to the application or to the Department's evaluation of the application filed at any time after the application has been received may be deemed by the Department to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) No change.

(6) Refunds. If the application is withdrawn or denied, the license permit fee is non-refundable.

(7) Upon approval of an application, a license permit will be issued for the remainder of the biennial licensure period.

Specific 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, \_\_\_\_\_.

3D-40.077 Branch Offices.

Specific Authority 494.0011(2) FS. Law Implemented 494.0036, 494.0066 FS. History--New 1-10-93, Repealed.

3D-40.099 Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed as a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender which changes his name of record, as filed with the initial application for licensure, or any subsequent change on file and acknowledged by the Department thereafter, shall notify the Department, in writing, of the name change and shall provide documentation authorizing such name change within thirty days of the date effecting such change. Any licensee pursuant to Sections ss. 494.0061 or 494.0062, F.S., shall additionally provide a completed surety bond, on Form DBF-ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond (effective 10/91), executed in the new name of the licensee as documented by the requirements of this subsection ~~herein~~. ~~The effective date of Form DBF ML 444 is 10-1-91.~~ The form is available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350.

(2) Each licensed mortgage brokerage business, mortgage lender, or correspondent mortgage lender which proposes to change the entity licensed with the Department shall file a new application for licensure pursuant to Sections ss. 494.0031, 494.0061, or 494.0062, F.S. Application forms are available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(3) Any person or persons who, directly or indirectly, seek to own, control, or hold with power to vote, or hold proxies representing 50 percent or greater of any class of equity securities or ultimate equitable ownership of a mortgage brokerage business, mortgage lender, or correspondent mortgage lender shall file a new application for licensure pursuant to Sections ss. 494.0031, 494.0061, or 494.0062, F.S., prior to the effective date of the change in ownership or control interest.

(4) Any person who is subjected to the requirements of subsections (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 s. 494.0065, F.S., is subjected to the net worth requirements as specified in Section s. 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 3D-40.100, F.A.C. on Form DBF-MLST, Change in Ownership or Control of Saving Clause Mortgage Lender, revised 9-3-95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, Capitol Building, Tallahassee, Florida 32399-0350.

(5) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.0017~~, 494.0031, 494.0061, 494.0062, 494.0065 FS. History--New 1-10-93, Amended 5-24-95, 9-3-95, \_\_\_\_\_.

3D-40.100 Application Procedure for Change 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 Department by submitting the following:

(a) A completed application for Change in Ownership or Control of Saving Clause Mortgage Lender, Form DBF-MLST, revised 10/99 ~~9-3-95~~, which is hereby

incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) ~~A~~ a non-refundable 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) ~~Audited~~ ~~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.

(2) through (6) No change.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.00171, 494.0061(1), 494.0065~~ FS. History—New 8-24-93, Amended 9-3-95, \_\_\_\_\_.

3D-40.105 Branch Office ~~License Permit~~ for Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person applying for a change 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 Department for a license permit to operate each branch office by submitting the following:

(a) ~~A~~ a completed Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License Permit. Form DBF-ML-222B, revised 10/99 9-3-95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) ~~The statutory~~, a non-refundable license permit fee required by Section 494.0066, F.S. of \$250 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 Section 494.001(7), F.S. the name or advertising of a mortgage lender licensed pursuant to the saving clause shall be displayed in such a manner as to reasonably lead the public to believe that such mortgage lending business may be conducted at such office, location or advertised address.~~

(3) through (6) No change.

(7) Upon approval of an application, a license permit will be issued for the remainder of the biennial period.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.00171, 494.0065, 494.0066~~ FS. History—New 8-24-93, Amended 9-3-95, \_\_\_\_\_.

3D-40.156 Third-Party Fee Accounts.

(1) All third-party fees and refundable application fees received by a mortgage 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 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 DBF-MX-999 (effective 12/91), which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350, or on a format which is substantially similar to Form DBF-MX-999.

(2) through (4) No change.

(5) For purposes of Section ~~§~~ 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

Specific Authority 494.0011(2), 494.0016(4), 494.0037(4) FS. Law Implemented 120.695, 494.0037(4), 494.0038(5), 494.0041(2)(e), 494.0068(3), 494.0072(2)(e) FS. History—New 12-3-91, Amended 7-25-96, \_\_\_\_\_.

3D-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 Designation, Form DBF-MB-PB, effective October 7, 1991, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) Upon any change of principal broker, the licensee and the newly designated principal broker shall complete the Principal Broker Designation, Form DBF-MB-PB, (effective 10/91). Form DBF-MB-PB shall be maintained at the principal office ~~in Florida~~ of the mortgage brokerage business, and a copy mailed to the Department within thirty (30) days of said designation or change in designation.

(3) No change.

(4) Each principal broker shall notify the Department of Banking and Finance, Division of Finance, Attention: Licensing Section, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350 in writing, within thirty (30) days, of termination of principal broker status.

Specific Authority 494.0011(2), 494.0035 FS. Law Implemented 120.695, 494.0016, 494.0035, 494.0037 FS. History—New 10-7-91, Amended 7-25-96, \_\_\_\_\_.

3D-40.165 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 Designation, Form DBF-MB-BB, (effective 10/91) ~~effective October 7, 1991~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350.

(2) through (4) No change.

Specific Authority 494.0011(2), 494.0035(2) FS. Law Implemented 120.695, 494.0016, 494.0035(2), 494.0037 FS. History--New 10-7-91, Amended 7-25-96, \_\_\_\_\_.

3D-40.170 Books and Records.

(1)(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 Department 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 Department of Banking and Finance, Division of Finance, Attention: Regulatory Support, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(b) The notification shall include confirmation by the licensee that the proposed storage facilities are buildings 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.

(2) Books, accounts, and records ~~maintained at a location other than the principal place of business~~ shall be made available to the Department within three (3) business days from the date of written request by the Department and at a reasonable and convenient location in this State designated by the Department.

(3) ~~"Principal place of business" means the location designated in writing by the licensee on the initial application for licensure or as amended thereafter in writing to the Department.~~

(3)(4) All books, accounts, and records must be maintained for 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.

(4)(5)(a) The penalty for maintaining books, accounts, and records at a location other than the principal place of business without written notification to the Department, 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 Department, 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.

Specific Authority 494.0011(2), 494.0016(2), 494.0037(2) FS. Law Implemented 120.695, 494.0016, 494.0037, 494.0041(1) FS. History--New 2-16-92, Amended 7-25-96, \_\_\_\_\_.

3D-40.177 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage brokerage business and lender acting in the capacity of a mortgage brokerage business shall maintain a journal of mortgage brokerage transactions, 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 Mortgage Brokerage and Lending Transaction Journal shall indicate the result of the brokerage transaction. The disposition of the case shall be categorized as one of the following: loan funded, loan denied, application withdrawn, or other (with explanation);
- (d) Name of lender, if applicable.

(2) The journal shall be maintained in a format which is substantially similar to form DBF-MX-888, Mortgage Brokerage and Lending Transaction Journal, revised 7-25-96, which is hereby incorporated by reference and is available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(3) through (4) No change.

Specific Authority 494.0011(2), 494.0016, 494.0037(4) FS. Law Implemented 120.695, 494.0016, 494.0037, 494.0041 FS. History--New 2-16-92, Amended 7-25-96, \_\_\_\_\_.

3D-40.200 Application Procedure for Mortgage Lender License.

(1) Each corporation, general partnership, limited liability company or other lawful entity desiring to obtain licensure as a mortgage lender shall apply to the Department by submitting the following:

(a) A ~~a~~ completed Application for Licensure as a Mortgage Lender, Form DBF-ML-222B, revised 10/99 11-5-95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) The statutory, a non-refundable fee required by Section 494.0061, F.S., of \$500 which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;

(c) Audited ~~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;

(d) A ~~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 DBF-ML-444,

Mortgage Brokerage and Mortgage Lending Act Surety Bond, effective 10-1-91, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) Each ultimate equitable owner of 10% or greater interest, chief executive officer and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card and Biographical Summary, Form ML-BIO-1 (revised 10/99) ML-96-1 (effective 7-14-96), to the Department along with a \$15 nonrefundable processing fee. Form ML-BIO-1 ML-96-1 is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350.

(a) through (7) No change.

(8) Restoration of Civil Rights

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 494.0011(2), 494.0061(3), 215.405 FS. Law Implemented 494.0061(3) FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-25-97, \_\_\_\_\_.

3D-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Savings Clause, and Branch Office License Permit Renewal and Reactivation.

(1) Each active mortgage lender license and mortgage lender license pursuant to the savings 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., of \$500, a completed renewal form, and a copy of the lender's most recent audited financial statements. Form DBF-ML-R, Mortgage Lender License Renewal and Reactivation Form, Form DBF ML R, revised 10/99, and Form DBF-ML-RS, Mortgage Lender License Pursuant to Saving Clause Renewal and Reactivation Form, Form DBF ML RS, revised 10/99 9-3-95, are hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(2) A license that is not renewed ~~Failure to submit the fee and form~~ as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status automatically ~~result in a late renewal fee of \$100 being assessed. An inactive~~ The license may be reactivated renewed within 6 months after becoming inactive ~~the end of the biennial period~~ upon payment

of the statutory renewal fee and reactivation late fees required by Section 494.0064, F.S., and submission of a completed reactivation renewal form.

(3) Each active mortgage lender branch office license permit shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory permit renewal fee required by Section 494.0064, F.S., of \$250 and a completed branch office license permit renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Permit Renewal and Reactivation Form, Form DBF ML RB, revised 10-1-99 9-3-95, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350.

(4) A mortgage lender branch office license that is not renewed ~~Failure to submit the permit renewal fee and form~~ as required in Subsection (3) prior to September 1 of the renewal year shall revert to inactive status automatically ~~result in a late renewal fee of \$100 being assessed. An inactive license~~ The permit may be reactivated renewed within six (6) months after becoming inactive ~~the end of the biennial period~~ upon renewal of the lender license, payment of the statutory renewal fee and reactivation late fees required by Section 494.0064, F.S., and submission of a completed license permit reactivation renewal form.

(5) A mortgage lender license and branch office license that is permit not renewed within six months after the end of the biennial period automatically expires.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.00171~~, 494.0064 FS. History—New 10-1-91, Amended 9-3-95, 7-25-96, 8-5-96, \_\_\_\_\_.

3D-40.210 Mortgage Lender License Pursuant to Saving Clause Renewal.

Specific Authority 494.0011(2), 494.0064(2), 494.0065(3) FS. Law Implemented 494.00171, 494.0064(1),(3),(4),(5), 494.0065(2) FS. History—New 8-24-92, Amended 9-3-95, Repealed \_\_\_\_\_.

3D-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) Each corporation, general partnership, limited liability company, or other lawful entity desiring to obtain licensure as a correspondent mortgage lender shall apply to the Department by submitting the following:

(a) A ~~a~~ completed Application for Licensure as a Correspondent Mortgage Lender, Form DBF-CL-333, revised 10/99 11-5-95, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) The statutory, a non-refundable fee required by Section 494.0062, F.S., of \$400 which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;



(c) 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;

(d) ~~A~~ 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 DBF-ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, effective 10-1-91, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building,~~ Tallahassee, FL 32399-0350.

(2) Each ultimate equitable owner of 10% or greater interest, chief executive officer and each director of an entity applying for licensure as a correspondent mortgage lender, shall submit a completed fingerprint card and Biographical Summary, Form CL-BIO-1 (revised 10/99) ~~(CL-96-1~~ (effective 6/96), to the Department along with a \$15 nonrefundable processing fee. Form CL-BIO-1 ~~MBB-96-1~~ is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building,~~ Tallahassee, FL 32399-0350.

(a) through (7) No change.

(8) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 494.0011(2), 494.0062(3), 215.405 FS. Law Implemented 494.0062(3) FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-25-97,\_\_\_\_\_.

3D-40.225 Correspondent Mortgage Lender License and Branch Office License Permit Renewal and Reactivation.

(1) 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., of \$400, a completed renewal form, and a copy of the lender's current audited financial statements. Form DBF-CL-R, Correspondent Mortgage Lender License Renewal and Reactivation Form, Form DBF-CL-R, revised 10/99 9-3-95, is hereby incorporated by reference and available by mail from the Department of

Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building,~~ Tallahassee, Florida 32399-0350.

(2) ~~A correspondent mortgage lender license that is not renewed~~ Failure to submit the fee and form as required in Subsection (1) prior to September 1 of the renewal year shall revert to inactive status ~~automatically result in a late renewal fee of \$100 being assessed.~~ An inactive The license may be reactivated ~~renewed~~ within 6 months after becoming inactive ~~the end of the biennial period~~ upon payment of the statutory renewal fee and reactivation ~~late~~ fees required by Section 494.0064, F.S., and submission of a completed reactivation ~~renewal~~ form.

(3) Each active correspondent mortgage lender branch office license permit shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory permit renewal fee required by Section 494.0064, F.S., of \$250 and a completed branch office license permit renewal form. Form DBF-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Permit Renewal and Reactivation Form, Form DBF-ML-RB, revised 10/99 9-3-95, is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building,~~ Tallahassee, Florida 32399-0350.

(4) ~~A correspondent mortgage lender branch office license that is not renewed~~ Failure to submit the license renewal fee and form as required in Subsection (3) prior to September 1 of the renewal year shall revert to inactive status ~~automatically result in a late renewal fee of \$100 being assessed.~~ An inactive The permit may be renewed within six (6) months after becoming inactive ~~the end of the biennial period~~ upon renewal ~~of the correspondent mortgage lender license;~~ payment of the statutory renewal fee and reactivation ~~late~~ fees required by Section 494.0064, F.S., and submission of a completed license permit reactivation ~~renewal~~ form.

(5) A correspondent mortgage lender license and branch office license that is ~~permit~~ not renewed within six (6) months after the end of the biennial period automatically expires.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.00171,~~ 494.0064 FS. History--New 10-1-91, Amended 9-3-95, 7-25-96,\_\_\_\_\_.

3D-40.240 Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License Permit.

(1) Every mortgage lender or correspondent mortgage lender which conducts mortgage lending business in this state from a branch office shall apply to the Department for a license permit to operate a branch office by submitting the following:

(a) ~~A~~ a completed Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License Permit, Form DBF-ML-222B, revised 10/99 9-3-95, which is hereby incorporated by reference and

available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) ~~The statutory, a non-refundable license permit fee required by Section 494.0064, F.S., of \$250~~ 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 Section 494.001(7), F.S. the name or advertising of a mortgage lender or correspondent mortgage lender shall be displayed in such a manner as to reasonably lead the public to believe that such mortgage lending business may be conducted at such office, location, or advertised address.~~

(3) No change.

(4) Amendment of Application. If the information contained in an Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License Permit becomes inaccurate for any reason before the applicant becomes licensed, the applicant shall be responsible for correcting the inaccurate information within ten (10) days of the change occurring by following the procedures set forth in this subsection. 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 its receipt for filing. Otherwise the application may be amended only with prior written permission from the Department. Requests to make changes which are material to the application or to the Department's evaluation of the application filed at any time after the application has been received may be deemed by the Department to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) No change.

(6) Refunds. If the application is withdrawn or denied, the license permit fee is non-refundable.

(7) Upon approval of an application, a license permit will be issued for the remainder of the biennial period.

Specific Authority 494.0011(2) FS. Law Implemented ~~494.00171~~, 494.0066 FS. History--New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, \_\_\_\_\_.

3D-40.245 Independent Contractors.

A natural person is not exempt from the licensure requirements of Section 494.0033 ~~ss 494.003-0043~~, F.S., when acting as an independent contractor as defined in Rule 3D-40.001(9), F.A.C., for licensees pursuant to Sections ~~ss-~~ 494.006-.0077, F.S.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.001, 494.0025, 494.0041 FS. History--New 7-25-96, Amended \_\_\_\_\_.

3D-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 DBF-MX-888, Mortgage Brokerage and Lending Transaction Journal or a form substantially similar. Form DBF-MX-888 (revised 7-25-96) is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350.

(3) through (5) No change.

Specific Authority 494.0011(2), 494.0016(1),(4) FS. Law Implemented 120.695, 494.0016, 494.0072(1) FS. History--New 1-10-93, Amended 7-25-96, \_\_\_\_\_.

3D-40.270 Financial Guaranty in Lieu of Uniform Single Audit.

(1) A mortgage lender which services an aggregate value of less than \$7.5 million in outstanding mortgage loans and elects to provide a fidelity bond, financial guaranty bond, fidelity insurance, or other financial guaranty providing protection against theft, loss or other illegal diversion of funds in lieu of the single line audit required shall have such financial guaranty in full force and effect by the lender's first fiscal year end ~~after January 1, 1992~~. The financial guaranty shall designate the Department of Banking and Finance as the recipient of the amount of the financial guaranty.

(2) A mortgage lender electing to provide a financial guaranty in lieu of the single line audit shall document (monthly) the aggregate value of mortgage loans serviced on Form DBF-MX-887, or a form substantially the same. Form DBF-MX-887, Calculation of Aggregate Value of Mortgage Loans Serviced, effective 2-16-92, is incorporated by reference and available by writing, Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, FL 32399-0350. The lender shall maintain work-papers substantiating the aggregate value documented.

(3) through (4) No change.

(5) For the purposes of Section ~~s-~~ 120.695, F.S. a violation of the above rule shall not be considered a minor violation.

Specific Authority 494.0011(2), 494.0076(2)(b) FS. Law Implemented 120.695, 494.0072, 494.0076 FS. History--New 2-16-92, Amended 7-25-96, \_\_\_\_\_.

3D-40.280 Mortgage Lender Branch Office.

Specific Authority 494.0011(2) FS. Law Implemented 494.0066(2), 494.0072 FS. History--New 2-16-92, Repealed.

3D-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 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 DBF-MX-555 (effective 8/92), which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350, or on a format which is substantially similar to Form DBF-MX-555. ~~The effective date of the form is 8-24-92.~~

(2) through (3) No change.

(4) For purposes of Section ~~§~~ 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.0043, 494.0073, FS. History--New 8-24-92, Amended 7-25-96,                     .

3D-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 Section ~~§~~ 494.001(3)(2), F.S., ~~or~~ to be acting as a correspondent mortgage lender pursuant to Section 494.001(1), F.S., or a mortgage lender pursuant to Section ~~§~~ 494.001(4)(1), (3), 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 Section ~~§~~ 494.006(1)(h) and (i) 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, related to mortgage loans, by soliciting for borrowers, lenders or purchasers in a telephone directory;

(e) 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

(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.

Specific Authority 494.0011(2) FS. Law Implemented 494.001(4),(2),(3), 494.006(1)(h),(i) FS. History--New 1-10-93, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Securities/Finance

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES:	RULE NOS.:
Miscellaneous Charges	3D-50.001
Application Procedure for Motor Vehicle Retail Installment Seller License	3D-50.055
Motor Vehicle Retail Installment Seller Branch Office License	3D-50.058
Motor Vehicle Retail Installment and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation	3D-50.070

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-164, Laws of Florida; to incorporate changes to the application, renewal, and reactivation forms; and to make other technical and grammatical changes to Chapter 3D-50, FAC.

SUMMARY: New application, renewal, and reactivation forms are being adopted for motor vehicle retail installment sellers and their branch offices. Other substantive and technical changes are being proposed to conform Chapter 3D-50, FAC, with changes made by Chapter 99-164, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 520.03(2), 520.995(5) FS.

LAW IMPLEMENTED: 520.03(2),(3) FS.

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

TIME AND DATE: 1:00 p.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle, Division of Finance, Suite 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-50.001 Miscellaneous Charges.

(1) Other than the items and charges properly included as part of the cash price as defined in Section ~~s.~~ 520.02(2)(+), F.S., the following are the only charges permitted to be made by the retail installment seller. All authorized charges are permitted only to the extent they are actually paid, used, or disbursed for the purposes stated.

(a) Charges for taxes, prescribed by law, to the extent same are not included as part of the cash price.

(b) Charges for official fees as defined in Section ~~s.~~ 520.02(9)(8), F.S., and charges for licenses and other fees prescribed by law.

1. In order to support motor vehicle license charges and liens for perfecting any security interest in the collateral, the registration form provided by the Department of Motor Vehicles shall be maintained. In addition, the month of birth of the retail buyer must be shown on the face of the contract and the trade-in amount must be clearly described.

2. Charges for documentary excise tax must be supported by attaching documentary stamps to the appropriate document and canceling or by paying the appropriate amount of tax directly to the Department of Revenue and maintaining documentation necessary to determine compliance.

(c) Charges for insurance purchased by the retail buyer to the extent such charges are not included as part of the finance charge as defined in Section ~~s.~~ 520.02(5)(4), F.S. The type of such insurance shall be specifically noted on the contract. Vendors Single Interest Insurance (V.S.I.) coverage issued to a contract holder on a blanket form may also be written in addition to the buyer's physical damage coverage, and a charge made to the buyer provided the contract contains a provision

authorizing the contract holder to purchase the V.S.I. coverage. Should the contract holder purchase V.S.I. coverage at the time the contract is signed, the contract holder shall deliver or cause to be delivered to the buyer evidence of insurance at the time the contract is signed and the buyer shall receive a copy of the policy within thirty (30) days from the date the contract was signed.

(d) No change.

Specific Authority 17.29, 520.994(5) FS. Law Implemented 520.02, 520.07 FS. History—Renumbered from 3-6.01 to 3D-50.01 on 8-26-75, Amended 11-1-77, 4-22-84, Formerly 3D-50.01, Amended 7-10-96, \_\_\_\_\_

3D-50.055 Application Procedure for Motor Vehicle Retail Installment Seller License.

(1) Each person desiring to obtain licensure as a motor vehicle retail installment seller shall apply to the Department by submitting:

(a) ~~A~~ ~~a~~ completed Application for Motor Vehicle Retail Installment Seller License, Form DBF-HV-1, revised 10/99 ~~8-9-95~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350; and

(b) The statutory, ~~the~~ non-refundable application fee required by Section 520.03, F.S., of \$50.00 which shall be the fee for the annual period beginning January 1, 1996 until December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100 which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to s. 120.60(1)(2), F.S.

(3) through (4) No change.

(5) Upon approval of an application, a license will be issued for the remainder of the ~~annual~~ or biennial licensure period.

(6) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of ~~operating~~ a retail installment business, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the operation of ~~operating~~ a retail installment business, the applicant shall provide evidence

of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented ~~120.60(1)(2)~~ 520.03(2) FS. History--New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, \_\_\_\_\_.

3D-50.058 Motor Vehicle Retail Installment Seller Branch Office License.

(1) Every motor vehicle retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form DBF-HV-2, Application for Motor Vehicle Retail Installment Seller Branch Office License, revised 10/99 ~~8-9-95~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. Any office or location shall be deemed to be a branch office if the name or advertising of a motor vehicle retail installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address. If a motor vehicle retail installment seller has more than one location in the same county, only one license is required for that county.

(2) The statutory, non-refundable application fee for an initial branch office license required by Section 520.03, F.S., shall be the fee \$50.00 which shall be the fee for the annual period beginning January 1, 1996 through December 31, 1996 or any part thereof. ~~Effective January 1, 1997, the non-refundable application fee shall be \$100 for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section ~~s.~~ 120.60(1)(2), F.S.

(4) through (5) No change.

(6) Upon approval of an application, a license will be issued for the remainder of the ~~annual or~~ biennial licensure period.

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented ~~120.60(1)(2)~~ 520.03(2) FS. History--New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, \_\_\_\_\_.

3D-50.070 Motor Vehicle Retail Installment Seller and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation.

(1) Each active motor vehicle retail installment seller and motor vehicle retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year ~~annual period beginning January 1, 1996 and ending December 31, 1996~~, upon receipt of the statutory renewal fee required by Section 520.03, F.S. ~~of \$50.00~~ and the renewal/reactivation notice, Form DBF-MV-3, revised 10/99 ~~effective 12-18-93~~, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. ~~Effective January 1, 1997, each active motor vehicle retail installment seller and motor vehicle retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd year upon receipt of the renewal fee of \$100 and verifiable evidence of the existing license or renewal notice, Form DBF MV 3.~~

(2) If the Department has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to ~~automatically become~~ inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation ~~renewal~~ notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal notice and fee shall be considered submitted when received in the Department's cashier's office in Tallahassee, Florida.

(4) ~~The r~~Received date shall be the date stamped on the notice when received by the Department's cashier's office in Tallahassee, Florida.

(5) Engaging in a retail installment transaction as defined in Section ~~subsection~~ 520.02(15)(13), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person ~~license~~ to disciplinary action.

(6) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., Florida Statutes, then the renewals received on the next business day will be considered timely received.

Specific Authority 520.03(2),(3), 520.994(5) FS. Law Implemented 520.03(2),(3) FS. History--New 11-5-87, Amended 11-11-90, 12-18-93, 8-9-95, 9-29-96, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Finance  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

DEPARTMENT OF BANKING AND FINANCE

Division of Finance

RULE TITLES:	RULE NOS.:
Application Procedure for Retail Installment Seller License	3D-60.060
Retail Installment Seller Branch Office License	3D-60.065
Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation	3D-60.070

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-164, Laws of Florida; to incorporate changes to the application, renewal and reactivation forms; and to make other technical and grammatical changes to Chapter 3D-60, F.A.C.

SUMMARY: New application, renewal, and reactivation forms are being adopted for retail installment sellers and their branch offices. Other substantive and technical changes are being proposed to conform Chapter 3D-60, F.A.C., with changes made by Chapter 99-164, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 520.32(2), 520.994(5) FS.

LAW IMPLEMENTED: 520.32, 520.331 FS.

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

TIME AND DATE: 1:00 p.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle or Robert Pursell, Division of Finance, Suite 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-60.060 Application Procedure for Retail Installment Seller License.

(1) Each person desiring to obtain licensure as a retail installment seller shall apply to the Department by submitting the following:

(a) A completed Application for Retail Installment Seller License, Form DBF-HR-1, revised 10/99 8-9-95, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350; and

(b) The statutory ~~the~~ non-refundable application fee required by Section 520.32, F.S., ~~of \$ 50.00~~ which shall be the fee for the ~~annual period beginning January 1, 1996 until December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100, which shall be the fee for the~~ biennial period beginning January 1 of each odd- numbered year or any part thereof.

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section ~~520.32~~ 120.60(1)(2), F.S.

(3) through (4) No change.

(5) Upon approval of an application, a license will be issued for the remainder of the ~~annual or~~ biennial licensure period.

(6) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to ~~the operation of operating~~ a retail installment business, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction directly related to ~~the operation of operating~~ a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History--New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96.

3D-60.065 Retail Installment Seller Branch Office License.

(1) Every retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form DBF-HR-2, Application for Retail Installment Seller Branch Office License, revised 10-1-99 8-9-95, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. Any office or location shall be deemed to be a branch office if the name or advertising of a retail

installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.

(2) The statutory, non-refundable application fee required by Section 520.32, F.S., for an initial branch office license shall be \$50.00 ~~which shall be the fee for the annual period beginning January 1, 1996 through December 31, 1996 or any part thereof. Effective January 1, 1997, the non refundable application fee shall be \$100 for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar 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 Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1)(2), F.S.

(4) through (5) No change.

(6) Upon approval of an application, a license will be issued for the remainder of the ~~annual or~~ biennial licensure period.

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History--New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96,\_\_\_\_\_.

3D-60.070 Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation.

(1) Each active retail installment seller and retail installment seller branch office license shall be renewed for the for the biennial period beginning January 1 of each odd-numbered year annual period beginning January 1, 1996 and ending December 31, 1996, upon receipt of the statutory renewal fee required by Section 520.32, F.S., of \$50.00 and the renewal/reactivation notice, Form DBF-RS-3, revised 10/99 effective 12-18-93, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. ~~Effective January 1, 1997, each active retail installment seller and retail installment seller branch office shall be renewed for the biennial period beginning January 1 of each odd-numbered year upon receipt of the renewal fee of \$100 and verifiable evidence of the existing license or the renewal notice, Form DBF-RS-3.~~

(2) If the Department has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to automatically become inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal

fee, and the reactivation renewal notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal notice and fee shall be considered submitted when received in the Department's cashier's office in Tallahassee, Florida.

(4) ~~The r~~Received date shall be the date stamped on the notice when received by the Department's cashier's office in Tallahassee, Florida.

(5) Engaging in a retail installment transaction as defined in Section subsection 520.31(13)(14), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person license to disciplinary action.

(6) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., Florida Statutes, then the renewals received on the next business day will be considered timely received.

Specific Authority 520.32(2),(3), 520.994(5) FS. Law Implemented 520.32(2),(3) FS. History--New 11-5-87, Amended 11-11-90, 12-18-93, 8-9-95, 9-24-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Finance  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Finance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES:	RULE NOS.:
Application Procedure for Sales Finance	
Company License	3D-70.050
Sales Finance Company Branch Office License	3D-70.055
Sales Finance Company and Sales Finance	
Company Branch Office License Renewal and Reactivation	3D-70.060

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-164, Laws of Florida; to incorporate changes to the application, renewal, and reactivation forms; and to make other technical or grammatical changes to Chapter 3D-70, FAC.

SUMMARY: New application, renewal, and reactivation forms are being adopted for sales finance companies and their branch offices. Other substantive and technical changes are being proposed to conform Chapter 3D-70, FAC., with changes made by Chapter 99-164, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 520.52(2), 520.994(5) FS.

LAW IMPLEMENTED: 520.52 FS.

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

TIME AND DATE: 1:00 p.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle or Robert Pursell, Division of Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-70.050 Application Procedure for Sales Finance Company License.

(1) Each person desiring to obtain licensure as a sales finance company shall apply to the Department by submitting the following:

(a) ~~A~~ ~~a~~ completed Application for Sales Finance Company License, Form DBF-HI-1, revised ~~10/99~~ ~~8-9-95~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building~~, Tallahassee, Florida 32399-0350; and

(b) ~~The statutory~~ ~~the~~ non-refundable application fee ~~required by Section 520.52, F.S., of \$50.00~~ which shall be the fee for the ~~annual period beginning January 1, 1996 until December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100 which shall be the fee for the~~ biennial period beginning January 1 of each odd-numbered year or any part thereof.

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to ~~Section~~ ~~s.~~ 120.60(1)(~~2~~), F.S.

(3) through (4) No change.

(5) Upon approval of an application, a license will be issued for the remainder of the ~~annual~~ ~~or~~ biennial licensure period.

(6) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to ~~the operation of operating~~ a retail installment business, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction directly related to ~~the operation of operating~~ a retail installment business, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History--New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, \_\_\_\_\_.

3D-70.055 Sales Finance Company Branch Office License.

(1) Every sales finance company which conducts business in a branch office shall apply for a license to operate a branch office on Form DBF-HI-2, Application for Sales Finance Company Branch Office License, revised ~~10/99~~ ~~8-9-95~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, ~~101 East Gaines Street Suite 550, Fletcher Building~~, Tallahassee, Florida 32399-0350. Any office or location shall be deemed to be a branch if the name or advertising of a sales finance company shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.

(2) The statutory, non-refundable application fee for an initial branch office license required by Section 520.52, F.S., ~~shall be \$50.00 which shall be the fee for the annual period beginning January 1, 1996 through December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100 for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to ~~Section~~ ~~s.~~ 120.60(1)(~~2~~), F.S.

(4) through (5) No change.

(6) Upon approval of an application, a license will be issued for the remainder of the ~~annual~~ ~~or~~ biennial licensure period.

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History--New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, \_\_\_\_\_.



3D-70.060 Sales Finance Company and Sales Finance Company Branch Office License Renewal and Reactivation.

(1) Each active sales finance company and sales finance company branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year annual period beginning January 1, 1996 and ending December 31, 1996, upon receipt of the statutory renewal fee required by Section 520.52, F.S., of \$50.00 and the renewal/reactivation notice, Form DBF-SF-3, revised 10/99 effective 12-18-93, which is hereby incorporated by reference and available by mail from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. Effective January 1, 1997, each active sales finance company and sales finance company branch office license shall be renewed for the biennial period beginning January 1 of each odd year upon receipt of the renewal fee of \$100 and verifiable evidence of the existing license or the renewal notice, Form DBF-SF-3.

(2) If the Department has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to automatically become inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation renewal notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal notice and fee shall be considered submitted when received in the Department's cashier's office in Tallahassee, Florida.

(4) The received ~~Received~~ date shall be the date stamped on the notice when received by the Department's cashier's office in Tallahassee, Florida.

(5) Engaging in a business as a sales finance company as defined in Section subsection 520.31(16)(14), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person license to disciplinary action.

(6) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S. Florida Statutes, then the renewals received on the next business day will be considered timely received.

Specific Authority 520.52(2),(3), 520.994(5) FS. Law Implemented 520.52(2),(3) FS. History--New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Finance  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Finance  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES:	RULE NOS.:
Application Procedure for Home Improvement Finance Seller License	3D-80.015
Home Improvement Finance Seller and Home Improvement Seller Finance Branch Office License Renewal and Reactivation	3D-80.050
Home Improvement Finance Seller Branch Office License	3D-80.060

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-164, Laws of Florida; to incorporate changes to the application, renewal, and reactivation forms; and to make other technical or grammatical changes to Chapter 3D-80, FAC.

SUMMARY: New application, renewal, and reactivation forms are being adopted for home improvement finance sellers and their branch offices. Other substantive and technical changes are being proposed to conform Chapter 3D-80, FAC., with changes made by Chapter 99-164, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 520.63(2), 520.994(5) FS.

LAW IMPLEMENTED: 520.63 FS.

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

TIME AND DATE: 1:00 p.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle or Robert Pursell, Division of Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-80.015 Application Procedure for Home Improvement Finance Seller License.

(1) Each person desiring to obtain licensure as a home improvement finance seller shall apply to the Department by submitting the following:

(a) ~~A~~ a completed Application for Home Improvement Finance Seller License, Form DBF-HC-1, revised 10/99 8-9-95, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street LL-22, The Capitol, Tallahassee, Florida 32399-0350; and

(b) ~~The statutory~~ the non-refundable application fee required by Section 520.63, F.S., of \$50.00 which shall be the fee for the ~~annual period beginning January 1, 1996 until December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100 which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 520.63(1)(2), F.S.

(3) through (4) No change.

(5) Upon approval of an application, a license will be issued for the remainder of the ~~annual or~~ biennial licensure period.

(6) Restoration of Civil Rights.

(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of operating a retail installment business, the applicant shall provide evidence of restoration of rights.

(b) If one's civil rights have been restored and the conviction directly related to the operation of operating a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 520.63(2),(3), 520.994(5) FS. Law Implemented 520.63(2) FS. History--New 4-13-88, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, \_\_\_\_\_.

3D-80.050 Home Improvement Finance Seller and Home Improvement Finance Seller Branch Office License Renewal and Reactivation.

(1) Each active home improvement finance seller and home improvement finance seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year ~~annual period beginning January 1, 1996 and ending December 31, 1996~~, upon the receipt of the statutory renewal fee required by Section 520.63, F.S., of \$50.00 and the renewal/reactivation notice, Form DBF-HI-3, revised 10/99 effective 12-18-93, which is hereby incorporated by reference and available by mail from the Department of

Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. ~~Effective January 1, 1997 each active home improvement seller and home improvement seller branch office license shall be renewed for the biennial period beginning January 1 of each odd numbered year upon receipt of the renewal fee of \$100 and verifiable evidence of the existing license or the renewal form notice, Form DBF-HI-3.~~

(2) If the Department has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to automatically become inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation renewal notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal notice and fee shall be considered submitted when received in the Department's cashier's office in Tallahassee, Florida.

(4) ~~The received~~ Received date shall be the date stamped on the notice when received by the Department's cashier's office in Tallahassee, Florida.

(5) Acting as "home improvement finance seller" as defined in Section subsection 520.61(13)(42), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person license to disciplinary action.

(6) If December 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S. Florida Statutes, then the renewals received on the next business day will be considered timely received.

Specific Authority 520.63(2),(3), 520.994(5) FS. Law Implemented 520.63(2),(3) FS. History--New 4-13-88, Amended 11-11-90, 12-18-93, 9-29-96, \_\_\_\_\_.

3D-80.060 Home Improvement Finance Seller Branch Office License.

(1) Every home improvement finance seller which conducts home improvement business in a branch office shall apply for a license to operate a branch office on Form DBF-HC-2, Application for Home Improvement Finance Seller Branch Office License, revised 10/99 8-9-95, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350. Any office or location shall be deemed to be a branch office if the name or advertising of a home improvement finance seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.

(2) The statutory non-refundable application fee for an initial branch office license required by Section 520.63, F.S. shall be \$50.00 which shall be the fee for the biennial period

beginning January 1, 1996 through December 31, 1996 or any part thereof. Effective January 1, 1997, the non-refundable application fee shall be \$100 for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(3) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) calendar days after receipt of the application by the Department. The additional information must be received by the Department within forty-five (45) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar days from the date of request shall be construed by the Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section ~~§~~ 120.60(1)(2), F.S.

(4) through (5) No change.

(6) Upon approval of an application, a license will be issued for the remainder of the ~~annual~~ or biennial licensure period.

Specific Authority 520.63(2), 520.994(5) FS. Law Implemented 520.63(2) FS. History--New 4-13-88, Amended 5-9-90, 11-11-90, 8-9-95, 7-10-96, 9-29-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Finance  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Finance  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**DEPARTMENT OF BANKING AND FINANCE**

**Division of Finance**

RULE TITLES:	RULE NOS.:
Application Procedure for Consumer Finance License	3D-160.030
Consumer Finance License Renewal and Reactivation	3D-160.031

PURPOSE AND EFFECT: The purpose of the proposed amendments is to incorporate changes made by Chapter 99-164, Laws of Florida; to incorporate changes to the application, renewal, and reactivation forms; and to make other technical or grammatical changes to Chapter 3D-160, FAC.

SUMMARY: New application, renewal, and reactivation forms are being adopted for consumer finance companies. Other substantive and technical changes are being proposed to conform Chapter 3D-160, FAC., with changes made by Chapter 99-164, Laws of Florida, which take effect on October 1, 1999.

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

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

SPECIFIC AUTHORITY: 516.22(1), 516.23(3) FS.

LAW IMPLEMENTED: 516.03, 516.05, 516.07 FS.

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

TIME AND DATE: 1:00 p.m., October 11, 1999

PLACE: Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Bob Tedcastle or Robert Pursell, Division of Finance, Room 664, Fletcher Building, 101 East Gaines Street, Tallahassee, Florida 32399-0350, (850)410-9500

THE FULL TEXT OF THE PROPOSED RULES IS:

3D-160.030 Application Procedure for Consumer Finance License.

(1) Each person desiring to apply for licensure as a consumer finance company shall submit the following to the Department:

(a) A completed Application for Consumer Finance License, Form DBF-CF-301, revised 10/99 ~~10-1-95~~, which is hereby incorporated by reference and available from the Department of Banking and Finance, Division of Finance, 101 East Gaines Street Suite 550, Fletcher Building, Tallahassee, Florida 32399-0350;

(b) The statutory, non-refundable investigation fee required by Section 516.03, F.S. ~~of \$200.00~~;

(c) The statutory, biennial license fee required by Section 516.03, F.S., ~~of \$550.00~~, which is refundable upon denial of licensure; and

(d) Documentation that the applicant has liquid assets of at least \$25,000.00 for the operation of the consumer finance company.

(2) Request for Additional Information. Any request for additional information will be made by the Department within thirty (30) days after receipt of the application by the Department. The additional information must be received by the Department 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 Department as grounds for denial for failure to complete the application, and the application shall be denied pursuant to Section 120.60(1)(2), F.S. ~~Florida Statutes~~.

(3) through (4) No change.

(5) If one's civil rights have been restored and the conviction did not directly relate to the consumer finance industry, the applicant shall provide evidence of restoration of

civil rights. If one's civil rights have been restored and the conviction is directly related to the consumer finance industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

Specific Authority 516.22(1), 516.23(3) FS. Law Implemented 516.03(1), 516.05(1), 516.07 FS. History--New 12-18-88, Amended 5-9-90, 10-1-95, \_\_\_\_\_.

**3D-160.031 Consumer Finance License Renewal and Reactivation Revocation.**

~~(1) All active consumer finance licenses in effect during the period ending December 31, 1988, shall automatically become inactive on January 1, 1989, unless timely renewed.~~

~~(2) Each active consumer finance license will be renewed for the biennial period beginning January 1 of the renewal year, which is every odd-numbered year beginning January 1, 1989, and ending December 31 of the biennium period, which is every even-numbered year beginning December 31, 1990, upon submission of the renewal fee of \$550.00 and return of the renewal notice to the Department.~~

~~(2)(3) Failure to return the renewal notice and fee prior to January 1 of the renewal year shall automatically result in the license becoming inactive. The inactive license may be reactivated within six (6) months after becoming inactive upon payment of the biennial license fee; and payment of the reactivation fee which is a fee equal to the biennial license fee; and return of the reactivation renewal notice.~~

Specific Authority ~~20.05(5),~~ 516.22(1), 516.23(3) FS. Law Implemented 516.05(1), ~~516.05(2)~~ FS. History--New 12-13-88, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Tedcastle, Financial Administrator, Division of Finance  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Don Saxon, Director, Division of Finance  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 14, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**PUBLIC SERVICE COMMISSION**

DOCKET NO. 991138-TP

RULE TITLE: Regulatory Assessment Fees: RULE NO.:

Telecommunications Companies 25-4.0161  
PURPOSE AND EFFECT: The rule is being amended to reflect a change in the law implemented by the rule and to revise the regulatory assessment fee forms to include instructions about what amounts paid to other telecommunications companies are deductible. These

instructions are designed to assist the companies in calculating the fee and reduce the number of questions the companies will have.

SUMMARY: The revised rule reflects the change in s. 364.336, F.S., regarding deducting amounts paid to other telecommunications companies.

SUMMARY OF STATEMENT OF ESTMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 350.113, 364.336 FS.

WRITTEN COMMENTS OR SUGGESTIONS ON THE PROPOSED RULE MAY BE SUBMITTED TO THE FPSC, DIVISION OF RECORDS AND REPORTING, WITHIN 21 DAYS OF THE DATE OF THIS NOTICE FOR INCLUSION IN THE RECORD OF THE PROCEEDING.

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

TIME AND DATE: 9:30 a.m., October 20, 1999

PLACE: Room 152, Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Director of Appeals, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, Florida 32399-0862, (850)413-6245

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.0161 Regulatory Assessment Fees; Telecommunications Companies.

(1) As applicable and as provided in s. 350.113, F.S. and s. 364.336, F.S., ~~and s. 364.337, F.S.,~~ each company shall remit a fee based upon its gross operating revenue as provided below. This fee shall be referred to as a regulatory assessment fee, and each company shall pay a regulatory assessment fee in the amount of 0.0015 of its gross operating revenues derived from intrastate business. For the purpose of determining this fee, each ~~interexchange~~ telecommunications company ~~and each pay telephone company~~ shall deduct from gross operating revenues any amounts paid to another telecommunications company for the use of any for use of the local network to a telecommunications network to provide service to its customers, company providing local service. Regardless of the gross operating revenue of a company, a minimum annual regulatory assessment fee of \$50 shall be imposed.

(2) through (3) No change.

(4) Commission Form PSC/CMU 25 ~~(-1-)(07/96)~~, entitled "Local Exchange Communication Company Regulatory Assessment Fee Return," ~~applicable to local exchange~~

telecommunications companies; Form PSC/CMU 26 (-1-)(07/96), entitled "Pay Telephone Service Provider Regulatory Assessment Fee Return"; Form PSC/CMU 34 (-1-)(07/96), entitled "Shared Tenant Service Provider Regulatory Assessment Fee Return"; Form PSC/CMU 153 (-1-)(07/96), entitled "Interexchange Company Regulatory Assessment Fee Return"; and Form PSC/CMU 1 (-1-)(07/96), entitled "Alternative Access Vendor Regulatory Assessment Fee Return"; and Form PSC/CMU 7 (-1-)(07/96), entitled "Alternative Local Exchange Company Regulatory Assessment Fee Return" are incorporated into this rule by reference and may be obtained from the Commission's Division of Administration.

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

Specific Authority 350.127(2) FS. Law Implemented 350.113, 364.336-364.337(4) FS. History--New 5-18-83, formerly 25-4.161, Amended 10-16-86, 1-1-91, 12-29-91, 1-8-95, 12-26-95, 7-8-96.

NAME OF PERSON ORIGINATING PROPOSED RULE: Stephanie Cater

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 16, April 23, 1999

If any person decides to appeal any decision of the Commission with respect to any matter considered at the rulemaking hearing, if held, a record of the hearing is necessary. The appellant must ensure that a verbatim record, including testimony and evidence forming the basis of the appeal is made. The Commission usually makes a verbatim record of rulemaking hearings.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLES:	RULE NOS.:
Criteria for Selection of Investigators	61G8-14.009
Meetings	61G8-14.010
Designation of Official Reporter	61G8-14.011

PURPOSE AND EFFECT: The Board proposes to repeal Rule 61G8-14.009 because the Board does not have the authority. Rule 61G8-14.010 is being amended to delete unnecessary language and clarify the rule text with regard to meetings. The Board has determined that Rule 61G8-14.011 should be repealed because the Board is without authority.

SUMMARY: Rule 61G8-14.009 is being repealed by the Board because it does not have the authority. The Board has determined that amendments are necessary to Rule 61G8-14.010 to delete language that is no longer needed in an attempt to clarify other business involving the Board. The Board is repealing Rule 61G8-14.011 because the Board does not have the authority.

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

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

SPECIFIC AUTHORITY: 120.53(2)(a),(b),(c),(d), 455.203(8), 455.207(4) FS.

LAW IMPLEMENTED: 120.53(2)(a),(b),(c),(d),(4), 455.203, 455.207(3),(4) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-14.009 Criteria for Selection of Investigators.

Specific Authority 455.203(8) FS. Law Implemented 455.203 FS. History--New 10-15-81, Formerly 21J-14.09, 21J-14.009, Repealed.

61G8-14.010 Meetings.

The following meetings shall be considered to be official business involving the Board:

~~(1) Board meetings including properly noticed telephone conference calls.~~

~~(1)(2) Meetings of Committees appointed by the Chairman of the Board.~~

~~(3) Meetings of a Board member with Department of Business and Professional Regulation staff or contractors of the Department at the Department's request.~~

~~(2)(4) No change.~~

~~(5) Probable Cause Panel meetings.~~

Specific Authority 455.207(4) FS. Law Implemented 455.207(3),(4) FS. History--New 10-15-81, Formerly 21J-14.10, 21J-14.010, Amended.

61G8-14.011 Designation of Official Reporter.

Specific Authority 120.53(2)(a),(b),(c),(d) FS. Law Implemented 120.53(2)(a),(b),(c),(d),(4) FS. History--New 12-15-86, Formerly 21J-14.11, 21J-14.011, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Funeral Directors and  
Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLES:	RULE NOS.:
Examination Fees for Embalmers and Funeral Directors; Manner of Application	61G8-17.001
Application Fees; Manner of Application	61G8-17.002
Inactive Status License	61G8-17.0026
Delinquent License	61G8-17.0027
Fees	61G8-17.003
Continuing Education for Board Meetings	61G8-17.0045
Duplicate License Fee	61G8-17.007

PURPOSE AND EFFECT: The rule amendments will update the rule text for Rules 61G8-17.001, 17.002, 17.0026, 17.0027, 17.003 and 17.0045, and delete unnecessary language when appropriate in an attempt to clarify the rules. Rule 61G8-17.007 is being repealed by the Board.

SUMMARY: Rule 61G8-17.001 is being amended by the Board to notify applicants that all properly completed applications must be filed in the Board office at least ninety days prior to the date on which the examination is to be administered or the applicant shall schedule for the next available examination. Rule 61G8-17.002 is being amended to delete Subsection (1) because it is unnecessary and to notify applicants that their completed applications must be filed with the Board office at least ninety days prior to the date on which the examination is to be administered or the applicant shall schedule for the next available examination. Rule 61G8-17.0026 is being amended to delete Subsection (3) of the rule text because it is duplicative of s. 455.271(2), F.S. Rule 61G8-17.0027 is being amended to delete Subsections (1) and (2) of the rule text because the language is contained in ss. 455.271(5) and 455.271(6), F.S. Rule 61G8-17.003 is being amended by the Board to delete unnecessary language contained in Subsection (6) of this rule. Rule 61G8-17.0045 is being amended to delete language with the regard to members of the Board being able to receive credits because the Board may not award itself continuing education credits for carrying out its statutory duties. Rule 61G8-17.007 is being repealed because it duplicates language contained in Rule 61G8-17.0027(7).

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

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

SPECIFIC AUTHORITY: 455.213, 455.217, 455.219, 455.271, 470.005, 470.006, 470.007, 470.011, 470.015, 470.016 FS.

LAW IMPLEMENTED: 119.07(1)(a), (b), 120.53(1)(a), 455.213, 455.217, 455.2281, 455.271, 455.219, 470.006, 470.007, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-17.001 Examination Fees for Embalmers and Funeral Directors; Manner of Application.

- (1) through (3) No change.
- (4) All properly completed applications must be filed in the Board office at least ninety (90) days prior to the date on which the examination is to be administered. Otherwise the applicant shall schedule for the next available examination.
- (5) No change.

Specific Authority 470.005, 470.006 FS. Law Implemented 455.213, 455.217, 470.006, 470.009 FS. History—New 11-11-79, Amended 6-3-81, Formerly 21J-17.01, Amended 5-9-88, 3-28-90, 7-22-90, 6-25-91, Formerly 21J-17.001, Amended \_\_\_\_\_.

- 61G8-17.002 Application Fees; Manner of Application.
- (1) ~~Application fee for persons desiring to be licensed as a direct disposer shall be established by rule of the Department.~~
- (2) through (4) renumbered (1) through (3) No change.

(4)(5) All properly completed applications must be filed in the Board office at least ninety (90) days immediately preceding the first day of the month in which the examination is to be administered. Otherwise the applicant shall schedule for the next available examination.

- (5)(6) No change.

Specific Authority 455.213, 455.219, 470.007, 470.011 FS. Law Implemented 455.213, 455.219, 470.007, 470.011, 120.53(1)(a) FS. History—New 11-11-79, Amended 6-3-81, Formerly 21J-17.02, Amended 3-28-90, Formerly 21J-17.002, Amended 9-10-96, \_\_\_\_\_.

61G8-17.0026 Inactive Status License.

(1) through (2) No change.

~~(3) Any inactive licensee who elects active status is not eligible to elect to return to inactive status until the next licensure renewal period.~~

Specific Authority 455.271 FS., as created by Chapter 94-119, Laws of Florida. Law Implemented 455.271 FS., as created by Chapter 94-119, Laws of Florida. History--New 1-2-95, Amended.

61G8-17.0027 Delinquent License.

~~(1) The failure of any license holder to elect active or inactive status before the license expires shall cause the license to become delinquent.~~

~~(2) The delinquent status licensee must affirmatively apply for active or inactive status during the licensure cycle in which the license becomes delinquent. The failure by the delinquent status licensee to cause the license to become active or inactive before the expiration of the licensure cycle in which the license became delinquent shall render the license null and void without further action by the board or the department.~~

~~(3) The delinquent status licensee who applies for active or inactive license status shall:~~

~~(1)(a) No change.~~

~~(2)(b) No change.~~

~~(3)(c) No change.~~

Specific Authority 455.271 FS., as created by Chapter 94-119, Laws of Florida. Law Implemented 455.271 FS., as created by Chapter 94-119, Laws of Florida. History--New 1-2-95, Amended.

61G8-17.003 Fees.

(1) through (5) No change.

(6) In the event that a licensee or registrant changes name, legal documentation must be submitted to the Board office. ~~Such documentation would be an original court document or a certified copy of the court document signed by the legal officer of the jurisdiction (judge or clerk of the court), or the original or certified copy of a marriage certificate, including the book and page number where the marriage was registered.~~ A fee of \$25.00 will be required, in addition to the return of the original license. A duplicate license, reflecting the new name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

(7) through (12) No change.

Specific Authority 455.213(2), 455.219(3), 470.015, 470.016 FS. Law Implemented 455.213(2), 455.219(2),(3),(6), 455.2281, 470.015, 470.016, 470.018(1), 470.006(3), 470.009(3) FS. History--New 11-11-79, Amended 8-18-82, 4-10-84, Formerly 21J-17.03, Amended 3-10-91, 11-15-92, Formerly 21J-17.003, Amended 4-10-94, 1-10-95, 5-1-96, 9-10-96, 10-13-97, 1-4-98, 2-16-98, 10-12-98, \_\_\_\_\_.

61G8-17.0045 Continuing Education for Board Meetings.

Five (5) hours of continuing professional education may be obtained by attending one full day or eight (8) hours, whichever is more, of disciplinary hearings at a regular meeting of the Board in compliance with the following:

(1) through (2) No change.

(3) The licensee must sign out with the Executive Director of the Board, or designee, at the end of the meeting day or at such other earlier time as affirmatively authorized by the Board. The licensee may receive credit for attending the disciplinary portion of a Board meeting only if the licensee is attending on that day solely for that purpose. The licensee may not receive such credit if the licensee is appearing at the Board meeting for another purpose. ~~Members of the Board may receive five (5) credits for attendance at one full day of disciplinary hearings at a regular meeting of the Board.~~

(4) No change.

Specific Authority 470.005 FS. Law Implemented 470.006, 470.007, 470.009, 470.011, 470.015, 470.017 FS. History--New 1-8-95, Amended.

61G8-17.007 Duplicate License Fee.

Specific Authority 470.005 FS. Law Implemented 119.07(1)(a),(b) FS. History--New 12-18-90, Formerly 21J-17.07, 21J-17.007, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: \_\_\_\_\_ RULE NO.:

Continuing Education for License Renewal 61G8-17.0034

PURPOSE AND EFFECT: The Board, pursuant to Section 455.273, F.S., finds it necessary to update the rule text in order to comply with the statute.

SUMMARY: The Board is amending this rule to notify licensees that the Department will forward a licensure renewal notification to an active or inactive licensee at the last known address of record at least 90 days before the end of licensure cycle.

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

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

SPECIFIC AUTHORITY: 470.005(1), 470.015(1), 470.018 FS.

LAW IMPLEMENTED: 455.273, 470.015, 470.018 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED AT THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-17.0034 Continuing Education for License Renewal.

(1) through (3) No change.

(4) During the license renewal period of ~~ninety (90)~~ ~~sixty~~ days prior to the end of the biennium, the Department shall send to each license/registration holder at the last address of record, a notice for renewal. Failure to receive any notification during this period does not relieve the continuing education requirements or waive the license expiration date. The application for renewal shall include a statement in which the licensee shall declare that during the biennium preceding renewal, he or she completed the required hours of approved continuing education.

(5) through (6) No change.

Specific Authority 470.005(1), 470.015(1), 470.018 FS. Law Implemented ~~455.273~~, 470.015, 470.018 FS. History--New 4-10-94, Amended 3-14-95, 7-25-95, 9-25-95, 9-25-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: Disciplinary Provision RULE NO.: 61G8-18.005

PURPOSE AND EFFECT: The purpose is to repeal this rule because the rule is no longer needed.

SUMMARY: The Board is repealing this rule because the rule text is duplicative of s. 470.036, F.S., thus making this rule unnecessary.

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

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

SPECIFIC AUTHORITY: 470.005, 470.008, 470.012 FS.

LAW IMPLEMENTED: 470.008, 470.012 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-18.005 Disciplinary Provisions.

Specific Authority 470.005, 470.008, 470.012 FS. Law Implemented 470.008, 470.012 FS. History--New 11-11-79, Formerly 21J-18.05, 21J-18.005, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Director and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLES:	RULE NOS.:
Reciprocity Agreements	61G8-19.001
Requirements for Reciprocity	61G8-19.002
Reciprocal Agreements for Temporary Emergency Licensure	61G8-19.003

PURPOSE AND EFFECT: The purpose is to repeal these rules because they are no longer needed.

SUMMARY: The Board is repealing Rules 61G8-19.001 and 19.002 because even though the Board has the authority to enter in reciprocity agreements with other states, such authority does not authorize the Board to allow out of state applicants to become licensed in Florida without meeting either the licensure by application or endorsement requirements. Rule 61G8-19.003 is being repealed because the Board is without authority to issue temporary emergency licensure.

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



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

SPECIFIC AUTHORITY: 470.005 FS.

LAW IMPLEMENTED: 470.038 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-19.001 Reciprocity Agreements.

Specific Authority 470.005 FS. Law Implemented 470.038 FS. History--New 1-1-80, Formerly 21J-19.01, 21J-19.001, Repealed.

61G8-19.002 Requirements for Reciprocity.

Specific Authority 470.005 FS. Law Implemented 470.038 FS. History--New 1-1-80, Formerly 21J-19.02, 21J-19.002, Repealed.

61G8-19.003 Reciprocal Agreements for Temporary Emergency Licensure.

Specific Authority 470.005 FS. Law Implemented 470.038 FS. History--New 10-21-91, Formerly 21J-19.003, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Director and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Funeral Directors and Embalmers

RULE TITLES:	RULE NOS.:
Licensure Procedure; Consequences of Operating Prior to Licensure	61G8-21.001
Branch Chapel	61G8-21.0015
Fees	61G8-21.004

PURPOSE AND EFFECT: The Board proposes to delete language in Rule 61G8-21.001 that is no longer needed. The Board is repealing Rule 61G8-21.0015 because it duplicates language already contained in Florida Statutes. The Board has determined that Rule 61G8-21.004 should be amended to inform applicants how to obtain a duplicate license and if a licensed establishment changes its business name, notification

of the name change shall be submitted along with the proper documentation. In addition, language that is no longer necessary is being deleted from this proposed rule.

SUMMARY: The Board has determined that Rule 61G8-21.001 should be amended to delete unnecessary language. The repeal of Rule 61G8-21.0015 is necessary because it duplicates s. 470.0395(3), F.S. Rule 61G8-21.004 is being amended by the Board to update the rule text to inform licensees that if they wish to obtain a duplicate license, they must inform the department and pay the appropriate fee to the department and in the event a licensed establishment or individual changes their name, the proper documentation shall be submitted to the Board office.

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

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

SPECIFIC AUTHORITY: 470.005, 470.024 FS.

LAW IMPLEMENTED: 455.213(2), 455.219(6), 470.005, 470.024, 470.025(7)(b), 470.031(10) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-21.001 Licensure Procedure; Consequences of Operating Prior to Licensure.

Applications for funeral establishment licensure shall be filed with the Department at least 30 days prior to the date the establishment is scheduled to open for business.

(1) ~~The chairman shall designate a board member or the executive director to review all applications for funeral establishment licensure.~~ The Department shall issue a license to any applicant the designee certifies as having met the licensure requirements specified in this rule and in Section 470.024, F.S., received a satisfactory rating on an inspection pursuant to Rule 61G8-21.003, F.A.C., and paid the fee specified in Rule 61G8-21.004, F.A.C.

(2) through (3) No change.

~~(4) If the designee fails to certify an applicant for licensure then his application shall be considered by the Board at the next available board meeting.~~

~~(4)(5)~~ No funeral establishment shall be operated or be opened for business prior to the issuance of a funeral establishment license by the Department for that establishment. Violation of this section shall be grounds for denial of licensure.

Specific Authority 470.005, 470.024 FS. Law Implemented 470.024, 455.213 FS. History--New 2-13-80, Amended 3-26-84, Formerly 21J-21.01, Amended 10-21-91, Formerly 21J-21.001, Amended.

61G8-21.0015 Branch Chapels.

Specific Authority 470.024(10), 470.005 FS. Law Implemented 470.024(10), 470.005 FS. History--New 10-15-81, Formerly 21J-21.015, 21J-21.0015, Repealed.

61G8-21.004 Fees.

(1) through (5) No change.

(6) The fee for each duplicate license shall be \$25. To obtain a duplicate license, a licensee must inform the department that the licensee needs a duplicate license and

~~(a) file a written statement with the department that the license has been lost, stolen, or destroyed;~~

~~(b) pay the duplicate license fee to the department.~~

~~(7)(e)~~ In the event that a licensed establishment changes its licensed name, the Board office shall be notified within 30 days. Such notification shall include documentation of the name change ~~should include copies of the filed articles of incorporation, articles of amendment, articles of merger, or fictitious name registration, as filed with the Florida Secretary of State's office,~~ as well as a \$25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name, will be generated upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

~~(8)(d)~~ In the event that a licensed individual changes his or her name, legal documentation must be submitted to the Board office. ~~Such documentation would be an original court document or a certified copy of the court document signed by the legal officer of the jurisdiction (judge or clerk of the court), or the original or certified copy of a marriage certificate, including the book and page number where the marriage was registered.~~ A fee of \$25.00 will be required, in addition to the original license. A duplicate license, reflecting the new name, will be generated upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the Department's possession.

Specific Authority 470.005, 470.024(3),(4),(10) FS. Law Implemented 455.219(6), 470.024(4), 470.025(7)(b) FS. History--New 2-13-80, Formerly 21J-21.04, Amended 3-29-90, 12-18-90, Formerly 21J-21.004, Amended 3-30-94, 5-1-96, 9-17-97, 10-29-97, 2-16-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLES: RULE NOS.:

Application for Licensure; Consequences of Operating Prior to Licensure 61G8-22.001  
Fees 61G8-22.003

PURPOSE AND EFFECT: The Board proposes to amend Rule 61G8-22.001 to delete portions of the rule that are unnecessary. The Board has determined that amendments are necessary to update the rule text for Rule 61G8-22.003.

SUMMARY: Rule 61G8-22.001 is being amended by the Board by deleting Subsections (2) and (3), as the language is no longer necessary. The Board proposes to amend Rule 61G8-22.003 to inform licensees that they must inform the department if they wish to obtain a duplicate license and pay the appropriate fee, and language contained in Subsection (5) is being deleted because the Board has no authority to require any particular type of documentation verifying an establishment name change, but the establishment only needs to document the change and a copy of any legal document verifying the name change will be acceptable.

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

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

SPECIFIC AUTHORITY: 470.005, 470.025(2) FS.

LAW IMPLEMENTED: 455.219(6), 470.025(2),(3) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-22.001 Application for Licensure; Consequences of Operating Prior to Licensure.

(1) No change.

~~(2) If the designee fails to certify an applicant for licensure then his application shall be considered by the Board at the next available board meeting.~~

~~(3) No cinerator facility shall be operated or be open for business prior to issuance of a cinerator facility license by the Department for that facility. Violation of this section shall be grounds for denial of licensure.~~

~~(2)(4)~~ A cinerator facility may be colocated with a direct disposal establishment provided that only one cinerator facility and one direct disposal establishment may be so colocated.

Specific Authority 470.005 FS. Law Implemented 470.021(1), 470.025(2), 455.213(2) FS. History--New 2-13-80, Formerly 21J-22.01, Amended 5-19-92, Formerly 21J-22.001, Amended 10-29-97, \_\_\_\_\_.

61G8-22.003 Fees.

(1) through (3) No change.

(4) The fee for each duplicate license shall be \$25. To obtain a duplicate license, a licensee must inform the department that the licensee needs a duplicate license and

~~(a) file a written statement with the department that the license has been lost, stolen, or destroyed;~~

~~(b) pay the duplicate license fee to the department.~~

~~(5)(e)~~ In the event that a licensed establishment changes its licensed business name, the Board office shall be notified within 30 days. Such notification shall include documentation of the name change ~~copies of the filed articles of incorporation, articles of amendment, articles of merger, or fictitious name registration, as filed with the Florida Secretary of State's Office,~~ as well as a \$25.00 duplicate license fee and the original license. A duplicate license, reflecting the new business name will be generated, upon receipt of the original license and completion of these requirements. Documentation submitted will remain in the department's possession.

Specific Authority 470.025(2),(3), 470.005 FS. Law Implemented 455.219(6), 470.025(2),(3) FS. History--New 2-13-80, Formerly 21J-22.03, Amended 4-1-90, 12-18-90, Formerly 21J-22.003, Amended 2-21-95, 7-4-95, 9-17-97, 2-16-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLES:	RULE NOS.:
Manner of Application	61G8-23.001
Disciplinary Actions	61G8-23.003
Direct Disposal Establishments	61G8-23.004

PURPOSE AND EFFECT: The Board proposes to amend Rule 61G8-23.001 by deleting certain language that is no longer needed. The Board is repealing Rule 61G8-23.003. The Board has determined that Rule 61G8-23.004 should be amended to update the rule text.

SUMMARY: The Board has determined that it is necessary to amend Rule 61G8-23.001 to delete Subsection (1) because it repeats language contained in s. 470.017(2) and Subsection (2) should be deleted because the language is no longer needed. Rule 61G8-23.003 is being repealed because it is unnecessary. The Board proposes to amend 61G8-23.004 to delete unnecessary language and to inform licensed establishments if their business changes its name, the Board office shall be notified within 30 days with documentation of the name change.

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

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

SPECIFIC AUTHORITY: 470.005, 470.017, 470.019 FS.

LAW IMPLEMENTED: 455.219(6), 455.225, 455.227, 470.021, 470.017, 470.019 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULES IS:

61G8-23.001 Manner of Application.

~~(1) Applicants who are at least 18 years of age, high school graduates or the equivalent of such, have no conviction or finding of guilt for crimes which directly relate to the practice of direct disposition or the duties and functions of direct disposers may apply to take the registration examination.~~



61G8-24.033 Fees.

(1) The fee for each duplicate license shall be \$25. To obtain a duplicate license, a licensee must inform the department that the licensee needs a duplicate license and-

~~(a) file a written statement with the department that the license has been lost, stolen, or destroyed;~~

~~(b) pay the duplicate license fee to the department.~~

(2) No change.

Specific Authority 470.005, 470.0301 FS. Law Implemented 470.0301 FS. History--New 5-21-95, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: Registration as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration  
RULE NO.: 61G8-25.003

PURPOSE AND EFFECT: The proposed rule amendments will notify applicants the Board shall issue the applicant a letter authorizing temporary practice.

SUMMARY: Rule 61G8-25.003 is being amended by the Board to notify applicants that the Board shall be responsible for the issuance of letters authorizing temporary practice rather than the Board's executive director.

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

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

SPECIFIC AUTHORITY: 470.005, 470.007(5), 470.011(5) FS.

LAW IMPLEMENTED: 470.007(5), 470.011(5) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED AT THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-25.003 Registration as Temporary Embalmer or Temporary Funeral Director; Manner of Requesting and Fee; Practice Limitations; Expiration.

(1) through (2) No change.

(3) After verifying that the applicant meets the requirements of s. 470.007(1)(a) or s. 470.011(1)(a), F.S., and has paid the registration fee, the ~~Board~~ ~~Board's executive director~~ shall issue the applicant a letter authorizing temporary practice which the applicant shall keep readily available for inspection by the Board or inspectors of the Department of Business and Professional Regulation. In the event the executive director is unable to verify that the applicant meets all the requirements for temporary practice, the applicant's request shall be presented to the Board at its next available meeting for decision.

(4) through (6) No change.

Specific Authority 470.005, 470.007(5), 470.011(5) FS. Law Implemented 470.007(5), 470.011(5) FS. History--New 10-25-92, Amended 5-20-93, Formerly 21J-25.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 2, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: False, Fraudulent, Deceptive and Misleading Advertising  
RULE NO.: 61G8-29.001

PURPOSE AND EFFECT: The Board proposes to update the proposed rule by deleting unnecessary rule text.

SUMMARY: The Board has determined that language referring to non-Florida licensed funeral establishments which advertise offering of services or merchandise from any location within this state must do so through a Florida licensed establishment should be deleted from this proposed rule as it is no longer needed.

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

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

SPECIFIC AUTHORITY: 470.005 FS.

LAW IMPLEMENTED: 470.036 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-29.001 False, Fraudulent, Deceptive and Misleading Advertising.

(1) through (4) No change.

(5) ~~Non Florida licensed funeral establishments which advertise offering of services or merchandise from any location within this state must do so through a Florida licensed establishment.~~ Whenever a Florida licensed establishment permits its name, address, telephone number or other references to be used in any advertising of goods or services for or by a non-Florida licensed establishment, the words "representing" or "represented by" or words of substantial equivalence and the name of the Florida establishment shall be utilized therein. Failure to include the language required herein shall be deemed to be advertising goods or services in a manner which is false, fraudulent, deceptive and misleading in form or content.

Specific Authority 470.005 FS. Law Implemented 470.036 FS. History—New 1-5-86, Formerly 21J-29.001, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: Procedure Required RULE NO.: 61G8-31.001

PURPOSE AND EFFECT: The Board proposes to update the rule text by deleting unnecessary language.

SUMMARY: The Board has determined that Subsection (1) of this rule should be deleted as it is no longer necessary.

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

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

SPECIFIC AUTHORITY: 470.005 FS.

LAW IMPLEMENTED: 470.0255 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY:

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-31.001 Procedure Required.

~~(1) Any funeral establishment or funeral director entering into an arrangement to provide cremation services shall be required to obtain from the person contracting for cremation services a signed declaration designating specific intentions with respect to the disposition of the cremated remains. The following is a suggested form for such declaration:~~

~~DECLARATION OF INTENT FOR DISPOSITION OF CREMATED REMAINS~~

~~I, \_\_\_\_\_ (NAME OF PERSON ARRANGING FOR CREMATION) hereby declare my intention that the cremated remains of \_\_\_\_\_ (NAME OF DECEASED), whose cremation I have arranged with \_\_\_\_\_ (NAME OF FUNERAL ESTABLISHMENT) and whose cremated remains will be in the possession of \_\_\_\_\_ (NAME OF FUNERAL ESTABLISHMENT), be disposed of in the following manner:~~

~~I am aware that after a period of 120 days from the date of cremation, if I have not claimed the cremated remains of \_\_\_\_\_ (NAME OF DECEASED), then pursuant to Section~~

~~470.0255, Florida Statutes, the above named funeral establishment may lawfully dispose of the unclaimed cremated remains.~~

~~SIGNATURE OF SIGNATURE OF PERSON FUNERAL ARRANGING DIRECTOR CREMATION IN CHARGE~~

~~DATE DATE~~

- (1)(2) No change.
- (2)(3) No change.

Specific Authority 470.005 FS. Law Implemented 470.0255 FS. History--New 8-8-88, Amended 1-8-89, Formerly 21J-31.001, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Funeral Directors and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 30, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral Directors and Embalmers**

RULE TITLE: Course Requirements

RULE NO.: 61G8-32.001

PURPOSE AND EFFECT: The purpose is to repeal this rule because the rule is no longer needed.

SUMMARY: The Board is repealing this rule because the rule text is duplicative of s. 455.2226, F.S.

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

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

SPECIFIC AUTHORITY: 455.2226(6), 470.005, 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS.

LAW IMPLEMENTED: 455.2226, 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT AVAILABLE ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Madeline Smith, Executive Director, Board of Funeral Directors and Embalmers, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0754

THE FULL TEXT OF THE PROPOSED RULE IS:

61G8-32.001 Course Requirements.

Specific Authority 455.2226(6), 470.005, 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS. Law Implemented 455.2226, 470.006, 470.007, 470.008, 470.009, 470.011, 470.015, 470.016, 470.017, 470.018 FS. History--New 5-24-89, Amended 2-14-90, Formerly 21J-32.001, Amended 10-29-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Funeral Director and Embalmers

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Funeral Directors and Embalmers

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 17, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Definitions

RULE NO.: 61G15-18.011

PURPOSE AND EFFECT: The purpose is to amend to this rule to expand the definitions.

SUMMARY: The Board has determined that a new definition should be added which will define the terms "registered engineer whose principal practice is civil or structural engineering."

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

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

SPECIFIC AUTHORITY: 471.008, 471.003(2)(f), 471.013(1)(a)1., 2. FS.

LAW IMPLEMENTED: 471.005(6), 471.025(3), 471.033(1)(j), 471.003(2)(f), 471.013(1)(a)1., 2. FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-18.011 Definitions.  
 (1) through (4) No change.

(5) A “registered engineer whose principal practice is civil or structural engineering.” as used in the ss. 471.003(3) and 481.229(4), F.S., shall mean an engineer licensed in Florida who either has a degree in civil or structural engineering, or has successfully completed the principles and practice examination in either discipline.

Specific Authority 471.008, 471.003(2)(f), 471.013(1)(a)1.,2. FS. Law Implemented 471.005(6), 471.025(3), 471.033(1)(j), 471.003(2)(f), 471.013(1)(a)1.,2. FS. History—New 6-23-80, Amended 12-19-82, 11-22-83, Formerly 21H-18.11, Amended 1-16-91, 4-4-93, Formerly 21H-18.011, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Board of Professional Engineers  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 1999  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 6, 1999

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Areas of Competency and Grading Criteria      RULE NO.: 61G15-21.002

PURPOSE AND EFFECT: The Board has determined that it is necessary to reword this proposed rule to clarify the contents.

SUMMARY: The Board has determined that a substantial rewording of this rule is necessary to clarify the areas of competency and the grading criteria for the fundamentals and principles and practice examinations. The rule text will provide the number of problems or the approximate percentage of questions for each area.

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

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

SPECIFIC AUTHORITY: 455.217(1)(c), 471.013 FS.

LAW IMPLEMENTED: 455.217(1)(c), 471.03 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE NOTICED IN THE NEXT ISSUE OF THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dennis Barton, Executive Director, Board of Professional Engineers, 1208 Hays Street, Tallahassee, Florida 32301

THE FULL TEXT OF THE PROPOSED RULE IS:

(Substantial rewording of rule 61G15-21.002 follows. See Florida Administrative Code for present text.)

61G15-21.002 Areas of Competency and Grading Criteria.

(1) The Engineering Fundamentals Examination shall include all questions and problems on subjects normally connected with the basic fundamentals of engineering education. The Fundamentals of the Engineering Examination is an eight-hour supplied reference examination: 120 one-point questions in the four-hour morning session and 60 two-point questions in the four-hour afternoon session. The morning session is common to all disciplines, and examinees shall work all questions in this session. Listed below are the topics that the examination will cover and the percentage of questions.

<u>Morning Session Disciplines</u>	<u>Percentage of Questions</u>
<u>Chemistry</u>	<u>9%</u>
<u>Computers</u>	<u>6%</u>
<u>Dynamics</u>	<u>7%</u>
<u>Electrical Circuits</u>	<u>10%</u>
<u>Engineering Economics</u>	<u>4%</u>
<u>Ethics</u>	<u>4%</u>
<u>Fluid Mechanics</u>	<u>7%</u>
<u>Materials Science/Structure of Matter</u>	<u>7%</u>
<u>Mathematics</u>	<u>20%</u>
<u>Mechanics of Materials</u>	<u>7%</u>
<u>Statics</u>	<u>10%</u>
<u>Thermodynamics</u>	<u>9%</u>

The afternoon session is administered for five disciplines with a general engineering section for all remaining disciplines. Examinees will work all questions in the afternoon section for which they have chosen. Listed below are the five disciplines and a general engineering section and the percentage of questions.

<u>Afternoon Session Disciplines</u>	<u>Percentage of Questions</u>
<u>Chemical</u>	
<u>Chemical Reaction Engineering</u>	<u>10%</u>
<u>Chemical Thermodynamics</u>	<u>10%</u>
<u>Computer &amp; Numerical Methods</u>	<u>5%</u>
<u>Heat Transfer</u>	<u>10%</u>
<u>Mass Transfer</u>	<u>10%</u>
<u>Material/Energy Balances</u>	<u>15%</u>
<u>Pollution Prevention</u>	<u>5%</u>
<u>Process Control</u>	<u>5%</u>
<u>Process Design &amp; Economics Evaluation</u>	<u>10%</u>
<u>Process Equipment Design</u>	<u>5%</u>
<u>Process Safety</u>	<u>5%</u>
<u>Transport Phenomena</u>	<u>10%</u>
<u>Civil</u>	
<u>Computers &amp; Numerical Methods</u>	<u>10%</u>



<u>Construction Management</u>	5%	
<u>Environmental Engineering</u>	10%	
<u>Hydraulics &amp; Hydrologic Systems</u>	10%	
<u>Legal &amp; Professional Aspects</u>	5%	
<u>Soil Mechanics &amp; Foundations</u>	10%	
<u>Structural Analysis</u>	10%	
<u>Structural Design</u>	10%	
<u>Surveying</u>	10%	
<u>Transportation Facilities</u>	10%	
<u>Water Purification &amp; Treatment</u>	10%	
<u>Electrical</u>		<u>Percentage of Questions</u>
<u>Analog Electronic Circuits</u>	10%	
<u>Communications Theory</u>	10%	
<u>Computer &amp; Numerical Methods</u>	5%	
<u>Computer Hardware Engineering</u>	5%	
<u>Computer Software Engineering</u>	5%	
<u>Control Systems Theory &amp; Analysis</u>	10%	
<u>Digital Systems</u>	10%	
<u>Electromagnetic Theory &amp; Applications</u>	10%	
<u>Instrumentation</u>	5%	
<u>Network Analysis</u>	10%	
<u>Power Systems</u>	5%	
<u>Signal Processing</u>	5%	
<u>Solid State Electronics &amp; Devices</u>	10%	
<u>Industrial</u>		
<u>Computer Computations &amp; Modeling</u>	5%	
<u>Design of Industrial Experiments</u>	5%	
<u>Engineering Economics</u>	5%	
<u>Engineering Statistics</u>	5%	
<u>Facility Design &amp; Location</u>	5%	
<u>Industrial Cost Analysis</u>	5%	
<u>Industrial Ergonomics</u>	5%	
<u>Industrial Management</u>	5%	
<u>Information System Design</u>	5%	
<u>Manufacturing Processes</u>	5%	
<u>Manufacturing Systems Design</u>	5%	
<u>Material Handling System Design</u>	5%	
<u>Mathematical Optimization &amp; Modeling</u>	5%	
<u>Production Planning &amp; Scheduling</u>	5%	
<u>Productivity Measurement &amp; Management</u>	5%	
<u>Queuing Theory &amp; Modeling</u>	5%	
<u>Simulation</u>	5%	
<u>Statistical Quality Control</u>	5%	
<u>Total Quality Management</u>	5%	
<u>Work Performance &amp; Methods</u>	5%	
<u>Mechanical</u>		<u>Percentage of Questions</u>
<u>Automatic Controls</u>	5%	
<u>Computer</u>	5%	
<u>Dynamic Systems</u>	10%	
<u>Energy Conversion &amp; Power Plants</u>	5%	

<u>Fans, Pumps, &amp; Compressors</u>	5%
<u>Fluid Mechanics</u>	10%
<u>Heat Transfer</u>	10%
<u>Material Behavior/Processing</u>	5%
<u>Measurement &amp; Instrumentation</u>	10%
<u>Mechanical Design</u>	10%
<u>Refrigeration &amp; HVAC</u>	5%
<u>Stress Analysis</u>	10%
<u>Thermodynamics</u>	10%
<u>General</u>	
<u>Chemistry</u>	7.5%
<u>Computers</u>	5%
<u>Dynamics</u>	7.5%
<u>Electrical Circuits</u>	10%
<u>Engineering Economics</u>	5%
<u>Ethics</u>	5%
<u>Fluid Mechanics</u>	7.5%
<u>Material Science/Structure of Matter</u>	5%
<u>Mathematics</u>	20%
<u>Mechanics of Material</u>	7.5%
<u>Statics</u>	10%
<u>Thermodynamics</u>	10%

(2) Part Two of the examination shall be based on Professional Practice and Principles and shall be devoted primarily to the field of the applicant's finding solutions to problems designed to test the applicant's ability to apply acceptable engineering practice to problems which are representative of his discipline. Applicants for registration must select one of the listed specializations in which to be examined. The Board may also authorize examinations in other engineering disciplines when the Board determines that such disciplines warrant the giving of a separate examination in terms of cost effectiveness and acceptability in the profession of engineering.

(3) Part Two of the examination has traditionally required the applicant to solve from seven to ten problems which the applicant may choose from approximately twenty problems drawn from a test pattern. Effective October, 1999, the examinations in Agricultural, Environmental, Fire Protection, Ship Design, Industrial, and Petroleum will be offered in a 100% objectively scored (multiple choice) format. Effective April, 2000, the examinations in Chemical and Structural I will be offered in a 100% objectively scored (multiple choice) format. The competency areas in each discipline are set forth as follows, and each area will indicate the number of problems, or the approximate percentage of the examination.

(a) Agricultural –	<u>Number of Problems</u>
<u>Design of Drainage Systems</u>	1
<u>Design of Irrigation Systems</u>	2
<u>Design of Power and Energy Systems</u>	1
<u>Applications and Operational Analysis of Power and Energy Systems</u>	1
<u>Design of Machinery and Control Systems</u>	2
<u>Applications and Operational Analysis of Machinery and Control Systems</u>	1
<u>Design of Structures</u>	2

<u>Applications and Operational Analysis of Structures</u>	1	<u>Codes and Standards</u>	10%
<u>Design of Environmental Systems</u>	1	<u>Documentation</u>	8%
<u>Applications and Operational Analysis of Environmental Systems</u>	1	<u>Economics of Control</u>	2%
<u>Design of Waste Management Systems</u>	1	<u>(e) Electrical –</u>	<u>Number of Problems</u>
<u>Design of Soil and Water Conservation Systems</u>	2	<u>Fundamental Design of Generation Systems</u>	1
<u>Design of Crop Handling and Processing Systems</u>	2	<u>Final Design and Applications of Generation Systems</u>	1
<u>Design of Food Engineering Systems</u>	1	<u>Fundamental Design of Transmission and Distribution Systems</u>	1
<u>Applications and Operational Analysis of Food Engineering Systems</u>	1	<u>Final Design and Applications of Transmission and Distribution Systems</u>	2
<u>(b) Chemical –</u>	<u>Number of Problems</u>	<u>Final Design and Applications of Rotating Machines</u>	1
<u>Fluids</u>	3	<u>Final Design and Applications of Instrumentation</u>	1
<u>Heat Transfer</u>	3	<u>Final Design and Applications of Lightning Protection and Grounding</u>	1
<u>Kinetics</u>	2	<u>Design of Control Systems</u>	2
<u>Mass and Energy Balances</u>	4	<u>Design of Electronic Devices</u>	2
<u>Mass Transfer</u>	3	<u>Applications of Electronic Devices</u>	1
<u>Plant Design</u>	3	<u>Design of Instrumentation</u>	1
<u>(c) Civil –</u>	<u>Number of Problems</u>	<u>Applications of Instrumentation</u>	1
<u>Design and Analysis of Traffic Systems</u>	1	<u>Design of Digital Systems</u>	2
<u>Operations of Traffic Systems</u>	1	<u>Design of Computer Systems</u>	2
<u>Design and Analysis of Transportation Facilities</u>	2	<u>Applications of Computer Systems</u>	1
<u>Construction of Transportation Facilities</u>	1	<u>Design of Communication Systems</u>	2
<u>Design and Analysis of Buildings and Special Structures</u>	2	<u>Applications of Communication Systems</u>	1
<u>Design and Analysis of Bridges and Special Structures</u>	2	<u>Design of Biomedical Systems</u>	1
<u>Design and Analysis of Foundations and Retaining Structures</u>	2	<u>(f) Environmental –</u>	<u>Approximate % of the Examination</u>
<u>Design and Analysis of Drainage/Flood Control Systems</u>	2	<u>Water</u>	34%
<u>Design and Analysis in Relation to Natural Water Systems</u>	1	<u>Solid and Hazardous Waste</u>	21%
<u>Design and Analysis of Water Supply Systems</u>	2	<u>Air</u>	21%
<u>Design and Analysis of Wastewater Treatment Systems</u>	2	<u>Environmental Health, Safety, and Welfare</u>	24%
<u>Waste Water Treatment Systems Operations</u>	1	<u>(g) Fire Protection –</u>	<u>Approximate % of the Examination</u>
<u>Design and Analysis of Solid/Hazardous Waste Systems</u>	1	<u>Planning and Design of Water Supplies</u>	12%
<u>Design and Analysis of Geotechnical/Soils Projects</u>	2	<u>Planning Design of Building Systems</u>	13%
<u>Construction of Geotechnical/Soils Projects</u>	1	<u>Planning and Design of Water-Based Suppression Systems</u>	12%
<u>Construction/Materials Testing</u>	1	<u>Planning and Design of Non Water-Based Suppression Systems</u>	13%
<u>(d) Control Systems –</u>	<u>Approximate % of the Examination</u>	<u>Planning and Design of Detection and Alarm Systems</u>	12%
<u>Sensors</u>	16%	<u>Planning and design of Fire Prevention Implementation and Monitoring of Fire Prevention</u>	12%
<u>Analogue and Digital Data Transmission</u>	6%	<u>Research and Development of Hazard and Risk</u>	13%
<u>Valves and Final Elements</u>	14%	<u>Research and Development of Hazard and Risk Analysis</u>	13%
<u>Process Dynamics</u>	6%	<u>(h) Industrial –</u>	<u>Approximate % of the Examination</u>
<u>Control System Analysis</u>	6%	<u>Facilities</u>	25%
<u>Controllers/Modes/Tuning</u>	6%	<u>Manufacturing</u>	25%
<u>Digital Control Systems</u>	8%	<u>Production and Inventory Systems</u>	12%
<u>Discrete Logic, Interlocks, Alarms and Sequencing</u>	18%	<u>Work Systems and Ergonomics</u>	13%
		<u>Quality Assurance</u>	12%
		<u>Management and Computer/Information Systems</u>	13%

<u>(i) Manufacturing –</u>	<u>Number of Problems</u>	<u>Control</u>	<u>1</u>
<u>Preliminary/Final Design of</u>		<u>Operations/Applications – Ground</u>	
<u>Production/Manufacturing Processes</u>	<u>1</u>	<u>Control</u>	<u>1</u>
<u>Operation of Production/Manufacturing</u>		<u>Conceptual Design, Planning,</u>	
<u>Processes</u>	<u>2</u>	<u>and Development – Mineral</u>	
<u>Preliminary/Final Design of Tools and</u>		<u>Processing Procedures</u>	<u>1</u>
<u>Equipment</u>	<u>2</u>	<u>Preliminary/Final Design – Mineral</u>	
<u>Operations – Tools and Equipment</u>	<u>1</u>	<u>Processing Procedures</u>	<u>1</u>
<u>Preliminary/Final Design – Quality</u>		<u>Construction and Facility – Mineral</u>	
<u>Assurance and Safety</u>	<u>2</u>	<u>Processing Procedures</u>	<u>1</u>
<u>Operations – Quality Assurance and</u>		<u>Operations/Applications – Mineral</u>	
<u>Safety</u>	<u>1</u>	<u>Processing Procedures</u>	<u>1</u>
<u>Preliminary/Final Design of</u>		<u>Conceptual Design, Planning,</u>	
<u>Manufacturing Management</u>	<u>2</u>	<u>and Development – Reclamation</u>	<u>1</u>
<u>Operations of Manufacturing Management</u>	<u>1</u>	<u>Construction/Facility – Reclamation</u>	<u>1</u>
<u>(j) Mechanical –</u>	<u>Number of Problems</u>	<u>Operations/Applications – Reclamation</u>	<u>2</u>
<u>Machine Design</u>	<u>2</u>	<u>(m) Nuclear –</u>	<u>Approximate % of the Examination</u>
<u>Stress Analysis/Structural Design</u>	<u>2</u>	<u>Nuclear Power Systems</u>	<u>25%</u>
<u>Kinematic and Dynamics</u>	<u>1</u>	<u>Nuclear Fuel and Waste Management</u>	<u>20%</u>
<u>Power Plant Systems</u>	<u>2</u>	<u>Nuclear Radiation Protection/Radiation</u>	
<u>Power Plant Processes</u>	<u>1</u>	<u>Shielding</u>	<u>20%</u>
<u>Power Plant Components</u>	<u>1</u>	<u>Nuclear Criticality/Kinetics/Neutronics</u>	<u>20%</u>
<u>HVAC/R Systems</u>	<u>2</u>	<u>Nuclear Measurements and Instruments</u>	<u>15%</u>
<u>HVAC/R Components</u>	<u>1</u>	<u>(n) Petroleum –</u>	<u>Approximate % of the Examination</u>
<u>Control Systems</u>	<u>1</u>	<u>Reservoir Engineering</u>	<u>30%</u>
<u>Instrumentation/Measurements</u>	<u>1</u>	<u>Formation Evaluation/Well Testing</u>	
<u>Vibrations</u>	<u>1</u>	<u>Engineering</u>	<u>20%</u>
<u>Heat Transfer</u>	<u>1</u>	<u>Production/Completion/Facilities</u>	
<u>Thermodynamics</u>	<u>1</u>	<u>Engineering</u>	<u>30%</u>
<u>Hydraulics/Pneumatics</u>	<u>1</u>	<u>Drilling Engineering</u>	<u>20%</u>
<u>Management</u>	<u>1</u>	<u>(o) Ship Design –</u>	<u>Approximate % of the Examination</u>
<u>Fire Protection</u>	<u>1</u>	<u>Mechanics</u>	<u>7%</u>
<u>(k) Metallurgical –</u>	<u>Number of Problems</u>	<u>Loads</u>	<u>8%</u>
<u>Fabrication and Mechanical</u>		<u>Welds/Connections</u>	<u>4%</u>
<u>Processing Procedures</u>	<u>2</u>	<u>Structural Members</u>	<u>7%</u>
<u>Material Processing Procedures</u>	<u>3</u>	<u>Vibrations</u>	<u>3%</u>
<u>Mineral Processing Procedures</u>	<u>3</u>	<u>Hydrostatics</u>	<u>6%</u>
<u>Extractive Metallurgy Procedures</u>	<u>3</u>	<u>Hydrodynamics</u>	<u>5%</u>
<u>Materials Selection</u>	<u>3</u>	<u>Transport Process</u>	<u>6%</u>
<u>Quality Control</u>	<u>1</u>	<u>Fluid Flow</u>	<u>6%</u>
<u>Structure/Property Relationships</u>	<u>2</u>	<u>HVAC/Refrigeration</u>	<u>4%</u>
<u>Failure Analysis</u>	<u>3</u>	<u>Combustion</u>	<u>3%</u>
<u>(l) Mining/Mineral –</u>	<u>Number of Problems</u>	<u>Electrical Loads</u>	<u>3%</u>
<u>Conceptual Design, Planning, and</u>		<u>Electrical Distribution</u>	<u>3%</u>
<u>Development</u>	<u>1</u>	<u>Electrical Energy Conversion</u>	<u>3%</u>
<u>Preliminary/Final Design – Exploration</u>	<u>1</u>	<u>Emergency Electrical System</u>	<u>1%</u>
<u>Conceptual Design, Planning, and</u>		<u>CAE</u>	<u>2%</u>
<u>Development – Mine Planning</u>	<u>2</u>	<u>Ship Building/Repair</u>	<u>4%</u>
<u>Preliminary/Final Design -</u>		<u>Economics</u>	<u>5%</u>
<u>Mine Planning</u>	<u>1</u>	<u>Outfitting Design</u>	<u>5%</u>
<u>Construction/Facility – Mine Planning</u>	<u>1</u>	<u>Materials</u>	<u>3%</u>
<u>Preliminary/Final Design – Mine</u>		<u>Corrosion</u>	<u>2%</u>
<u>Operations</u>	<u>1</u>	<u>Pollution Prevention</u>	<u>4%</u>
<u>Construction/Facility – Mine</u>		<u>Regulations</u>	<u>2%</u>
<u>Operations</u>	<u>2</u>	<u>Human Factors</u>	<u>2%</u>
<u>Operations/Applications – Mine</u>		<u>Wind and Waves</u>	<u>2%</u>
<u>Operations</u>	<u>1</u>	<u>(p) Structural I –</u>	<u>Number of Problems</u>
<u>Preliminary/Final Design – Ground</u>		<u>Buildings – Concrete</u>	<u>1</u>

<u>Foundations or Retaining Structures</u>	<u>1</u>
<u>Buildings – Steel</u>	<u>1</u>
<u>Bridges</u>	<u>1</u>
<u>Buildings – Timber</u>	<u>1</u>
<u>Lateral Forces</u>	<u>1</u>
<u>Buildings – Masonry</u>	<u>1</u>
<u>Special Performance</u>	<u>1</u>
<u>(q) Structural II –</u>	<u>Number of Problems</u>
<u>Morning (Essay)</u>	
<u>1. Bridges</u>	<u>1</u>
<u>2. Buildings</u>	<u>1</u>
<u>Afternoon (Essay)</u>	
<u>1. Bridges with SEISMIC</u>	<u>1</u>
<u>2. Buildings with SEISMIC</u>	<u>1</u>

Specific Authority 455.217(1)(c), 471.013 FS. Law Implemented 455.217(1)(c), ~~471.013~~ 471.013 FS. History--New 1-8-80, Amended 2-23-81, 8-25-81, 8-16-82, 4-30-85, Formerly 21H-21.02, Amended 10-27-92, 1-10-93, Formerly 21H-21.002, Amended 2-14-95, 6-28-95.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Professional Engineers  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 25, 1999  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 1999

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

DOCKET NO.:	98-21R
CHAPTER TITLE:	CHAPTER NO.:
Drinking Water and Domestic Wastewater Treatment Plant Operators	62-602
RULE TITLES:	RULE NOS.:
Definitions	62-602.200
Requirements for Eligible Experience	62-602.250
Qualifications for Operator License	62-602.300
Approval of Residence or Correspondence Courses	62-602.350
Applications for License	62-602.400
Notification to Applicants	62-602.450
Examination Administration	62-602.500
Conduct at Test Site	62-602.530
Grading of Examinations and Grade Notification	62-602.550
Candidates' Post Exam Review	62-602.560
Formal Administrative Hearing Petition and Pre-hearing Review Request	62-602.570
Use of Trial Test Items in Examinations	62-602.580
Fees for Operator Licensure	62-602.600
Duties of Operators	62-602.650
Operator Licensing	62-602.700
Renewal of Operator Licenses	62-602.710
Inactive Status of License	62-602.720
Denial of Application or Renewal of Licenses	62-602.750
Grounds for Disciplinary Proceedings	62-602.800
Disciplinary Guidelines	62-602.850

Suspension and Revocation of Operator Licenses 62-602.870  
Forms for the Operator Certification Program 62-602.900

PURPOSE AND EFFECT: The purpose for this rulemaking is to adopt rules implementing the procedures for the Department's Operator Certification Program. This program was transferred to the Department from the Department of Business and Professional Regulation (DBPR) on October 1, 1997. In addition, the federal guidelines for operator certification programs were incorporated into this rule as applicable.

SUMMARY: The rule was developed from the DBPR Operator Certification rules using much of the same language. Portions of the rule were updated or revised to meet Department or federal requirements. This rule sets standards for the qualifications of operators and for course approval, programmatic procedures for examinations and notification, licensing, and disciplinary procedures.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None has been prepared.

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

SPECIFIC AUTHORITY: 403.869, 403.872 FS.  
LAW IMPLEMENTED: 403.865, 403.866, 403.867, 403.869, 403.871, 403.872, 403.873, 403.874, 403.875, 403.876 FS.

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

TIME AND DATE: 2:00 p.m., October 12, 1999  
PLACE: Room 609, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida

If an accommodation for a disability is needed in order to participate in the hearing, please notify the Personnel Services Specialist in the Bureau of Human Resources at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the hearing.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Tim Banks, Drinking Water Funding Section, M.S. 3505, Department of Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; telephone (850)487-9297

THE FULL TEXT OF THE PROPOSED RULES IS:

DRINKING WATER AND DOMESTIC WASTEWATER TREATMENT PLANT OPERATORS

62-602.200 Definitions.

For the purposes of this chapter, the terms shall be defined as follows.

(1) "Approved training course" means a course that has received written approval from the Department. The Department shall approve operator training courses whose course content and curriculum meet established Florida Department of Education (DOE) standards. A list of approved courses and performance standards can be found in DOE document numbers 0175.050601 – 0715.050605, "Water and Wastewater Treatment Facility Management," incorporated herein by reference. Copies of this document may be obtained from the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(2) "Continuing Education Unit" means 10 classroom hours of instruction. It may be abbreviated to "CEU" in these rules.

(3) "Department" means the Florida Department of Environmental Protection.

(4) "Domestic wastewater treatment plant" means any plant or other works used for the purpose of treating, stabilizing, or holding domestic wastes, permitted by the Department or approved local program. Such plants are classified by size and type of treatment under Chapters 62-699 and 62-600.

(5) "Experience" means employment either as an employee or volunteer in a public drinking water or domestic wastewater treatment plant performing the duties described in rule 62-602.250(1).

(6) "License" means a document issued by the Department indicating that the operator has satisfactorily met all requirements for licensure at the type and level applied for.

(7) "Local regulatory agency" means any local office of the Florida Department of Health or county government that is delegated the authority for the compliance and enforcement of drinking water or domestic wastewater rules.

(8) "Operator" means for the purpose of this chapter, any person who has an active license issued, under this chapter, by the Department. Classification levels are Class A, B, C, and D.

(9) "Permittee" means the person or entity to which a permit for a domestic wastewater facility is issued by the Department or approved local regulatory agency.

(10) "Probation letter" means a letter reprimanding the operator for failure to comply with any of the provisions of rule 62-602.650. This letter shall initiate a two year probation wherein the operator must complete one additional CEU. An additional violation of a similar nature or failure to complete the additional CEU shall result in the suspension of the license for two years.

(11) "Standard operating practice" means effective and competent treatment plant operation which is consistent with the existing plant design and operations manual, manufacturer's equipment specifications, professionally accepted treatment plant operation procedures, and Department

rules. This definition applies to functions which directly affect plant operations and which can be reasonably controlled by the operator.

(12) "Supplier of water" means any person who owns or operates a public water system. This does not include the licensed operator unless that person is also the owner.

(13) "Timely" means that the submittal has been postmarked by the post office before midnight of the date for which the deadline has been established, or has been delivered to the Department before the close of business of that date. If the deadline is a Saturday, Sunday, or legal holiday, timely shall be considered the first working day after the deadline.

(14) "Water treatment plant" means those components of a public water system used in collection, treatment, and storage of water for human consumption, whether or not such components are under the control of the operator of such system. Such plants are permitted and classified by the Department, under Chapters 62-555 and 62-699, respectively.

Specific Authority 403.869 FS, Law Implemented 403.865, 403.867, 403.869 FS, History—New \_\_\_\_\_.

#### 62-602.250 Requirements for Eligible Experience.

(1) Experience necessary to meet the requirements of rule 62-602.300 shall include performance of on-site process control and trouble shooting action with the treatment process as listed in (a) below. Experience listed in (b) below can also be included if the experience listed in (a) is met.

(a) Performance of process control shall include the performance of operational control tests and evaluation and interpretation of the test results; preparation of plant process control reports, logs or records; analysis and disposal or distribution of the plant product and the residuals from the treatment process; and control of the hydraulic system and necessary chemical adjustments.

(b) Sample collection and analysis, plant operation and maintenance, and solids handling.

(2) For the Class A license, periods of employment as a direct on-site supervisor or superintendent of on-site operators can be used.

(3) Persons employed in the daily on-site operational control of an industrial wastewater treatment plant can use this experience to meet the experience requirements of the Class A, B, or C wastewater operator license. Industrial wastewater treatment plant means the structures, equipment and processes required to treat wastewater, primarily organic in composition, in a plant using a biodegradation or physical-chemical treatment process, similar to the domestic wastewater secondary, tertiary or advanced treatment processes. A diagram and detailed process description must be submitted for the Department to determine if the experience is commensurate to the level applied for.

(4) Persons employed in the daily on-site operational control of an industrial production process water treatment plant can use this experience to meet the experience requirements of the Class A, B, or C drinking water operator license. Industrial production process water treatment plant means the structures, equipment, and processes required to treat water in a plant using a physical-chemical treatment process similar to drinking water treatment processes, and must include disinfection. A diagram and detailed process description must be submitted for the Department to determine if the experience is commensurate to the level applied for.

(5) Experience required for the license shall be acquired in the type of treatment, in either wastewater or drinking water, for which a license is requested. Experience in treatment of wastewater for reuse shall be counted as wastewater experience.

(6) Experience excludes:

(a) Experience in wastewater systems where septic tanks, filter beds, or lagoons are the sole means of treatment;

(b) Experience in water systems used for swimming;

(c) Experience in construction or design of treatment plants, or well drilling;

(d) Experience in the installation or servicing of water softening or conditioning devices installed in residences or commercial establishments for the purpose of altering the aesthetic quality of the public water supply;

(e) Experience limited solely to driving a sludge truck, facility maintenance, or laboratory work; and

(f) Periods of employment as directors of public works, utility managers, regulatory inspectors, or in other occupations which do not include the experience as defined in this rule section.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.865, 403.866, 403.867, 403.872 FS. History--New

62-602.300 Qualifications for Operator Licensure.

To be eligible for licensure by the Department, the applicant shall:

(1) For licensure as a Class D operator:

(a) Have a high school diploma or its equivalent;

(b) Be the owner or owner's manager or agent or trainee engaged in the operation and maintenance of a public drinking water or domestic wastewater treatment plant for at least 3 months, or document successful completion of the appropriate training course no more than five years before the application deadline; and

(c) Obtain a passing score on the Class D examination as provided for in rule 62-602.550(1)(a).

(2) For licensure as a Class C operator:

(a) Have a high school diploma or its equivalent;

(b) Document at least 1 year (2,080 hours) of experience as defined in rule 62-602.250(1)-(6), completed before the exam application deadline;

(c) Document successful completion of an approved training course no more than five years before the exam application deadline; and

(d) Obtain a passing score on the Class C examination as provided for in rule 62-602.550(1)(a).

(3) For licensure as a Class B operator the applicant shall:

(a) Have an active Class C license of the same type;

(b) Document successful completion of an approved training course no more than five years before the exam application deadline; and

(c) Document at least 3 years (6,240 hours) of experience as defined in rule 62-602.250(1)-(6), completed before the exam application deadline; and

(d) Obtain a passing score on the Class B examination as provided for in rule 62-602.550(1)(a).

(4) For licensure as a Class A operator the applicant shall:

(a) Have an active Class B license of the same type;

(b) Document successful completion of an approved training course no more than five years before the exam application deadline;

(c) Document at least 5 years (10,400 hours) of experience as defined in rule 62-602.250(1)-(6), completed before the exam application deadline; and

(d) Obtain a passing score on the Class A examination as provided for in rule 62-602.550(1)(a).

(5) A licensee must possess an active Class C license as a prerequisite to taking the Class B level examination, and possess an active Class B license as a prerequisite to taking the Class A examination.

(6) For purposes of this rule, an application is complete when all items on the application form have been fully answered, the applicant has paid all fees specified in rule 62-602.600 and all checks submitted have been honored, and all attendant documentation have been submitted including required licensure and other items specified in form 62-602.900(1) or (2), as applicable, and its instructions. These forms are incorporated by reference in rule 62-602.400(4). The applicant shall be required to submit to the Department in writing any changes in the information contained in the original application within 30 days after the date of such change.

(7) Requirements for Operators from Other States.

(a) The Department shall approve out-of-state training that meets the curriculum standards for drinking water and domestic wastewater treatment plant operators established by the Florida Department of Education for Florida approved courses. The applicant must submit a detailed description of the out-of-state training to confirm that the training meets Florida standards.

(b) If the applicant meets the qualifications outlined in rule 62-602.300 for the Class A or B examination, the applicant will be allowed to take that examination two times. If the

applicant fails that examination two times, the applicant is eligible to take the Class C examination upon satisfying the requirements established in rule 62-602.300 for the Class C examination.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.872 FS. History—New

62-602.350 Approval of Residence or Correspondence Courses.

Educational courses for training of water and wastewater operators shall be approved by type and level of training provided.

(1) Residence courses shall only be approved if affiliated with an academic institution of the Florida Department of Education, shall be granted for two years, and can be re-approved upon request. Residence courses shall not be approved for less than the recommended classroom hours shown in the standard curriculum outlines. The course shall implement the Department of Education curriculum frameworks and student performance standards for training of drinking water or domestic wastewater operators. The application by the academic institution for approval of a residence course shall contain the following:

(a) Title of the course, the level of the material, and the total classroom hours;

(b) A statement that the state approved curriculum materials will be used;

(c) A statement setting forth the obligations and responsibilities of the instructor and the institution offering the course;

(d) A statement that the course will meet the Department of Education approved training objectives for the type and level of the course offered; and

(e) Qualifications of the instructor, who shall be a certified operator at a level higher than the level of the proposed course, or be a certified operator who has been certified at the same level as the proposed course for a minimum of two years.

(2) Residence courses shall not be approved unless an application as described in (1) above is submitted more than 60 days before the first day of class. Residence courses shall use the standard curriculum outlines. Copies of the standard curriculum outlines are available from the Department of Environmental Protection at the Operator Certification Program Office, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(3) Approval for a correspondence course shall be for as long as the materials are current and applicable to the training needed by Florida operators. The Department shall review the materials every two years to determine if the course is current. Approval of correspondence courses shall only be granted by the Department for courses which meet the curriculum frameworks of the Florida Department of Education. The publisher or provider of a correspondence course shall submit

copies of the text and materials, including tests, to the Department for approval. The application shall outline how the provider will interact with the student, how many lessons will be contained in the course, how much time the student is expected to spend on the course, how successful completion of the course will be indicated, and how frequently the course will be revised to reflect changing technology or new techniques of treatment. The provider of the course shall notify the Department when revisions are made, and shall provide the Department with a copy of the revised materials.

(4) The Department shall periodically publish a list of the approved courses. The list shall be available upon request to the Operator Certification Office, Department of Environmental Protection, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Specific Authority 403.869, 403.872 FS. Law Implemented 403.872 FS. History—New

62-602.400 Applications for License.

(1) Applicants must meet the experience requirements of rule 62-602.200(5), and the criteria set forth in rule 62-602.300.

(2) Verification of employment experience shall be provided by the applicant to confirm the hours required in rule 62-602.300. These hours shall be verified by one of, or a combination of (a) and (b) below. In addition, the applicant must provide a reference from a peer who is a licensed operator of the same type (drinking water or wastewater) to verify the type of experience of the applicant.

(a) The lead operator of the plant or system, the operator's supervisor, or for contract operators, the contract manager for the plant or system.

(b) For applicants working as a contractor for multiple plants and who cannot meet the requirements of (a) above, the applicant shall submit with the application a copy of the contract for the operation of each plant, or an affidavit from the owner verifying time at the plant.

(3) For the purposes of crediting experience, applicants with experience from a treatment plant not permitted by the Department must provide a complete flow diagram and detailed description indicating all plant treatment processes and operations and plant flow rate. The diagram must be attached to the employment verification. This information will be used to determine experience eligibility under the classification of plants established by the Department in chapter 62-699.

(4) Initial applications for license shall be made on the "Application for Water or Wastewater Treatment Plant Operator Certification," form 62-602.900(1), hereby adopted and incorporated by reference, effective date \_\_\_\_\_ . Applications for a re-examination at the same type and level after a failed exam, shall be made on the "Re-exam Application for Water and Wastewater Treatment Plant Operator Certification," form 62-602.900(2), hereby adopted and

incorporated by reference, effective date \_\_\_\_\_ . Copies of these forms are available from the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Each applicant shall provide documentation of successful completion of a training course approved by the Department for each class of license (in drinking water or domestic wastewater treatment, as appropriate) before applying for a license. Documentation of course completion shall include the name and type of training institution, the number of classroom hours in the approved course, the date of course completion, the type and level of training approved (drinking water or domestic wastewater treatment D, C, B, or A), and the signature of the instructor who determined that the applicant has successfully completed the course. The Department shall publish a list of approved training courses which satisfy this requirement. This list of approved courses and the application form may be obtained from the Department upon a written request, sent to the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. Applications postmarked less than 90 days before the date of examination shall be processed for the next examination cycle. Applicants must comply with all license requirements as specified in rule 62-602.300, except examination, and submit applicable fees specified in rule 62-602.600, by or before the application deadline.

(5) In addition to the completed application form, fees, and all supporting documentation, two recent photographs of the applicant's face and head, size 2 inches by 2 inches, not more than 2 months old, must be included. Any photograph that is not identifiable will be returned to the applicant and will delay the processing of the application.

(6) The Department will review all applications for license to determine completeness of the application.

(a) To be determined complete, the application must include all signatures and affidavits, and document all experience and course work.

(b) Within 30 days after receipt of an application, the Department shall send notification to an applicant of an incomplete application. The applicant must make such application complete no later than two weeks after notice of incompleteness is sent, or by the application deadline, whichever is later, to be reviewed for eligibility for the next examination. If not submitted within that time, the application will be held open to allow completeness until the application deadline for the following examination cycle.

(c) If the application is not made complete by the next application deadline, the application and refundable fees will be returned, and the applicant must submit a new application with the required fees to sit for an examination.

(7) After an application is determined to be complete, an eligibility review shall be conducted by the Department.

(a) The applicant shall be notified of the eligibility status at least 60 days before the examination date or no more than 90 days after the receipt of a complete application, whichever comes first. If this determination is not made within the above time frame, the Department must approve the application for license subject to passage of the required license examination. Such examination must be at least 45 days after the applicant is qualified.

(b) After a decision is made that an applicant meets the requirements for the license examination or 90 days after receipt of a complete application if no decision as to eligibility is made, the Department will schedule the applicant for the next examination that begins at least 45 days after the applicant is qualified or 90 days after the receipt of a complete application, and for which space is available. If all qualified candidates cannot be scheduled for the next subsequent examination due to space, time, or other limitations beyond the control of the Department, the candidates will be scheduled chronologically according to the date the application was complete.

(c) If the Department determines that the applicant is not qualified to take the examination, notice of such determination with administrative hearing rights shall be mailed to the applicant. The applicant may petition for an administrative hearing under sections 120.569 and 120.57 of the Florida Statutes.

Specific Authority 403.869 FS, Law Implemented 403.872 FS, History—New \_\_\_\_\_.

#### 62-602.450 Notification to Applicants.

(1) The Department will notify each applicant of the time, place, and date of the examination, and provide the applicant with an admission notice that is required for admission to the examination. An examinee handbook also will be provided to all applicants.

(2) The Department will reschedule an applicant for the next available examination, or provide a refund of the examination fee, when the applicant cannot take the originally scheduled examination and the applicant provides documentation of one of the circumstances below to the Department no later than 21 days after the scheduled examination:

(a) For required military service, the applicant must submit to the Department a copy of the applicant's military orders or a letter from the applicant's commanding officer.

(b) For medical reasons, the applicant must provide a statement from the applicant's treating physician that serious injury, illness, or other impairment prevented the candidate from taking the examination.



(c) For an injury, illness, or death in the immediate family, the applicant must document that this caused the applicant to miss the scheduled examination.

(d) Subpoena to appear in court or for jury duty.

(3) If an applicant does not take the scheduled exam, and does not meet the requirements in (2) above, the examination fee will neither be refunded nor carried forward to the next examination cycle.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New \_\_\_\_\_.

#### 62-602.500 Examination Administration.

(1) During the examination, candidates must follow the instructions of the examination supervisor. The instructions shall be provided to the candidates in written form, and shall be read to the candidates by the examination supervisor. The candidates will be permitted to ask reasonable questions of the Department's examination supervisor and proctors relating to the instructions.

(2) The Department's admission notice for the specified examination and a government-issued photo identification, such as driver's license, must be presented in order to gain admission to the examination. A valid government-issued photo identification shall be acceptable in the absence of the admission notice provided the candidate's name appears on the examination admission roster that has been prepared by the Department for the specific examination.

(3) If a candidate arrives at the designated testing location after the designated starting time, the candidate will be permitted to take the examination only after the candidate has signed a statement clearly indicating the candidate's late arrival time, and has agreed that the candidate will have only the remaining designated time in the examination to complete the examination. Any candidate who refuses to sign such a statement will be disqualified from the examination and may apply to the Department for scheduling for the next examination. If the late candidate arrives after any other candidate has already finished the examination and left the examination room, the late candidate will be disqualified from the examination and may apply to the Department for scheduling for the next examination. The exam fee will not be refunded in either situation described above.

(4) All examinations will be administered in accordance with the Department's "Manual for Examinations," 1999, incorporated herein by reference and available by writing to the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(5) All examination booklets, answer sheets, and other examination papers and materials are the sole property of the Department. No candidate shall take any of the examination booklets, answer sheets, answers, or other examination papers

or materials from the examination room, or retain, reproduce or compromise the materials in whole or in part by any means or method.

(6) The examinations will consist of multiple-choice questions. All questions are equally weighted. Knowledge, skills, or abilities to be tested shall be determined by the Department and reviewed by the exam review committee.

(7) If through no fault of the candidate, the candidate is not allowed the standard allotted time to complete the examination, additional time may be allowed upon approval of the examination supervisor. If materials are lost by the Department, or other problems occur because of the Department's inaction or negligence, the Department shall permit reexamination in those areas at no charge at the next available regularly scheduled examination.

(8) Security procedures shall be used as specified in the Department's "Operator Certification Program Security Procedures Manual," 1999, incorporated herein by reference and available by writing to Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New \_\_\_\_\_.

#### 62-602.530 Conduct at Test Site.

(1) Any individual found by the Department to have engaged in conduct which subverts or attempts to subvert the examination process will have his or her scores on the examination withheld and declared invalid.

(a) Individuals with an active or inactive license shall be subject to suspension or revocation of the license as stated in rule 62-602.870(1).

(b) Individuals that do not have an active or inactive license shall be disqualified from taking future exams for a period of two years.

(2) Conduct that subverts or attempts to subvert the examination process includes:

(a) Conduct which violates the security of the examination materials, such as removing from the examination room any of the examination materials; reproducing or reconstructing any portion of the licensing examination; aiding by any means in the reproduction or reconstruction of any portion of or information from the licensing examination; selling, distributing, buying, receiving, or having unauthorized possession of any portion of, or information from, a future or current licensing examination.

(b) Conduct which violates the standard of test administration, such as communicating with any other examinee during the administration of the examination; copying answers from another examinee or permitting one's answers to be copied by another examinee during the administration of the examination; having in one's possession during the administration of the licensing examination any

book, notes, written or printed materials or data of any kind, other than the examination materials distributed or specifically listed as approved materials for the examination room in the information provided to the examinee in advance of the examination date by the Department.

(c) Conduct which violates the credentialing process, such as falsifying or misrepresenting information required for admission to the examination, impersonating an examinee or having an impersonator take the licensing examination on one's own behalf.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New \_\_\_\_\_.

62-602.550 Grading of Examinations and Grade Notification.

(1) Grading of all examinations shall be as follows:

(a) Examinations shall be graded by the Department or its designee. Examination answer sheets shall be electronically scored. Effective July 1, 2000, the minimum passing score on the examination is 70%. For examinations taken before July 1, 2000, the minimum passing score is 65%. In rounding percentages, any percentage that is 0.5 or above shall be rounded up to the next higher whole number. Percentages less than 0.5 shall be rounded down to the next lower whole number.

(b) After an examination has been graded, the Department shall reject any questions that do not reliably measure the general areas of competency. The Department shall review the item analysis and any statistically questionable items after the examination has been administered. Based upon this review, the Department shall adjust the scoring key by totally disregarding the questionable items for grading purposes. All questions that do not adequately and reliably measure the applicant's ability to practice the profession shall be rejected. The Department shall calculate each candidate's grade using the scoring key or adjusted scoring key.

(2) The Department shall notify the candidate of the results of the candidate's examination. Any candidate failing to achieve a passing score will also be notified of the requirements for re-examination, and review and appeal rights and procedures.

(3) If there are additional adjustments to the scoring key after the mailing of grades for an examination, amended grade reports shall be mailed to all candidates whose scores increased from a failing score to a passing score as a result of the adjustment.

(4) If it is determined that a candidate's examination or portion thereof cannot be scored through no fault of the candidate, the candidate shall be permitted to take the next available regularly scheduled examination at no charge.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New \_\_\_\_\_.

62-602.560 Candidates' Post Exam Review.

(1) A candidate who has taken and failed an examination shall have the right only to review the examination questions, answers, papers, grades, and grade keys for the questions the candidate answered incorrectly.

(2) Examination reviews shall be conducted in the presence of a representative of the Department at its Tallahassee headquarters during regular working hours, which are defined as 8:00 a.m. through 5:00 p.m., Monday through Friday, excluding official state holidays.

(a) All security procedures defined in the "Operator Certification Program Security Procedures Manual" shall apply to all review sessions. Any candidate violating said procedures shall be dismissed from the review session, and is subject to other sanctions under Department statutes or rules.

(b) Upon payment of fees required in rule 62-602.600(5), examination reviews by candidates shall be scheduled. These reviews shall be completed no later than 60 days after the date on the grade notification. Reviews shall not be conducted during the 30-day period immediately before the next examination.

(c) A representative from the Department shall remain with all candidates throughout all examination reviews. The representative shall inform candidates that the representative cannot defend the examination or attempt to answer any examination questions during the review. All comments regarding an exam question shall be submitted in writing to the exam review coordinator. Candidates shall be provided with written instructions before the review. All candidates must acknowledge receipt of these instructions, and agree in writing to abide by them.

(d) Upon completion of all reviews, all candidates shall acknowledge in writing the start time of the review, the end time of the review, all materials reviewed, and other relevant review information.

(3) In addition to the provisions of (2)(a) through (2)(d) above, examination candidates shall be prohibited from leaving any review with any written comments, grade sheets, or any other examination materials.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History--New \_\_\_\_\_.

62-602.570 Formal Administrative Hearing Petition and Pre-hearing Review Request.

(1) Under sections 120.569 and 120.57 of the Florida Statutes and rules 62-110.106, 28-106.201 and 28-106.301, a candidate may petition for an administrative hearing under the following terms and conditions:

(2) Except as noted in (3) below, all petitions for administrative hearings shall be filed no later than 21 days after the applicant receives the Department's grade notification.

(3) For a candidate who elects to review the examination under rule 62-602.560(1), the petition for a hearing must be filed no later than 21 days after the post-examination review.

(4) No petition received more than 21 days from the date specified in paragraph (1) or (2), as applicable, will be accepted. The petition shall conform to rule 28-106.201 when material facts are in dispute, or rule 28-106.301 when no material facts are in dispute.

(5) After the petition has been filed, for the purpose of preparing for the administrative hearing, the candidate and the candidate's attorney will be permitted to review examination questions, answers, papers, grades, and grade keys for the questions the candidate answered incorrectly. The request for such review will be submitted to the Department in writing.

(6) If the candidate chose to file a petition for administrative hearing before a post-examination review and later requests such review, the candidate will be required to pay the post-examination review fee before a pre-hearing review is scheduled. The procedures for post examination review in rule 62-602.560 shall apply.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New \_\_\_\_\_.

#### 62-602.580 Use of Trial Test Items in Examinations.

Written examinations developed by or for the Department may include trial test or experimental questions for the purpose of evaluating the statistical or psychometric qualities of new or revised questions prior to their use in an examination. Trial test or experimental questions will not be identified to the candidates as trial test questions on the examination.

(1) The maximum number of trial test questions included in a single examination shall not exceed 20 percent of the total number of questions on the examination, or ten (10) questions, whichever is greater.

(2) Trial test questions shall not be counted toward the candidate's score on the examination. Answers to trial test questions shall not be subject to review by the candidates during the candidate's review process. Additional time will not be given to complete an examination that contains trial questions.

Specific Authority 403.869 FS. Law Implemented 403.872 FS. History—New \_\_\_\_\_.

#### 62-602.600 Fees for Operator Licensure.

(1) Each applicant for an A, B, or C level license shall pay a non-refundable \$75 application fee and a \$125 examination fee. Applicants for D level licenses shall pay a non-refundable \$50 application fee and a \$50 examination fee. If an applicant is determined by the Department to be ineligible for examination, a refund for the examination fee may be requested. The request for refund must be received in writing within six months after the Department's receipt of fees. Applicants who are determined by the Department to be ineligible to take the examination and who wish to take a future

examination must submit another completed application, form 62-602.900(1), referenced in rule 62-602.400(4), with the required application and examination fee. Those applicants who do not pass the examination and wish to be re-examined at the same level and class shall submit a "Re-exam Application for Water and Wastewater Treatment Plant Operator Certification," form 62-602.900(2), referenced in rule 62-602.400(4), and a \$100 re-examination fee for A, B, and C level, or a \$50.00 re-examination fee for the D level.

(2) All A, B, and C level license holders shall renew licenses biennially and pay a non-refundable \$75 fee to the Department before a renewal license will be issued. Level D license holders shall renew licenses biennially and pay a non-refundable \$50 fee to the Department before a renewal license will be issued.

(3) To obtain a duplicate license or wall certificate, the licensee must submit a written request and pay \$25 for each duplicate requested.

(4) To reactivate an inactive license, a reactivation fee of \$100 shall be paid in addition to the specified biennial license renewal fee.

(5) Any applicant who takes an examination may, upon payment of \$50 to the Department, examine his or her questions answered incorrectly, upon the conditions set forth by the Department in rule 62-602.560.

(6) Candidates requesting a hand-score of the examination shall be charged a \$25 fee for the service.

(7) The fees stated in (1) and (2) above will be waived for wards of the state upon submission of written evidence, with the examination application or renewal notice, to the Department that said individual is a ward of the state.

Specific Authority 403.869 FS. Law Implemented 403.871, 403.872, 403.874 FS. History—New \_\_\_\_\_.

#### 62-602.650 Duties of Operators.

An operator is responsible for performing treatment plant operation and maintenance duties in a responsible and professional manner consistent with standard operating practices. The duties shall be the following:

(1) Perform responsible and effective on-site management and supervision over personnel and plant functions including, if applicable, reuse and disposal systems within the operator's responsibility.

(2) Submit all required reports in the manner required by the Department in rule 62-601.300 or 62-550.730 to the permittee or supplier of water.

(3) Report to the permittee or supplier of water and the Department and, if applicable, the local regulatory agency, as soon as possible, but within 24 hours following the discovery of any serious plant breakdown or condition causing or likely to cause:

(a) Unsafe treatment plant operation, or

(b) Any discharge of water or wastewater not in accordance with chapters 62-550, 62-555, or the facility's permit, or

(c) Any major interruption in service.

(4) Maintain operation and maintenance logs for each plant, on site in a location accessible to 24-hour inspection, protected from weather damage, and current to the last operation and maintenance performed. The logs shall be maintained in hard bound books with consecutive page numbering, and shall contain a minimum of three months of data at all times. Alternative logs or partial electronic logging are acceptable if approved by the appropriate Department district office or the local regulatory agency. The logs shall contain:

(a) Identification of the plant;

(b) The signature and license number of the operator and the signature of the persons making any entries;

(c) Date and time in and out;

(d) Specific operation and maintenance activities;

(e) Tests performed and samples taken, unless documented on a laboratory sheet, and any repairs made.

(f) Performance of preventive maintenance and repairs or requests for repair of the equipment.

Specific Authority 403.869 FS. Law Implemented 403.865, 403.866 FS. History—New

#### 62-602.700 Operator Licensing.

The Department shall issue an appropriate license to each applicant who has met all the license requirements for a specific class.

(1) The effective date of the license shall be the date the examination was successfully completed and the license shall expire at the end of the current biennium.

(2) Licenses shall be renewed in accordance with rule 62-602.710.

(a) It shall be the responsibility of the licensee to keep the Department informed of any changes in information or new information that the Department requires, including changes in the current mailing address and name changes.

(b) Licensees shall send their requests for changes to the Department's master file to the Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(c) Name change requests shall be in writing with supporting legal documentation.

Specific Authority 403.869 FS. Law Implemented 403.867 FS. History—New

#### 62-602.710 Renewal of Operator Licenses.

(1) All active licenses remain active until the end of the current biennium as indicated on the license, except as specified in rule 62-602.870. Each biennium extends through the 30th of April of odd numbered years.

(2) At least 90 days before an active license expires, the Department shall mail renewal notices to the operator's last address of record. However, failure to receive a renewal notice shall not excuse the licensee from timely renewal.

(3) To retain an active status following the end of each biennium, the following must be submitted to the Department in a timely manner.

(a) The current name, address, social security number, and the license type and level.

(b) A certification acknowledging the following:

1. Completion of all requirements for license renewal set forth by the Department;

2. That during the upcoming licensure period the applicant may be required to produce proof that all license renewal requirements for that licensure period were met; and

3. That failure to comply with license renewal requirements, or making a false statement as to such compliance, will subject the applicant to disciplinary action or criminal prosecution.

(c) Submittal of the renewal notice is acceptable for (a) and (b) above if the correct, current information required above is provided and the notice is signed by the licensee.

(d) The fee specified in rule 62-602.600(2).

(e) Documentation of successful completion of CEUs as required in rule 62-602.710(4).

(4) CEUs shall be required for renewal of operator licenses beginning after the renewal cycle ending April 30, 2001. CEUs must be approved by the Department for credit to be given, and the required number of units shall be earned in the two years directly preceding the request for license renewal as follows:

(a) Two CEUs shall be required for the renewal of an A or B level drinking water or domestic wastewater treatment plant operator license.

(b) One CEU shall be required for the renewal of each C level drinking water or domestic wastewater treatment plant operator license.

(c) One-half of one CEU shall be required for the renewal of each D level drinking water or domestic wastewater treatment plant operator license.

(d) An individual who has active Class A or B licenses for both drinking water and domestic wastewater shall only be required to obtain 3 CEUs for the renewal of both licenses, but 1.5 CEUs must apply to each type of license. CEUs that can be applied to either type of license must be clearly identified as such on the certification, and cannot be concurrently applied to each license. CEUs for all other combinations of dual licensing shall be additive.

(e) A certified operator who is teaching an approved continuing education course shall, upon receipt of documentation, receive credit equal to the CEUs approved for that course.

(f) A certified operator who teaches an approved residence course may use this experience for one-half of the required CEUs needed to renew his license.

(g) Certificates of completion showing the continuing education credit shall be filed with the request for licensure renewal form and the renewal fee. Electronic confirmation of completion will be accepted from participating institutions in lieu of a certificate of completion. A request for renewal shall be denied if required continuing education cannot be confirmed. The renewal fee shall not be refunded if the license is denied because of insufficient continuing education units.

(h) Approval of CEU courses shall be accomplished in accordance with the Department's "Manual for Approving Continuing Education Courses for Operator Licensing," 1999 that may be obtained by writing to Department of Environmental Protection, Operator Certification Program, Mail Station 3506, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400.

(i) Topics for continuing education include operation and control of a treatment plant, troubleshooting treatment processes, health and safety, employment and community right-to-know notification procedures, toxic and hazardous materials handling procedures, solids and residuals prevention, supervision and management, basic chemistry and biology, mathematics of the treatment process, laboratory sampling procedures, equipment maintenance and repair, computer applications for water or wastewater treatment, blue print reading, government rules and procedures.

Specific Authority 403.869 FS, Law Implemented 403.873 FS, History—New \_\_\_\_\_.

#### 62-602.720 Inactive Status of License.

(1) Any license shall revert to inactive status if the requirements of rule 62-602.710(3) have not been met.

(2) A licensee with an inactive status may apply to reactivate the license during the two-year period following the deadline for the last renewal cycle.

(3) To reactivate the license, the licensee shall meet the requirements in rule 62-602.710(3), including the renewal fee, and the reactivation fee specified in rule 62-602.600(4).

(4) The license of an inactive licensee that does not achieve active status within two years following the end of the most recent licensing period shall be expired, and subsequent licensure will require meeting all the requirements for initial licensure.

Specific Authority 403.869 FS, Law Implemented 403.874 FS, History—New \_\_\_\_\_.

#### 62-602.750 Denial of Application or Renewal of Licenses.

(1) The Department shall deny an application or renewal of a license for any of the following reasons:

(a) Submission of false or misleading information on the license application or renewal request.

(b) Submission of a non-redeemable check with the license application or renewal request.

(c) Failure to supply information needed to complete the application or renewal request.

(d) Failure to pass the appropriate examination.

(e) Fraud or cheating on an examination.

(f) Revoked or suspended license in Florida or another state.

(g) Any of the reasons listed in rule 62-602.800.

(2) Upon denial of renewal of a license, the Department shall give written notice to the person involved. Within 21 days from receipt of notice, the person affected may petition for an administrative hearing under sections 120.569 and 120.57, F.S.

Specific Authority 403.869 FS, Law Implemented 403.872, 403.873 FS, History—New \_\_\_\_\_.

#### 62-602.800 Grounds for Disciplinary Proceedings.

The following acts or omissions are grounds for disciplinary actions.

(1) Practicing as a licensed operator on a revoked, suspended, or inactive license.

(2) Any operator of a facility, licensed operator, supplier of water, or permittee of a domestic wastewater treatment plant who employs any person to perform the duties of an operator who is not licensed.

(3) Any person fulfilling operator staffing requirements under chapter 62-699 without an active license of the appropriate level and type.

(4) An operator performing treatment plant operation in a manner that is not consistent with standard operating practices.

(5) An operator who has knowingly or negligently submitted misleading, false, or inaccurate information as documentation for licensure, laboratory results, or operational reports.

(6) Failure to maintain required reports or records required to be maintained by operators by the Department.

(7) Failure to comply with any provision of sections 403.865 through 403.876, F.S., this rule chapter, or Department rules pertaining to drinking water or domestic wastewater treatment plants.

(8) Failure to comply with an order of the Department previously entered in a disciplinary hearing.

Specific Authority 403.869 FS, Law Implemented 403.875, 403.876 FS, History—New \_\_\_\_\_.

#### 62-602.850 Disciplinary Guidelines.

(1) When the Department finds a person, whom is subject to regulation under sections 403.865 through 403.876, F.S., has violated any of the provisions set forth in rule 62-602.800 or 62-602.870, or sections 403.865 through 403.876, F.S., it shall issue an administrative order imposing appropriate penalties for each count within the ranges recommended in the following disciplinary guidelines:

(a) Performing the duties of an operator of a water treatment plant or domestic wastewater treatment plant without an active license. The recommended penalty is an administrative fine of a minimum of \$500, up to a maximum of \$1000.

(b) Use of the name or title "water treatment plant operator" or "domestic wastewater treatment plant operator" or any other words, letters, abbreviations, or insignia indicating or implying that a person is a licensed operator, or otherwise holds himself out as an operator, unless the person is a holder of a valid license. The recommended penalty is an administrative fine of a minimum of \$250, up to a maximum of \$1000.

(c) Knowingly allowing the use or failing to report the use of his or her own license, as the license of another. The recommended penalty is from a minimum of a 1 year suspension, up to a maximum of revocation of the operator's license.

(d) Knowingly giving false or forged evidence to the Department. The recommended penalty for an applicant not already licensed as an operator is denial of the application and prohibition of reapplication from a minimum of 2 years, up to a maximum of 3 years. The recommended penalty for an operator shall be revocation of the operator's license, and prohibition of reapplication for a minimum of 2 years, up to a maximum of 3 years.

(e) Using or attempting to use a license that has been suspended, revoked, or placed on inactive status. The recommended penalty for practicing on an inactive license is a fine of \$100 for each month of practice up to \$1000. The recommended penalty for practicing on a suspended license is from a minimum of a \$1000 fine, up to a maximum of an additional 1 year suspension. The recommended penalty for practicing on a revoked license is denial of application for license for a minimum of 3 years, up to a maximum of 5 years, and a referral to the state attorney for criminal sanctions.

(f) Employing unlicensed persons to perform the duties of an operator of a water treatment or domestic wastewater treatment plant. The recommended penalty is an administrative fine of a minimum of \$500, up to a maximum of \$1000.

(g) Concealing information relative to any violation of this rule. The recommended penalty is the imposition of an administrative fine of a minimum of \$500, up to a maximum of \$1000; and suspension of license from a minimum of 1 year, up to license revocation. The actual penalty imposed depends upon the severity of the violation to cause plant upset, produce drinking water that does not meet the applicable requirements, or endanger the safety of plant employees or the public.

(h) Failure to comply with the provisions of rule 62-602.650. The recommended penalty for failure to submit reports in a timely manner, or to maintain operation and maintenance logs, as required by rule 62-602.650, is from a minimum issuance of a probation letter to a maximum

administrative fine of \$100 per day of the occurrence up to a maximum of \$1,000 for the offense. The recommended penalty for failure to report unpermitted discharges, interruption of service, plant upsets, or the failure to report the production of drinking water that does not meet the applicable requirements is from a minimum of a suspension of license of 1 year, up to a maximum of revocation of license. The actual penalty imposed depends upon the severity of the violation to cause harm to the environment, or to endanger the public's or plant employees health or safety.

(2) The Department shall be entitled to deviate from the above guidelines upon a showing of aggravating or mitigating circumstances by the accused before any imposition of a final penalty.

(a) Aggravating circumstances are circumstances that justify deviating from the above disciplinary guidelines and cause the increase of a penalty beyond the maximum level of discipline in the guidelines. These are:

1. History of previous violations of these rules.

2. For negligence, the magnitude and scope of the damage inflicted upon the environment, plant, plant employees, or general public by the operator's misfeasance.

(b) Mitigating circumstances are circumstances that justify deviating from the above disciplinary guidelines and cause the reduction of a penalty beyond the minimum level of discipline in the guidelines. These are:

1. For negligence, the nature of the plant in question and lack of danger to the environment or public health, safety and welfare resulting from the operator's misfeasance.

2. Lack of previous disciplinary history in this or any other jurisdiction wherein the operator practices his profession.

3. Restitution of any damages suffered by the operator's client.

4. Steps taken by the operator to ensure that similar violations will not occur.

Specific Authority 403.869 FS. Law Implemented 403.875, 403.876 FS. History--New.

#### 62-602.870 Suspension and Revocation of Operator License.

(1) The Department shall, depending on aggravating and mitigating circumstances, in addition to a fine, suspend a license for a period not to exceed 2 years for any of the following reasons:

(a) Submission of false or misleading information in an application for license or for renewal of a license.

(b) Cheating on an examination.

(c) Incompetence in the performance of duties of an operator in treatment plant operation which results in a plant, under the direct charge of the operator, being operated in a manner inconsistent with standard operating practice.

(2) The Department shall permanently revoke a license for any one of the following reasons:

(a) Fraud in the submission of applications or documentation for license or renewal.

(b) Determination by the Department that an operator falsified or intentionally misrepresented, or finds persistent inaccuracy or incompleteness of, data or information contained in documents or reports required to be submitted to the Department or an approved local regulatory agency, including the operation, laboratory or maintenance reports or logs required to be maintained, signed, or submitted by an operator.

(c) A finding by the Department that negligence in the performance of duties as an operator in treatment plant operation has resulted in a threat to public health or safety, or harm to the environment.

(d) Suspension of license more than twice.

(3) Revocation can be permanent or for a shorter time. If less than permanent, a person with a revoked license may seek certification as an operator upon completion of the revocation period and its conditions. Such certification must meet all of the requirements in rule 62-602.300.

(4) Before revoking or suspending a license, the Department shall give written notice to the persons involved, setting forth with specificity the allegations of fact which justify the Department's proposed actions. Within 21 days of receipt of notification, the person affected may petition for an administrative hearing under sections 120.569 and 120.57, F.S.

(5) Licenses that have been revoked or suspended shall be returned to the Department within 30 days after the effective date of revocation or suspension.

(6) In order to resume practicing as an operator, persons with suspended licenses shall not be required to reexamine for licensure after the period of suspension has past, unless or until the person's license expires of its own accord.

Specific Authority 403.869 FS. Law Implemented 403.876 FS. History--New

62-602.900 Forms for the Operator Certification Program. Each form is listed below by the form number, title, and effective date. Copies of the following forms may be obtained by writing to the Program Manager, Operator Certification Program, 2600 Blair Stone Road, Mail Station 3506, Tallahassee, Florida 32399-2400.

(1) Form 62-602.900(1), Application for Water or Wastewater Treatment Plant Operator Certification, effective date \_\_\_\_\_.

(2) Form 62-602.900(2), Re-Exam Application for Water or Wastewater Treatment Plant Operator Certification, effective date \_\_\_\_\_.

Specific Authority 403.869 FS. Law Implemented 403.876 FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: David B. Struhs, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 30, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 1, 1998

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Division of Recreation and Parks**

DOCKET NO.: 99-23R

RULE CHAPTER TITLE: Operation of Division of Recreation Areas and Facilities

RULE CHAPTER NO.:

62D-2

RULE TITLES:

RULE NOS.:

Park Property and Resources

62D-2.013

Activities and Recreation

62D-2.014

PURPOSE AND EFFECT: Requires the control of invasive exotic plants on park properties; and allows pets in state park campgrounds pursuant to periodic evaluation of parks, establishes evaluation criteria, and establishes restrictions to be followed by pet owners.

SUMMARY: Plant Life – This revision is a formality to include a long time resource management practice in the rule. The Policy of the Division of Recreation and Parks is, in part, to acquire and maintain typical portions of the original domain of the State of Florida. This cannot be achieved without managing invasive exotic plant species. Domestic Animals – This revision is in response to a one-year test of allowing pets in state park campgrounds at 5 parks. A camper opinion survey was conducted during the test. The results of the test and survey indicated a need to readdress the 40+ year Rule of not allowing pets in state park campgrounds. The Rule establishes rules of behavior for pets, park evaluation criteria for determining which parks will allow pets, and sets a nightly fee for pets in campgrounds.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None has been prepared.

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

SPECIFIC AUTHORITY: 258.007(2) FS.

LAW IMPLEMENTED: 258.004, 258.007(2), 258.037 FS.

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

TIME AND DATE: 11:00 a.m., October 8, 1999

PLACE: Conference Room A, Marjory Stoneman Douglas Building, 3900 Commonwealth Boulevard, Tallahassee, Florida

If accommodation for a disability is needed to participate in this activity, please notify the Personnel Services Specialist in the Bureau of Personnel at (850)488-2996 or (800)955-8771 (TDD), at least seven days before the meeting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: George E. Apthorp, (850)488-5968

THE FULL TEXT OF THE PROPOSED RULES IS:

62D-2.013 Park Property and Resources.

(4) Plant Life.

(a) All plant life, terrestrial, aquatic and aerial, is the property of the State of Florida. No person shall cut, carve, or damage the bark, or break off limbs or branches or mutilate in any way, or pick the flowers or seeds of any plant or tree. Nor shall any person dig in or otherwise disturb grass areas or in any other way impair the natural condition of any area; nor shall any person place debris or materials of any kind on or about any tree or plant ~~or attach any rope or wire thereto.~~

(b) No person shall transplant or remove any plant life from any park, except as provided herein. The Division shall manage invasive exotic plants where appropriate for the restoration, maintenance, and preservation of certain plant communities.

Specific Authority 258.007(2) FS. Law Implemented 258.004, 258.007(2),(4) FS. History—New 4-16-96, Amended 4-14-98,\_\_\_\_\_.

62D-2.014 Activities and Recreation.

(13) Domestic Animals.

(a) No change.

(b) Domestic breeds of dDogs, cats and other fur-bearing pets, except dog guides, service dogs and non-human primates of the genus Cebus, which are trained and registered for assisting the physically impaired, shall be excluded from the following places in a park: food-service areas, ~~designated~~ camping areas, cabins, bathing and swimming areas including land and water portions, park buildings, playgrounds, and other designated areas. Pets are permitted in all other nonrestricted areas subject to the following restrictions: if ~~adequately~~ restrained. Dogs must be kept on leashes no longer than six feet at all times.

1. All pets must be confined, leashed, or otherwise under the physical control of a person at all times. Leashes may not exceed six feet in length. This rule does not apply to horses and pack animals brought in for equestrian trail use.

2. Pets must be well behaved at all times. Pets must be confined in the owner’s camping unit during designated quiet hours. Unconfined pets may not be left unattended for more than 30 minutes and must be leashed.

3. Pet owners shall pick up after their pets and properly dispose of all pet droppings in trash receptacles.

4. Pets which are noisy, vicious, dangerous, disturbing or intimidating to other persons, and pets which damage park resources are considered to be nuisances and will not be permitted to remain in the park.

5. Owners of dogs and cats and other pets, required by Florida Law to be vaccinated against rabies, must provide proof of rabies vaccination when registering to camp.

(c) Camping areas and other park areas will be evaluated, as to the suitability of pets, on a periodic basis as part of the unit management planning process. Areas of the park designated as prohibited for pets shall be determined based on park natural and cultural resources, primary recreational activities, camper and pet health and safety, geographical location and layout of camping areas, and the ability to provide a quality recreational experience for all visitors. A fee will be charged for each pet accompanying a camping party.

Specific Authority 258.007(3) FS. Law Implemented 258.004, 258.007(2), 258.014, 258.016, 258.017, 258.037 FS. History—New 4-16-96, Amended 4-14-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Fran P. Mainella, Director, Division of Recreation and Parks

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Robert G. Ballard, Deputy Secretary, Department of Environmental Protection

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 22, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 1999

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Renewal of Approval for

RULE NO.:

Recognizing Agencies

64B8-11.0015

PURPOSE AND EFFECT: The proposed rule is intended to address the renewal procedure for approved recognizing agencies.

SUMMARY: The proposed rule amendments sets forth the criteria for renewal every three years for recognizing agencies.

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

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

SPECIFIC AUTHORITY: 458.309, 458.3312 FS.

LAW IMPLEMENTED: 458.331(1)(d)(l)(n),(o), 458.3312 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: Tanya Williams, Executive Director, Board of Medicine/MQA, 2020 Capital Circle, S. E., Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-11.0015 Renewal of Approval for Recognizing Agencies.

Every recognizing agency approved by the Board pursuant to Rule 64B8-11.001 is required to renew such approval every three years.

(1) To facilitate Board review and renewal of approval each approved recognizing agency seeking to renew approval shall:

(a) Submit to the Board a written statement certifying that the recognizing agency's requirements continue to be as originally reviewed by the Board and that the recognizing agency continues to be in compliance with each of the requirements of Rule 64B8-11.001(2)(f)1-7., Florida Administrative Code, or

(b) Submit to the Board a written statement stating any changes in the recognizing agency's requirements and providing a full description of such changes.

(2) Each written submission shall be filed with the Board at least three months prior to the third anniversary of the recognizing agency's initial approval and each subsequent renewal of approval by the Board. Upon review of the submission by the Board, written notice shall be provided to the recognizing agency indicating the Board's acceptance of the certification and the next date by which a renewal submission must be filed, or of the Board's decision that any identified changes are not acceptable and on that basis denial of renewal of approval as a recognizing agency.

(3) The recognizing agencies currently approved by the Board include:

(a) American Board of Facial Plastic & Reconstructive Surgery, Inc. (Approved February 1997).

(b) American Board of Pain Medicine. (Approved August 1999) Any person interested in obtaining a complete list of approved recognizing agencies may contact the Board of Medicine or Department of Health.

Specific Authority 458.309, 458.3312 FS. Law Implemented 458.331(1)(d)(l)(m),(o), 458.3312 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 7, 1999

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 20, 1999

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	67-37.002
Fund Availability and Allocation	67-37.003
Local Housing Ordinance and Resolution Requirements	67-37.004
Local Housing Assistance Plans	67-37.005
Review of Local Housing Assistance Plans and Amendments	67-37.006
Uses and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans	67-37.007
Local Housing Assistance Trust Fund	67-37.008
Local Affordable Housing Advisory Committees	67-37.009
Local Affordable Housing Incentive Strategies	67-37.010
Interlocal Entities	67-37.011
Termination of SHIP Local Housing Distribution Funds	67-37.013
Non Discrimination Requirements	67-37.014
Compliance Monitoring for Housing Developed with SHIP Local Housing Distribution Funds	67-37.015
Reporting Requirements	67-37.016
Administration of Remaining Local Housing Distribution Funds	67-37.017
Appeals	67-37.018

PURPOSE, EFFECT AND SUMMARY: This rule establishes the procedures by which the Florida Housing Finance Corporation shall administer the State Housing Initiatives Partnership (SHIP) Program which provides funds to Local Governments as an incentive to create Partnerships to produce and preserve affordable housing. Revisions to the Rule are required to implement technical and clarifying changes. The adoption of these revisions will increase the efficiency and effectiveness of local program service delivery and will provide greater clarification of the program.

SPECIFIC AUTHORITY: 420.907 FS.

LAW IMPLEMENTED: 420.9071, 420.9072, 420.9073, 420.9075, 420.9076, 420.9078, 420.9079 FS.

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

TIME AND DATE: 2:00 p.m., October 11, 1999

PLACE: Florida Housing Finance Corporation, 227 North Bronough Street, 6th Floor, Seltzer Room, Tallahassee, Florida 32301-1329

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Thomas W. Burt, SHIP Administrator, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

THE FULL TEXT OF THE PROPOSED RULES IS:

67-37.002 Definitions.

As used in this rule chapter, the following definitions shall apply:

(1) "Adjusted for Family Size" means adjusted in a manner that results in an income eligibility level that is lower for households having fewer than four people, or higher for households having more than four people, than the base income eligibility determined as provided in 420.9071(19), (20), or (28), F.S. subsections (28), (29), or (41); based upon a formula established by the United States Department of Housing and Urban Development.

(2) "Administrative Expenses" means those expenses directly related to implementation of the Local Housing Assistance Plans.

(3) "Affordable" means that monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area's median annual gross income for the household as indicated in subsections (28), (29), or (41). However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the institutional first mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30 percent benchmark or,

(a) for rental housing, rents do not exceed those limits adjusted for bedroom size published annually by the Florida Housing Finance Corporation.

(4) "Affordable Housing Advisory Committee" or "Advisory Committee" means the committee appointed by the governing body of a county or eligible municipality for the purpose of recommending specific initiatives and incentives to encourage or facilitate affordable housing as provided in Section 420.9076, F.S.

(5) "Agency" means the Florida Housing Finance Agency.

(6) "Annual Gross Income" means annual income as defined under the Section 8 housing assistance payments programs in 24 CFR part 5; annual income as reported under the census long form for the recent decennial census; or adjusted gross income as defined for purposes of reporting under Internal Revenue Service Form 1040 for individual federal annual income tax purposes. Counties and eligible municipalities shall calculate income by projecting the prevailing rate of income for all adults in the household as the amount of income to be received in a household during the 12 months following the effective date of the determination.

(3)(7) "Annual Report" or "Form SHIP AR/97-1" is a multi-page report that is required to be completed and submitted to the Corporation by September 15 of each year pursuant to Section 420.9075(9), F.S., and is adopted and incorporated herein by reference.

(8) "Award" means a loan, grant, or subsidy funded wholly or partially by the local housing assistance trust fund.

(4) "Corporation" means Florida Housing Finance Corporation.

(9) "Community-Based Organization" means a nonprofit organization that has among its purposes the provision of affordable housing to persons who have special needs or have very low income, low income, or moderate income within a designated area, which may include a municipality, a county, or more than one municipality or county, and maintains, through a minimum of one third representation on the organization's governing board and otherwise, accountability to housing Program beneficiaries and residents of the designated area. A community housing development organization established pursuant to 24 CFR, Part 92.2 and a community development corporation created pursuant to Chapter 290, F.S., are examples of Community-Based Organizations.

(5)(40) "Debt Service" means the amount required in any fiscal year to pay the principal of, redemption premium, if any, and interest on bonds and any amounts required by the terms of the documents authorizing, securing, or providing liquidity for bonds necessary to maintain in effect any such liquidity or security arrangements.

(6)(41) "Default" means the failure to make required payments on a financial loan secured by a first mortgage which leads to foreclosure and loss of property ownership.

(12) "Eligible Housing" means any real and personal property located within the county or the eligible municipality which is designed and intended for the primary purpose of providing decent, safe, and sanitary residential units that are designed to meet the standards of Chapter 553, F.S., (excludes mobile and manufactured homes) for home ownership or rental for eligible persons as designated by each county or eligible municipality participating in the State Housing Initiatives Partnership Program. The purchase price of home ownership units must not exceed 90 percent of the maximum purchase price limitations for either new or existing residences, as applicable, as established by the United States Department of Treasury and must meet affordability requirements in order to qualify as eligible. Transitional housing and shelters shall be considered as eligible housing for eligible persons to the extent of compliance with all other eligibility and program criteria (including Section 553, F.S.).

(13) "Eligible Municipality" means a municipality that is eligible for federal Community Development Block Grant moneys as an entitlement community identified in 24 CFR Section 570, Subpart D, Entitlement Grants or a nonentitlement municipality that is receiving local housing distribution funds under an interlocal agreement that provides for possession and administrative control of funds to be transferred to the nonentitlement municipality. A municipality that is eligible for participation in the federal Community

~~Development Block Grant (CDBG) Program, but defers participation with its county government in the entitlement portion of the Community Development Block Grant Program does not affect its eligibility for participation as an eligible municipality in the State Housing Initiatives Partnership (SHIP) Program. For purposes of the SHIP Program, cities which achieve Community Development Block Grant Program entitlement status during a State fiscal year, shall be eligible for SHIP Program participation as of July 1 of the next State fiscal year.~~

~~(14) "Eligible Person or Eligible Household" means one or more natural persons, or a family, which are determined by the county or eligible municipality to be of very low income, low income, or moderate income according to the income limits adjusted to family size published annually by the United States Department of Housing and Urban Development based upon the annual gross income of the household.~~

~~(15) "Eligible Sponsor" means a person or a private or public for profit or not for profit entity that applies for an Award under the local housing assistance plan for the purpose of providing eligible housing for eligible persons.~~

~~(7)(16) "Encumbered" means that deposits made to the local affordable housing trust fund have been committed by contract, or purchase order, letter of commitment or award in a manner that obligates the county, eligible municipality, or interlocal entity to expend the encumbered amount upon delivery of goods, the rendering of services, or the conveyance of real property by a vendor, supplier, contractor, or owner.~~

~~(8)(17) "Expenditure, " "Expended, " or "Spent" means the affordable housing activity is complete and funds deposited to the local affordable housing trust fund have been transferred from the local housing assistance trust fund account to pay for the cost of the activity. In all cases, this definition will apply when the project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers, issuance of the certificate of occupancy by the local building department, and occupancy by an eligible person or eligible household. In the case of a loan guarantee strategy, the deposits to the local housing assistance trust fund will be considered expended when they are deposited from the local housing assistance trust fund into the guarantee fund. The funds deposited to the local housing assistance trust fund must be spent within twenty-four months from the end of the applicable State fiscal year. Exceptions to this time frame must be approved by a majority vote of the Review Committee on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other State agencies, adverse market conditions, and unavoidable development delays. Adequate documentation must be presented to the Review Committee before an extension will be granted, e.g., project status, work plan and completion schedule, commitment of funds, etc.~~

~~(18) "Grant" means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to fully or partially assist in the construction, rehabilitation, or financing of eligible housing or to provide the cost of tenant or ownership qualifications without requirement for repayment as long as the condition of award is maintained.~~

~~(9)(19) "Home Ownership Activities" means the use of the local affordable housing trust fund moneys for the purpose of providing owner-occupied housing. Such uses may include, but are not limited to, construction, rehabilitation, purchase, and lease-purchase financing where the primary purpose is the eventual purchase of the housing by the occupant within twenty-four months from initial execution of a lease agreement or within 24 months of the applicable fiscal year, whichever occurs first, to meet the requirement of subparagraph (8)(17).~~

~~(10)(20) "Institutional First Mortgage Lender" means any bank or trust company, mortgage banker, savings bank, credit union, national banking association, savings and loan association, building and loan association, or other financial institution or governmental agency authorized to conduct business in this state and which customarily provides service or otherwise aids in the financing of mortgages on real property located in this state.~~

~~(11)(21) "Interlocal Entity" means an entity created pursuant to the provisions of Chapter 163, Part I, F.S., for the purpose of establishing a joint local housing assistance plan pursuant to the provisions of Section 420.9072(5), F.S.~~

~~(12)(22) "Loan" means an award from the local housing assistance trust fund to an eligible sponsor or eligible person to partially or fully finance the acquisition, construction, or rehabilitation of eligible housing with requirement for repayment or provision for forgiveness of repayment if the condition of the award is maintained.~~

~~(23) "Local Housing Assistance Plan" means a concise description of the local housing assistance plan strategies and local housing incentive strategies which:~~

~~(a) has been adopted by local government ordinance or resolution; and~~

~~(b) contains an explanation of the way in which the plan meets the requirements of Sections 420.907-420.9079, F.S., and this rule chapter.~~

~~(24) "Local Housing Assistance Strategies" means the housing construction, rehabilitation, repair, or finance programs implemented by a participating county or eligible municipality with the local housing distribution or other funds deposited into the local housing assistance trust fund to make affordable residential units available to eligible persons and eligible households.~~

~~(25) "Local Housing Incentive Strategies" means local regulatory reform or incentive programs to encourage or facilitate affordable housing production, which include at a minimum, assurance that permits as defined in ss. 163.3164(7) and (8) for affordable housing projects are expedited to a~~

greater degree than other projects; an ongoing process for review of local policies, ordinances, regulations, and plan provisions that increase the cost of housing prior to their adoption; and a schedule for implementing the incentive strategies. Local housing incentive strategies may also include other regulatory reforms, such as those enumerated in s. 420.9076(4), F.S., and 67-37.010(3) and adopted by the local governing body.

(26) "Local Housing Distribution Funds" means the proceeds of the taxes collected under Chapter 201, F.S., deposited into the local government housing trust fund, created pursuant to Section 420.9079, F.S., and distributed to counties and eligible municipalities participating in the State Housing Initiatives Partnership Program ("SHIP") pursuant to Section 420.9073, F.S.

(27) "Local Housing Partnership" or "Partnership" means the implementation of the local housing assistance plan in a manner that, to the greatest extent possible, includes full representation from both the public and private sector. Such partnership shall not be required to be a corporate or legal entity, but shall involve the applicable county or eligible municipality, lending institutions, housing developers, and builders, community based housing and service organizations, real estate professionals, advocates for low income persons, and providers of professional services relating to affordable housing as equal participants in the partnership. The term includes initiatives to provide support services for housing program beneficiaries such as training to prepare persons for the responsibility of home ownership, counseling of tenants, and the establishing of support services such as day care, health care, and transportation.

(28) "Low Income Person" or "Low Income Household" means one or more natural persons or a family, that has a total annual gross household income that does not exceed 80 percent of the median annual income adjusted for family size for households within the metropolitan statistical area (MSA), the county, or the non metropolitan median for the State, whichever amount is greatest. With respect to rental units, the low income household's annual gross income at the time of initial occupancy may not exceed 80 percent of the area's median income adjusted for family size. While occupying the rental unit, a low income person's household's annual gross income may increase to an amount not to exceed 140 percent of 80 percent of the area's median income adjusted for family size.

(29) "Moderate Income Person" or "Moderate Income Household" means one or more natural persons or a family, that has a total annual gross household income for the household that does not exceed 120 percent of the median annual gross income adjusted for family size for households within the metropolitan statistical area (MSA), the county, or the non metropolitan median for the State, whichever is greatest. With respect to rental units, a moderate income

household's annual gross income at the time of initial occupancy may not exceed 120 percent of the area's median income adjusted for family size. While occupying the rental unit, a moderate income household's annual income may increase to an amount not to exceed 140 percent of 120 percent of the area's median income adjusted for family size.

(13)(30) "Persons Who Have Special Housing Needs" means individuals who have incomes not exceeding moderate-income and, because of particular social, economic, or health-related circumstances, may have greater difficulty acquiring or maintaining affordable housing. Such persons may have, for example, encountered resistance to their residing in particular communities, and may have suffered increased housing costs resulting from their unique needs and high risk of institutionalization. Such persons may include, but are not limited to, persons with developmental disabilities; persons with mental illnesses or chemical dependency; persons with Acquired Immune Deficiency Syndrome ("AIDS") and Human Immunodeficiency Virus ("HIV") disease; runaway and abandoned youth; public assistance recipients; migrant and seasonal farm workers; refugees and entrants; the elderly; and disabled adults.

(31) "Plan Amendment" means the addition or deletion of a local housing assistance strategy or local housing incentive strategy. Plan amendments shall at all times maintain consistency with program requirements and shall be submitted to the Corporation for review pursuant to s. 420.9072(3), F.S., and 67-37.006. Technical or clarifying revisions shall not be considered plan amendments but shall be transmitted to the Corporation for purposes of notification.

(32) "Population" means the latest official State estimate of population certified pursuant to Section 186.901, F.S., prior to the beginning of the fiscal year.

(33) "Program Income" means the proceeds derived from interest earned on or investment of the local housing distribution funds and other funds deposited into the local housing assistance trust fund, proceeds from loan repayments, and all other income derived from use of funds deposited in the local housing assistance trust fund. It does not include recaptured funds as defined in subsection (34).

(34) "Recaptured funds" means funds that are recouped by a county or eligible municipality in accordance with the recapture provisions of its local housing assistance plan pursuant to 420.9075(4)(g), F.S., and 67-37.007(12) and (13) from eligible persons or eligible sponsors who default on the terms of a grant award or loan award.

(14)(35) "Rehabilitation" means repairs or improvements which are needed for safe or sanitary habitation, correction of substantial code violations, or the creation of additional living space. Local plans may more specifically define local rehabilitation standards.

~~(36) "Rent Subsidies" means ongoing monthly rental assistance. The term does not include initial assistance to tenants, such as grants or loans for security and utility deposits.~~

~~(15)(37) "Review Committee" means the committee established pursuant to 420.9072(3)(a), F.S., and 67-37.006(1).~~

~~(38) "Sales Price" or "Value" means, in the case of acquisition of an existing or newly constructed unit, the amount on the executed sales contract. For eligible persons who are building a unit on land that they own, the sales price is determined by an appraisal performed by a state-certified appraiser. The appraisal must include the value of the land and the improvements using the after construction value of the property and must be dated within 12 months of the date construction is to commence. The sales price of any unit must include the value of the land in order to qualify as eligible housing as defined in subsection (12). In the case of rehabilitation or emergency repair of an existing unit, sales price or value means the value of the real property, as determined by an appraisal performed by a state certified appraiser and dated within 12 months of the date construction is to commence or the assessed value of the real property as determined by the county property appraiser, plus the cost of the improvements.~~

~~(16)(39) "SHIP" or "SHIP Program" means the State Housing Initiatives Partnership Program created pursuant to the State Housing Initiative Partnership Act, Sections 420.907-420.9079, F.S.~~

~~(17)(40) "State" means the State of Florida.~~

~~(41) "Very Low Income Person" or "Very Low Income Household" means one or more natural persons or a family, that has a total annual gross income for the household that does not exceed 50 percent of the median annual income adjusted for family size for households within the metropolitan statistical area (MSA), the county, or the non-metropolitan median for the State, whichever is greatest. With respect to rental units, the very low income household's annual gross income may increase to an amount not to exceed 140 percent of 50 percent of the applicable area's median income adjusted for family size.~~

Specific Authority 420.0003(3)(e),(7), 420.9072(9) FS. Law Implemented 420.9071 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.002, Amended.

67-37.003 Fund Availability and Allocation.

~~(1) Distributions calculated in this rule shall be disbursed on a monthly basis by the Corporation beginning the first day of the month after plan approval pursuant to Section 420.9072, F.S.~~

~~(2) Each county's share of the local housing distribution funds to be distributed from the portion of the local housing distribution in the local government housing trust fund received pursuant to Section 201.15(6), F.S., shall be calculated by the Corporation for each fiscal year as follows:~~

~~(a) Each county other than a county that has implemented the provisions of Chapters 83-220, 84-270, 86-152, and 89-252, Laws of Florida, shall receive the guaranteed amount for each fiscal year.~~

~~(b) Each county other than a county that has implemented the provisions of Chapter 83-220, Laws of Florida, as amended by Chapters 84-270, 86-152, and 89-252, Laws of Florida, may receive an additional share calculated as follows:~~

~~1. Multiply each county's percentage of the total State Population excluding the population of any county that has implemented the provisions of Chapter 83-220, Laws of Florida, as amended by Chapters 84-270, 86-152, and 89-252, Laws of Florida, by the total local housing distribution funds to be distributed.~~

~~2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.~~

~~3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount as determined in subsection (3), the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts so determined for all counties. Each such county shall receive an additional share equal to such percentage multiplied by the total local housing distribution received by the local government housing trust fund pursuant to Section 201.15(6), F.S., reduced by the guaranteed amount paid to all counties.~~

~~(3) Effective July 1, 1995, Distributions calculated in this section shall be Disbursed on a monthly basis by the Corporation beginning the first day of the month after plan approval pursuant to Section 420.9072, F.S. Each county's share of the local housing distribution to be distributed from the portion of the local housing distribution in the local government housing trust fund received pursuant to Section 201.15(7), F.S., shall be calculated by the Corporation for each fiscal year as follows:~~

~~(a) Each county shall receive the guaranteed amount for each fiscal year.~~

~~(b) Each county may receive an additional share calculated as follows:~~

~~1. Multiply each county's percentage of the total State population, by the total local housing distribution funds to be distributed.~~

~~2. If the result in subparagraph 1. is less than the guaranteed amount as determined in subsection (3), that county's additional share shall be zero.~~

~~3. For each county in which the result in subparagraph 1. is greater than the guaranteed amount, the amount calculated in subparagraph 1. shall be reduced by the guaranteed amount. The result for each such county shall be expressed as a percentage of the amounts as determined for all counties. Each such county shall receive an additional share equal to this paragraph multiplied by the total local housing distribution~~

received by the local government housing trust fund pursuant to Section 201.15(7), F.S., as reduced by the guaranteed amount paid to all counties.

~~(4) Calculation of guaranteed amounts:~~

~~(a) The guaranteed amount under subsection (1) shall be calculated for each fiscal year by multiplying \$350,000 by a fraction, the numerator of which is the amount of local housing distribution funds distributed to the local government housing trust fund pursuant to Section 201.15(6), F.S., and the denominator of which is the total amount of local housing distribution funds distributed to the local government housing trust fund pursuant to Section 201.15, F.S. For fiscal year 1997-98, the guaranteed amount in Section 420.9073, F.S., shall be \$350,000.~~

~~(b) The guaranteed amount under subsection (2) shall be calculated for each fiscal year, beginning in fiscal year 1997-1998, by multiplying \$350,000 by a fraction, the numerator of which is the amount of local housing distribution funds distributed to the local government housing trust fund pursuant to Section 201.15(7), F.S., and the denominator of which is the total amount of local housing distribution Funds distributed to the local government housing trust fund pursuant to Section 201.15, F.S.~~

~~(1)(5) Distributions by the Corporation shall be made to each approved county and eligible municipality within the county according to an interlocal agreement between the county governing authority and the governing body of the eligible municipality or, if there is no interlocal agreement, according to population. The portion for each eligible municipality is computed by multiplying the total moneys earmarked for a county by a fraction, the numerator of which is the population of the eligible municipality and the denominator of which is the total population of the county. The remaining revenues shall be distributed to the governing body of the county.~~

~~(2)(6) Moneys that otherwise would be allocated and distributed to a local government that does not meet the program requirements for allocation and distribution shall remain in the local government housing trust fund to be used by the Corporation to administer the State Housing Initiatives Partnership Program pursuant to Section 420.9078, F.S.~~

Specific Authority 420.9072(9) FS. Law Implemented 420.9073 FS. History--New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.003, Amended.

67-37.004 Local Housing Ordinance and Resolution Requirements.

Specific Authority 420.9072(9) FS., Law Implemented 420.9072(2)(b) FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.004, Repealed.

67-37.005 Local Housing Assistance Plans.

(1) To be eligible for SHIP funding for a state fiscal year, a county or eligible municipality must submit and receive approval of its local housing assistance plan and amendments

thereto as provided in 67-37.006. Plans must be submitted to the Corporation by May 2 preceding the end of the fiscal year in which the current plan expires. In the case of new eligible municipalities, plans must be submitted to the Corporation by May 2 of the state fiscal year prior to the state fiscal year they are eligible for funding. No SHIP local housing distribution funds shall be distributed in any fiscal year to any county or eligible municipality unless and until an approved plan is in place with respect to such fiscal year.

(2) The effective period of a local housing assistance plan may be up to three years. Counties or eligible municipalities which receive plan approval for more than one fiscal year shall not be required to resubmit a new plan until May 2 of the year in which the approved plan expires.

(3) Each local housing assistance plan shall include a description of the local housing assistance plan and incentive strategies, shall reference the requirements of Section 420.907, et seq., F.S., and how each of those requirements shall be met, and shall describe the process which the local government has followed to develop the Plan. A county or eligible municipality may choose to use SHIP local housing distribution funds for one or more of the activities described in 67-37.007.

(4) The county or eligible municipality shall provide in its local housing assistance plan a complete description of all activities to be undertaken in its local housing assistance plan as described in 67-37.005.

(5) For each strategy or use of local housing distribution funds, the county or eligible municipality shall provide, in its local housing assistance plan, the following information:

(a) the proposed dollar amount of the local housing distribution to be used for each strategy, stated for each State fiscal year in a multi-year plan;

(b) the estimated number of households proposed to be served by income;

(c) the maximum amount of funding per unit, and the estimated amount of funding for new construction, rehabilitation or non-construction activities. On a multi-year plan, this information must be presented separately for each State fiscal year;

(d) the proposed sales price of new and existing units, which can be lower but may not exceed 90% of median area purchase price established by the U.S. Treasury Department;

(e) ~~includes~~ the statement that monthly rents or monthly mortgage payments, including taxes and insurance, do not exceed 30 percent of an amount representing the percentage of the area's median annual gross income for the household as indicated in ~~420.9071(19), (20) or (28), F.S. subsections (29), (30), (41)~~. However, it is not the intent to limit an individual household's ability to devote more than 30 percent of its income for housing. Housing for which a household devotes more than 30 percent of its income shall be deemed affordable if the first institutional mortgage lender is satisfied that the household can afford mortgage payments in excess of the 30

percent benchmark and in the case of rental housing does not exceed those rental limits adjusted for bedroom size established by the Corporation;

(f) a description of the extent to which a strategy is implemented by combining resources through a partnership in order to reduce the cost of housing;

(g) a description of the support services provided by local plans that will be made available to the residents of the housing; and

(h) a description of the initiatives which will be used to conduct outreach and to attract applicants for assistance. The information required for paragraphs (a) through (d) will be included on the Housing Delivery Goals Chart which is required to be completed for each fiscal year and is adopted and incorporated herein by reference.

(i) a description of how the strategies further the housing element, goals, policies, and objectives of the local government's comprehensive plan.

(6) Each local housing assistance plan shall also include: ~~(a)~~ a statement, and evidence thereof, that the county or eligible municipality:

~~(a)~~ has a plan to advertise the availability of the housing assistance plan at least 30 days before the beginning of the application period in a newspaper of general circulation and periodicals serving ethnic and diverse neighborhoods, the advertisement must include the following:

~~1.a.~~ identify the amount of the distribution projected to be received from the state for the fiscal year;

~~2.b.~~ list the beginning and end date, if applicable, of the application period;

~~3.c.~~ provide the name of the local plan contact person and other pertinent information including where applicants may apply for assistance.

~~(b)d.~~ The advertisement may include other such information that the local governments deem necessary such as:

~~1.(A)~~ an estimated amount of SHIP local housing distribution per strategy;

~~2.(H)~~ income set asides for each strategy along with applicable income limits;

~~3.(HH)~~ a description of the selection criteria for each strategy;

~~4.(IV)~~ the maximum housing value limitation for each strategy, or;

~~5.(V)~~ a statement that SHIP local housing distribution may not be used to purchase, rehabilitate, or repair mobile homes.

~~6.e.~~ once a waiting list has been exhausted and funds remain unencumbered, advertise as instructed in 420.9075(3)(b), F.S. ~~if no funding is available due to a waiting list, no notice of fund availability is required.~~

~~7.2.~~ has developed a qualification system and selection criteria for applications for Awards to eligible sponsors, which includes a description that demonstrates how eligible sponsors that employed personnel from the WAGES and Workforce Development Initiatives programs will be given preference in the selection process, adopted criteria for selection of eligible persons, and adopt a maximum Award schedule or system of amounts consistent with the intent and budget of its local housing assistance plan, with Section 420.907-420.9079, F.S.;

~~3.~~ certifies that it will disclose that it is unlawful to discriminate on the basis of race, creed, color, religion, age, sex, marital or familial status, national origin, or handicap in the award application process for eligible housing;

~~4.~~ certifies that it will require the eligible person or eligible sponsor receiving a local housing distribution to contractually commit to comply with program guidelines. The plan criteria adopted by the county or eligible municipality must prescribe the contractual obligations required to ensure compliance with award conditions, and;

~~(c)5.~~ certifies that the staff or entity that has administrative authority for implementing a local housing assistance plan assisting rental developments shall annually monitor and determine tenant eligibility throughout the 15 year compliance period as described at 67-37.015(3).

~~(d)(b)~~ a time line for the expenditure of SHIP local housing distribution funds in sufficient detail to allow for a comparison of such plan with actual expenditures. The time line must also provide, in sufficient detail, an alternate course of action should the local government determine it will not meet program encumbrance and/or expenditure requirements. The time line should include specific dates the local staff plan to review to determine plan efficiency and efficacy. The information submitted must be presented separately for each State fiscal year;

~~(e)(e)~~ a provision for the application of program income and recaptured funds from loan repayments, reimbursements or other repayments, and interest earnings on the local housing distribution funds. Such provision shall evidence compliance with the provisions of 67-37.007;

~~(f)(d)~~ a provision requiring:

~~1.~~ the county or eligible municipality to amend the approved plan in accordance with Rule 67-37.006, if it will be unable to comply with the provisions of the program;

~~1.2.~~ the county or eligible municipality to encumber the local housing distribution funds deposited into the local housing assistance trust fund for each State fiscal year by June 30 one year following the end of the applicable State fiscal year;

~~2.3.~~ the expenditure of the local housing distribution deposited into the local housing assistance trust fund by any eligible person or eligible sponsor within 24 months of the close of the applicable State fiscal year unless otherwise extended as provided at 67-37.002(8)(47); and

~~3.4-~~ a detailed listing including line-item budget of proposed administrative expenses. These must be presented on an annual basis for each State fiscal year submitted.

~~4.(e)~~ a copy of the ordinance and amendments thereto required by Section 420.9072(2)(b), F.S.;

~~(f) a resolution adopting the local housing assistance plan by reference and which must include:~~

~~a.1. if applicable, a finding that five percent of the local housing distribution and 5 percent of program income is insufficient to adequately pay the administrative costs of the local housing assistance plan, and a provision increasing administrative expense to not more than ten percent of the local housing distribution.~~ Small counties and eligible municipalities receiving a local housing distribution of up to \$350,000 may use up to 10 percent of program income for administrative costs.

(7) A copy of the local housing assistance plan shall be submitted to the Corporation. The copy shall bear the original signature of the authorized official and a certification that the document being submitted is the county's, eligible municipality's or interlocal entity's local housing assistance plan and that all provisions of the plan conform to the requirements of Section 420.9072, F.S., et seq., and Rule Chapter 67-37. Each local housing assistance plan shall be typed on 8 1/2'' x 11'' paper, bound and contain a table of contents or checklist, which specifies exactly where in the documentation certain required items shall be located. Each local housing assistance plan shall be coded with text which is being deleted struck through and text being added underlined. Within two weeks after receipt of final approval letter, the local government shall provide to the Corporation a clean copy (no strike through or underline) for Corporation files.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History--New 11-26-92, Amended 5-2-93, 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.005, Amended.

67-37.006 Review of Local Housing Assistance Plans and Amendments.

(1) Local housing assistance plans and amendments shall be reviewed by a five member Review Committee appointed by the Executive Director. In the event that a quorum is not convened for the review of a plan or an amendment to a plan, action can be taken with a simple majority vote of those members present for the review.

(2) Any county or eligible municipality desiring review of any plan or amendment prior to adoption by the local government body shall submit it for review to the Review Committee. The plan or amendment will be reviewed by the Review Committee, which will recommend it for approval or identify inconsistencies with the requirements of the SHIP program within 30 days after receipt.

~~(3) The Corporation shall assist a county or eligible municipality in revising the plan or amendment if it initially proves to be inconsistent with SHIP program requirements. A~~

~~plan that is amended by a county or eligible municipality to achieve consistency with the SHIP program requirements shall be reviewed within 30 days after submission.~~

~~(3)(4)~~ Amendments to an approved local housing assistance plan must be adopted by resolution and the county or eligible municipality must provide a copy to the Review Committee within 21 days after adoption. A county or eligible municipality must amend its plan if at any time it is determined a strategy will not be used (deleted) or a new strategy will be added. However, an amendment must at all times maintain consistency with SHIP program requirements. All amendments will be reviewed by the Review Committee. The Committee will approve the amendment or identify inconsistencies with the requirements of the SHIP program within 30 days after receipt of the amendment.

~~(4)(5)~~ A county or eligible municipality which has adopted a Plan or an amendment that has been determined by the Review Committee to be inconsistent with the requirements of the SHIP program, shall make necessary revisions identified by the Review Committee within 45 days of receipt of the Committee's comments; however, the Corporation shall not require submission of a new local housing assistance plan to implement amendments imposed by Chapter 97-167, Laws of Florida, until the current effective plan expires.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(2) FS. History--New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.006, Amended.

67-37.007 Uses of and Restrictions Upon SHIP Local Housing Distribution Funds for Local Housing Assistance Plans.

(1) SHIP local housing distribution funds shall be used to implement the local housing assistance plan. The benefit of assistance provided through the SHIP program must accrue to eligible persons occupying eligible housing. This provision shall not be construed to prohibit use of the local housing distribution deposited into the local housing assistance trust fund for a mixed-income rental development. SHIP local housing distribution funds may be used:

(a) to implement local housing assistance and incentive strategies that create or preserve affordable housing;

(b) to supplement Corporation programs, such as, but not limited to, the State Apartment Incentive Loan Program established under Section 420.5087, F.S., and HOME Home Ownership Assistance Program (HAP) established under Section 420.5088, F.S., with the SHIP local housing distribution funds directed to uses within the local government jurisdiction;

(c) to provide local match to obtain federal housing grants or programs, such as HOME, established by 24 CFR, Part 92; and

(d) to fund emergency repairs by existing service providers under weatherization programs, pursuant to Sections 409.509-409.5093, F.S.



(e) to further the housing element of the local government comprehensive plan adopted pursuant to s. 163.3184, specific to affordable housing.

(2) SHIP local housing distribution funds may be used for both home ownership and rental housing activities. However, at least 65 percent of each local government's local housing distribution funds must be used for home ownership activities.

(3) At least seventy-five percent of a local government's SHIP local housing distribution funds must be used for construction, rehabilitation or emergency repairs of affordable, eligible housing. Construction, rehabilitation, or emergency repairs must be completed either within one year immediately preceding the date of conveyance of title (i.e., closing) or within 24 months of the close of the applicable State fiscal year to satisfy this requirement, unless otherwise extended as provided at 67-37.002(8)(47). For purposes of this rule, SHIP recipients may rely on the following expenditures to be considered construction, rehabilitation or emergency repair costs:

- (a) Those hard costs which are typically or customarily treated as construction costs by institutional lenders;
- (b) Payment of impact fees;
- (c) Infrastructure expenses typically paid by the developer;
- (d) Construction soft costs such as engineering studies and appraisals, if directly related to housing construction, rehabilitation or emergency repairs;
- (e) Relocation costs associated with rehabilitation of the residence usually occupied by a tenant or home owner;
- (f) Financing, or "buy-down" costs, if directly attributable to assisting eligible persons to own a home or obtain rental occupancy (e.g., security and utility deposit assistance) in a home or unit which has obtained a certificate of occupancy in the 12-month period immediately preceding the contract for sale and purchase or lease of the premises. When used to purchase an existing housing unit, closing costs and down payment assistance will be considered toward fulfilling the 75 percent construction requirement only if the housing unit receives rehabilitation. Any other costs may be submitted to the Review Committee for review and approval.

~~(4) SHIP local housing distribution funds may be spent on administrative expenses incurred by a local government provided that:~~

- ~~(a) no more than ten percent of the local distribution funds received by a county or eligible municipality and no more than 5 percent of program income (10 percent for local governments receiving not more than the minimum allocation) will be used for administrative expenses and~~
- ~~(b) if a local government wishes to spend more than five percent of its local distribution on administrative expenses, such expenditure must be approved by resolution of the local government(s) involved (an additional 5 percent of program income may be used by those local governments receiving the minimum allocation if approved by resolution).~~

~~(4)(5)~~ The Review Committee will approve expenditures for the following categories as administrative expenses:

- (a) Salaries of persons directly responsible for preparation of the plans or reporting required as part of the administration of the local SHIP plan;
- (b) Office expenses of persons responsible for the administration of the local SHIP plan; and
- (c) Studies conducted by the county or eligible municipality or by consultants selected by the county or eligible municipality to provide data on affordable housing need and demand in the area.
- (d) Expenses related to travel, training, education, and public information initiatives. Administrative expenses detailed in the local housing assistance plan which do not fit in these categories shall be analyzed by the Review Committee, which shall make a determination as to whether the proposed expenses shall be approved as administrative expenses.

~~(5)(6)~~ The balance of the local housing distribution funds and other funds deposited into the local housing assistance trust fund must be used for housing production and finance activities, including, but not limited to, financing the purchase of existing units, providing rental housing, and providing home ownership training to prospective home buyers and owners of homes assisted through the local housing assistance plan. Notwithstanding the provisions of paragraphs (2) and (3), program income as defined in s. 420.9071(24), F.S. ~~and Rule 67-37.001(33)~~ may also be used to fund activities described in this paragraph.

~~(6)(7)~~ The purchase price or value of new or existing homes which are sold or rehabilitated under the SHIP Program may not exceed 90 percent of the median area purchase price for either new or existing homes, as applicable, for the area where the housing is located, as established by the United States Department of Treasury. The local government at its discretion may set the purchase price below the 90 percent benchmark.

~~(7)(8)~~ Loans issued using local housing distribution funds deposited to the local housing assistance trust fund may not have terms exceeding 30 years, except for deferred payment loans or loans that extend beyond 30 years which continue to serve eligible persons.

~~(8)(9)~~ All units constructed, rehabilitated, or otherwise assisted with local housing distribution funds provided from the local housing assistance trust fund must be occupied by eligible persons. At least 30 percent of the local housing distribution funds deposited into the local housing assistance trust fund must be reserved for awards to very low-income persons or eligible sponsors who will serve very low-income persons and at least an additional 30 percent of the local housing distribution funds deposited into the local housing assistance trust fund must be reserved for awards to low-income persons or eligible sponsors who will serve

low-income persons. The remainder may be reserved for eligible persons or eligible sponsors that will serve eligible persons.

(10) Loans or grants for eligible rental housing constructed or rehabilitated or otherwise assisted from the local housing assistance trust fund must be subject to recapture requirements as provided by the county or eligible municipality in its local housing assistance plan. Local governments must establish minimum set aside requirements of units for eligible persons for at least 15 years or the term of assistance, whichever period is longer. Rental housing offered for sale prior to the end of this period or have remaining mortgages under the program must be subject to a right of first refusal for purchase at the current market value by eligible nonprofit organizations that would provide continued occupancy by eligible persons.

~~(9)~~(11) Monthly mortgage payments, including taxes and insurance, and monthly rental payments must be affordable for the very low-, low- and moderate-income persons and households who will benefit from the local housing assistance plan.

~~(10)~~(12) Rental units constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund must be monitored at least annually for 15 years or the term of assistance, whichever is longer, for compliance with tenant income and affordability requirements. In determining the maximum allowable rents, 30 percent of the applicable income category divided by 12 months shall be used based on the number of bedrooms. A one-person household shall be used for an efficiency unit, and for units with separate bedrooms, one and one-half persons per bedroom shall be used. A rental limit chart based on the above calculation adjusted for bedroom size will be provided to the local governments by the Corporation annually. The Corporation will monitor the activities of the local governments to determine compliance with program requirements.

~~(11)~~(13) Loans or grants for houses constructed, rehabilitated or otherwise assisted from the local housing assistance trust fund shall be subject to recapture requirements as provided by the county or eligibility municipality in its local housing assistance plan.

~~(12)~~(14) Developers receiving assistance from both SHIP and the Low-Income Rental Housing Tax Credit (LIHTC) Program shall be required to comply with the income, affordability and other LIHTC requirements. Similarly, any units receiving assistance from SHIP and other federal, State or local programs shall be required to comply with any requirements specified by the other program in addition to SHIP program requirements. In the event both programs have restrictions on the same issue, the more restrictive regulation shall take precedence. If one program is silent on an issue, the program with a regulation on the issue shall apply.

~~(13)~~(15) The local government may require that housing units receiving assistance from local housing distribution funds deposited to the local housing assistance trust fund be located within the boundaries of the local governmental's jurisdiction which has been approved for receipt of local housing distribution funds.

~~(14)~~(16) Local housing distribution funds deposited to the local housing assistance trust fund may not be used as a pledge of the debt service on bonds or as rent subsidies.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072 FS. History—New 11-26-92, Amended 2-9-94, 12-28-94, 1-6-98, Formerly 91-37.007, Amended.

67-37.008 Local Housing Assistance Trust Fund.

(1) Each county or eligible municipality receiving a local housing distribution shall establish and maintain a local housing assistance trust fund with a qualified depository as defined in Chapter 280, F.S. All moneys of a county or eligible municipality received from its share of the local housing distribution funds, recaptured local housing distribution funds, program income, and other moneys received or budgeted by the county or eligible municipality to provide for the local housing assistance plan, as well as moneys generated from local housing assistance plan activities such as interest earned on loans, shall be deposited into the trust fund; however, local housing distribution moneys used to match Federal HOME Program moneys may be repaid to the HOME Program trust fund if required by federal law or regulation. Expenditures other than for the administration and implementation of the local housing assistance plan may not be made from the trust fund.

(2) Amounts on deposit in each local housing assistance trust fund shall be invested as permitted by law for the local housing distribution funds of the applicable local government(s). All investment earnings shall be retained in such fund and used for the purposes thereof.

(3) The local housing assistance trust fund shall be separately stated as a special revenue fund in a county's or eligible municipality's audited financial statements. Copies of such audited financial statements shall be forwarded annually to the Corporation as soon as available.

(4) An interlocal entity shall have its local housing assistance trust fund separately audited for each State fiscal year, which audit shall be forwarded to the Corporation as soon as available.

Specific Authority 420.9072(9) FS. Law Implemented 420.9073(4) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.008, Repromulgated.

67-37.009 Local Affordable Housing Advisory Committees.

Specific Authority 420.9072(9) FS. Law Implemented 420.9076 FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.009, Repealed.

67-37.010 Local Affordable Housing Incentive Strategies.

(1) Each county or eligible municipality participating in the State Housing Initiatives Partnership Program must, within 12 months after establishing its local housing assistance plan, amend the plan to incorporate the local housing incentive strategies defined in Rule 67-37.001(24), F.A.C., and described in Rule 67-37.010.

(2) Within 24 months after adopting the amended local housing assistance plan to incorporate the local housing incentive strategies, each county or eligible municipality participating in the SHIP Program must amend its land development regulations or establish local policies and procedures, as necessary, to implement the local housing incentive strategies adopted by the county or eligible municipality. A county or eligible municipality that has adopted a housing incentive strategy before the effective date of Chapter 97-167, Laws of Florida, shall review the status of implementation of the plan according to its adopted schedule for implementation and report its findings in the annual report required by 67-37.016. If as a result of the review, a local government determines that the implementation is complete and in accordance with its schedule, no further action is necessary. If a county or eligible municipality determines that implementation according to its schedule is not complete, it must amend its land development regulations or establish local policies and procedures, as necessary, to implement the housing incentive plan within 12 months after the effective date of Chapter 97-167, Laws of Florida, or if extenuating circumstances prevent implementation within 12 months, enter into an extension agreement with the Corporation, pursuant to 67-37.013 and s. 420.9075(12), F.S.

(3) The local affordable housing advisory committee shall review the established policies and procedures, ordinances, land development regulations, and adopted local government comprehensive plan of the appointing county or eligible municipality. The committee shall recommend specific incentives to encourage or facilitate affordable housing while protecting the ability of the property to appreciate in value. Such recommendations may include the modification or repeal of existing policies, procedures, ordinances, regulations, or plan provisions; the creation of exceptions applicable to affordable housing; or the adoption of new policies, procedures, regulations, ordinances, or plan provisions. At a minimum, the committee shall make recommendations on affordable housing incentives in the following areas:

(a) The processing of approvals of development orders or permits, as defined in s. 163.3164(7) and (8), for affordable housing projects is expedited to a greater degree than other projects.

(b) The modification of impact fee requirements, including reduction or waiver of fees and alternative methods of fee payment for affordable housing.

(c) The allowance of increased density levels for affordable housing.

(d) The reservation of infrastructure capacity for housing for very low income persons and low income persons.

(e) The allowance of affordable accessory residential units in residential zoning districts.

(f) The reduction of parking and setback requirements for affordable housing.

(g) The allowance of zero-lot-line configurations for affordable housing.

(h) The modification of street requirements for affordable housing.

(i) The establishment of a process by which a local government considers, before adoption, proposed policies, procedures, ordinances, regulations, or plan provisions that increase the cost of housing.

(j) The preparation of a printed inventory of locally owned public lands suitable for affordable housing.

The advisory committee's recommendations must also include any other affordable housing initiatives identified by the advisory committee.

(4) Public notice of the meeting of the advisory committee for the purpose of approving the local affordable housing incentive strategy recommendations must include the time, date, and place and must be published in a newspaper of general paid circulation in the county. A short and concise summary of the incentive strategies recommendations to be considered by the advisory committee must be contained in the notice. The notice must state the public place where a copy of the tentative advisory committee recommendations can be obtained by interested persons.

(5) The advisory committee must approve the local affordable housing incentive strategy recommendations at a such public hearing by affirmative vote of a majority (5) of the membership of the advisory committee.

(6) The local government has 90 days after receipt of the local affordable housing incentive strategy recommendations from the advisory committee to adopt an amendment to its local housing assistance plan to incorporate the local housing incentive strategies it will implement within its jurisdiction. The amendment must include, at a minimum, the local housing incentive strategies as defined in s. 420.9071(16), F.S., and Rule 67-37.002(24).

(7) The governing board of the county or eligible municipality shall notify the Corporation by certified mail of its adoption of the amendment of its local affordable housing plan to incorporate the local housing incentive strategies. Included with the notice must be the following items:

(a) Copy of the approved amended plan;

(b) Copy of the notice of the advisory committee's public hearing;

~~(e) Copy of recommendations from the advisory committee as presented to the local government;~~

~~(d) Documentation of adoption of the local affordable housing incentive strategies; and~~

~~(e) Certification of adoption to the Florida Housing Finance Corporation signed by the chief elected official of the local government.~~

~~(8) Failure of a local government to timely submit an approved amended local affordable housing assistance plan to incorporate local housing incentive strategies by the due date will result in a notice of termination of its share of the local housing distribution funds which shall be sent to the affected county or eligible municipality.~~

Specific Authority 420.9072(9) FS. Law Implemented 420.907, et seq. FS. History—New 2-9-94, 1-6-98, Formerly 91-37.010, Amended.

67-37.011 Interlocal Entities.

~~(1) Counties and eligible municipalities may create an interlocal entity by entering into an interlocal agreement for the purpose of establishing a joint local housing assistance plan subject to the requirements of Section 420.907, et seq., F.S. The local housing distributions for such local governments shall be directly disbursed on a monthly basis as delineated by the interlocal agreement to a single depository or to each participating local government to be administered in conformity with the interlocal agreement providing for a joint local housing assistance plan.~~

~~(2) If a county or eligible municipality enters into an interlocal agreement with a municipality that becomes eligible as a result of entering into that interlocal agreement, the county or eligible municipality that has agreed to transfer the control of its local housing distribution funds to a municipality that was not originally eligible must ensure through its local housing assistance plan and through the interlocal agreement that all local housing distribution funds are used in a manner consistent with Sections 420.907-420.9079, F.S.~~

~~(1)(3) There is no requirement that local jurisdictions which are parties to an interlocal agreement be contiguous, although the local housing assistance plan submitted by each interlocal entity must show a logical basis for combining the entities.~~

~~(2)(4) The interlocal agreement shall specify whether a single report for all jurisdictions or individual reports for each participating local government shall be submitted pursuant to 67-37.016.~~

~~(3)(5) New eligible municipalities which intend to become a member of an established interlocal entity must adopt an ordinance which creates the affordable housing advisory committee, establishes responsibility for plan administration and, if applicable, establishes the local affordable housing trust fund.~~

~~(a)(6) Adopt by resolution a local housing assistance plan and adopt by resolution the appointments to the advisory committee.~~

~~(b)(7) All members of the existing interlocal entity must adopt by resolution an amendment to the local housing assistance plan to include the new eligible municipality.~~

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(5) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.011, Amended.

67-37.013 Termination of SHIP Local Housing Distribution Funds.

Specific Authority 420.9072(9) FS. Law Implemented 420.9073, 420.9076(7)(a) FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.013, Repealed.

67-37.014 Non-Discrimination Requirements.

Specific Authority 420.9072(9) FS. Law Implemented 420.9075 FS. History—New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.014, Repealed.

67-37.015 Compliance Monitoring for Housing Developed With SHIP Local Housing Distribution Funds.

(1) The staff or entity with administrative authority for a local housing assistance plan must develop a tracking system to ensure that the local housing distribution funds disbursed from the local housing assistance trust fund are at all times expended in accordance with the set-aside requirements in 67-37.007 and time restraints detailed at 67-37.005(6).

(2) The combined household annual gross income of an applicant who is applying as an owner/occupant of a residence must be verified and certified by the SHIP program administrator or his/her designee using income verification and certification procedures such as those established by the U.S. Department of Housing and Urban Development or the Rural Housing Service Farmers Home Administration. Other verification procedures must be submitted to the Review Committee for analysis to determine if they are acceptable to the Committee, prior to the allocation of any SHIP program assistance. Whichever verification and certification method is used, annual gross income must be used and the SHIP Program income limits cannot be exceeded.

(3) The staff or entity with administrative authority for a local housing assistance plan assisting rental developments shall monitor and determine tenant eligibility and the amount of subsidy using the same guidelines as specified at (2) above, at least annually for 15 years or the term of assistance, whichever is longer.

(4) The Corporation, or any duly authorized representative shall be permitted to inspect the local housing assistance plan, advertisements, applications, income verifications and certifications, plan participation contracts, financial records, plan tracking records, construction cost verification including receipts and contracts, and any other applicable documents at any reasonable time with or without notice. Such records must

be maintained within the participating county or eligible municipality at a place accessible to the Corporation staff or its designated monitoring agent.

(5) Projects receiving assistance from the local housing assistance plan and from other State or federal programs which may have conflicting verification, certification, and monitoring requirements, shall comply with requirements of the most restrictive program.

(6) If the Corporation determines that a county or eligible municipality may have established a pattern of violation of the criteria for a local housing assistance program established under Sections 420.907-420.9079, F.S., or that an eligible sponsor or eligible person has violated the applicable award conditions, the Corporation shall report such pattern of violation of criteria or violation of award conditions to its monitoring agent and the Executive Office of the Governor and shall be subject to the procedures stated therein.

Specific Authority 420.9072(9) FS. Law Implemented 420.907, et seq. FS. History-New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 91-37.015, Amended \_\_\_\_\_.

67-37.016 Reporting Requirements.

(1) Each county, eligible municipality, or interlocal entity shall submit to the Corporation by September 15 of each year a report of its affordable housing plan and accomplishments through June 30 immediately preceding submittal of the report. The Annual Report must be filed with the Corporation utilizing the Annual Report Forms provided by the Corporation. Form, SHIP-AR/97-1, must be submitted to fulfill this requirement. The report shall be certified as accurate and complete by the county's or eligible municipality's chief elected official or his or her designee. Transmittal of the annual report by the county's or eligible municipality's chief elected official, or his or her designee, schedule for implementation.

(2) The report must include, but is not limited to:

(a) The number of households served by income category, age, family size, and race, and data regarding any special needs populations such as farm workers, homeless persons, handicapped or disabled, and the elderly. Counties shall report this information separately for households served in the unincorporated area and each municipality within the county.

(b) The number of units and the average cost of producing units under each local housing assistance strategy.

(c) The average sales price or value of a single family unit and the amount of rent charged for a rental unit based on unit size.

(d) By income category, the number of mortgage loans made, the average mortgage amount, and the rate of default.

(e) A description of the status of implementation of each housing incentive strategy, or if applicable, the local housing incentive plan as set forth in the county's or eligible municipality's adopted schedule for implementation.

(f) A concise description of the support services that are available to the residents of affordable housing provided by local programs.

(g) The sales price or value of housing produced and an accounting of what percentage was financed by the local housing distribution funds, other public moneys, and private resources.

(h) Such other data or affordable housing accomplishments considered significant by the reporting county or eligible municipality.

(3) The report shall be made available by the county or eligible municipality for public inspection and comment prior to certifying the report and transmitting it to the Corporation. The county or eligible municipality shall provide notice of the availability of the proposed report and solicit public comment. The notice must state the public place where a copy of the proposed report can be obtained by interested persons. Members of the public may submit written comments on the report to the local government and the Corporation. Written public comments shall identify the author by name, address, and interest affected. The county or eligible municipality shall attach a copy of all such written comments and its responses to these comments to the annual report submitted to the Corporation.

(4) The Corporation shall review the annual report of each county or eligible municipality and any written comments from the public and include any comments concerning the effectiveness of local programs in the report required by s. 420.511, F.S.

Specific Authority 420.9072(9) FS. Law Implemented 420.907, et seq. FS. History-New 2-9-94, Amended 12-28-94, 1-6-98, Formerly 91-37.016, Amended \_\_\_\_\_.

67-37.017 Administration of Remaining Local Housing Distribution Funds.

Specific Authority 420.9072(9) FS. Law Implemented 420.9078 FS. History-New 1-6-98, Formerly 91-37.017, Repealed \_\_\_\_\_.

67-37.018 Appeals.

Specific Authority 420.9072(9) FS. Law Implemented 420.9072(3) FS. History-New 11-26-92, Amended 2-9-94, 1-6-98, Formerly 91-37.018, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Darlene Raker, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beverly B. Cliett, Chief Development Officer, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, (850)488-4197

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 10, 1999, Corporation Board Meeting

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 25, No. 12, July 30, 1999

Any person requiring special accommodation at this hearing because of a disability or physical impairment should contact Linda Hawthorne at the above address. If you are hearing or speech impaired, please use the Florida Dual Party Relay system which can be reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

Section III
Notices of Changes, Corrections and Withdrawals

PUBLIC SERVICE COMMISSION

DOCKET NO: 980569-PU

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 25-4.002, 25-4.141, and 25-4.202 with their respective titles.

NOTICE OF AGENDA CONFERENCE

The Public Service Commission notifies all interested persons that the above rules will be considered at the agenda conference scheduled to be held at the following time and place:

TIME AND DATE: 9:30 a.m., October 19, 1999
PLACE: Florida Public Service Commission, Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL
PURPOSE AND EFFECT: To consider the record of the rulemaking proceedings and the proposed rule and to adopt, reject, or modify the proposed rules.

The person to be contacted regarding the rule is Christiana T. Moore, (850)413-6098.

Any person requiring some accommodation at this hearing because of a physical impairment should call the Division of Records and Reporting at (850)413-6770 at least 48 hours prior to the hearing. Any person who is hearing or speech impaired should contact the Florida Public Service Commission by using the Florida Relay Service, which can be reached at: 1(800)955-8771 (TDD).

PUBLIC SERVICE COMMISSION

DOCKET NO: 980569-PU

Table with 2 columns: RULE NOS. and RULE TITLES. Rows include 25-6.002, 25-6.043, and 25-6.0438 with their respective titles.

NOTICE OF AGENDA CONFERENCE

The Public Service Commission notifies all interested persons that the above rules will be considered at the agenda conference scheduled to be held at the following time and place:

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PLACE: Florida Public Service Commission, Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL
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PUBLIC SERVICE COMMISSION

DOCKET NO: 980569-PU

Table with 2 columns: RULE NO. and RULE TITLE. Row includes 25-17.087 with title Interconnection and Standard

NOTICE OF AGENDA CONFERENCE

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PLACE: Florida Public Service Commission, Room 148, The Betty Easley Conference Center, 4075 Esplanade Way, Tallahassee, FL
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