

(a) The term “clinical” means having a significant relationship, whether real or potential, direct or indirect, to the actual rendering or outcome of dental care, the practice of dentistry or the quality of dental care being rendered to one or more patients.

(b) The term “control” shall mean to exercise authority or dominating influence over; having the authority or ability to regulate, direct, or dominate.

(4) A licensed dentist may enter into an agreement with a nondentist to receive “Practice Management Services.” The term “Practice Management Services” is defined to include consultation or other activities or services offered by someone other than a Florida licensed dentist regarding one or more of the following types of products or services:

(a) through (i) No change.

~~(2) The term “clinical” means having a significant relationship, whether real or potential, direct or indirect, to the actual rendering or outcome of dental care, the practice of dentistry or the quality of dental care being rendered to one or more patients.~~

~~(5)(3) No change.~~

(6) For purposes of implementing the provisions of Section 466.028(1)(h), no dentist shall enter into any agreement, or series of agreements, with anyone other than a dentist or group of dentists, which constitutes a de facto employment of the dentist by a nondentist. The following shall be considered as evidence that the dentist has violated Section 466.028(1)(h):

(a) Any agreement or series of agreements that contractually bind a dentist to purchase practice management services from a nondentist for a period of more than 5 years.

(b) Any clause in an agreement or series of agreements which seeks to penalize a dentist seeking to terminate an agreement to purchase practice management services from a nondentist through a non compete clause. Except as permitted by Section 542.33, Florida Statutes, licensed dentists are prohibited from agreeing not to compete in the provision of dental services with any entity which is not itself a licensed dentist, or which is not licensed or otherwise permitted by law to provide the services which are the subject not to compete.

(7) The provisions of this rule are not intended to impair the validity of any contract in existence as of the effective date of this rule.

Specific Authority 466.004 FS. Law Implemented 466.003, 466.0285, 466.028(1)(g),(z) FS. History—New 10-16-96, Formerly 59Q-17.013, Amended \_\_\_\_\_.

**DEPARTMENT OF HEALTH  
Board of Hearing Aid Specialists**

RULE TITLE:  
Licensure by Examination

RULE NO.:  
64B6-2.003

PURPOSE AND EFFECT: Due to monetary constraints, changing technology, and a change in the law effective July 1, 2001, the Department’s examination services has determined that parts of this rule are out-of-date and need to be updated or repealed.

SUBJECT AREA TO BE ADDRESSED: Licensure by Examination.

SPECIFIC AUTHORITY: 455.574(1)(b), 484.044 FS.

LAW IMPLEMENTED: 455.574(1)(b), 484.045, 484.0445(1) FS.

IF REQUESTED AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE SCHEDULED AND ANNOUNCED IN THE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Sue Foster, Board Executive Director, Board of Hearing Aid Specialists, 4052 Bald Cypress Way Bin #C08, Tallahassee, Florida 32399-3258

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

**Section II  
Proposed Rules**

**DEPARTMENT OF INSURANCE**

RULE TITLES:	RULE NOS.:
Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Based on Arbitrary Territorial Boundaries	4-175.007
Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Surcharges Based on Type of Vehicle	4-175.009

PURPOSE, EFFECT AND SUMMARY: The referenced Rules 4-175.007 and 4-175.009, FAC. were identified as not having statutory authority, pursuant to the rules review project required by Section 120.536(2)(b), F.S. The rules prohibit discrimination in ratemaking based on arbitrary rate boundaries and type of vehicle. Therefore the rules are being repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 624.308(1) FS.

LAW IMPLEMENTED: 624.307(1), 627.31(1)(a), 627.0651, 627.0651(6), (7), 627.072(3) FS.

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

TIME AND DATE: 9:00 a.m., Tuesday, June 19, 2001
PLACE: Room 312C, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Greg Jenkins, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0328, phone (850)413-2820

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White, (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-175.007 Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Based on Arbitrary Territorial Boundaries.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.031(1)(a), 627.062(1), 627.0651, 627.072(3) FS. History–New 3-1-80, Formerly 4-43.04, 4-43.004, Repealed.

4-175.009 Unfair Discrimination in Private Passenger Motor Vehicle Insurance Rates – Surcharges Based on Type of Vehicle.

Specific Authority 624.308(1) FS. Law Implemented 624.307(1), 627.0651(6), (7) FS. History–New 11-2-92, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Greg Jenkins, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beth Vecchioli, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 16, 2001

DEPARTMENT OF INSURANCE

Table with 2 columns: RULE TITLES and RULE NOS.: Claims Reporting 4-184.015, Single Interest Insurance 4-184.016, Certificate Must Show Coverage 4-184.019, Compliance Required 4-184.022

PURPOSE AND EFFECT: To repeal the aforementioned rules, which are not authorized pursuant to review under section 120.536(1), F.S.

SUMMARY: The rules apply to insurance in connection with installment sales and are being repealed.

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: 624.308 FS.
LAW IMPLEMENTED: 624.307(1), 626.022, 626.861, 627.425, 627.413 FS.

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

TIME AND DATE: 9:00 a.m., Tuesday, June 19, 2001
PLACE: Room 312C, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Wayne Johnson, Division of Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0320

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-184.015 Claims Reporting.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.861, 627.425 FS. History–Repromulgated 12-24-74, Formerly 4-4.14, 4-4.014, Repealed.

4-184.016 Single Interest Insurance.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.413 FS. History–Repromulgated 12-24-74, Formerly 4-4.15, 4-4.015, Repealed.

4-184.019 Certificate Must Show Coverage.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.413 FS. History–Repromulgated 12-24-74, Formerly 4-4.18, 4-4.018, Repealed.

4-184.022 Compliance Required.

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.022 FS. History–Repromulgated 12-24-74, Formerly 4-4.22, 4-4.022, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wayne Johnson, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Roddenberry, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 30, 2001

**DEPARTMENT OF INSURANCE**

<b>RULE CHAPTER TITLE:</b>	<b>RULE CHAPTER NO.:</b>
Title Insurance	4-186
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Disclosure; Mortgagee Policyholders	4-186.001
Approved Forms	4-186.002
Title Insurance Rates	4-186.003
Usury of Claims of Usury Excluded from Title Insurance Coverages	4-186.006
Escrow Requirements	4-186.008
Independent Searcher/Abstractor Coverage	4-186.012
Insurer Reporting For Non-Licensed Agents	4-186.014

**PURPOSE AND EFFECT:** The purpose of this amendment is to comply with Section 627.7825, Florida Statutes, which codified much of the rule. Also parts of the rule needs to be repealed pursuant to Section 120.536(2)(b), Florida Statutes.

**SUMMARY:** Amendments to comply with Section 627.7825, Florida Statutes and some repeals pursuant to Section 120.536(2)(b), Florida Statutes.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No SERC has been prepared.

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

**SPECIFIC AUTHORITY:** 624.308(1), 626.9611, 627.782, 627.7825 FS.

**LAW IMPLEMENTED:** 624.307(1), 624.608, 626.9541(1)(h)3.a., 626.8473, 627.777, 627.778(1)(a), 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845, 628.151 FS.

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

**TIME AND DATE:** 9:00 a.m., June 19, 2001  
**PLACE:** Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

**THE PERSON TO BE CONTACTED REGARDINT THE PROPOSED RULE AND A COPY OF THE PRELIMINARY DRAFT IS:** Wally Senter, Financial Examiner/analyst Supervisor, Insurer Services, Department of Insurance, (850)413-2554

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Wally Senter, (850)413-2554.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-186.001 Disclosure; Mortgagee Policyholders.

~~All title insurers and business trust title insurers, agents of title insurers, and members of business trust title insurers, and agents, employees, officials of lending or other institutions, issuing mortgagee title insurance or engaging in acts involving the issuance of mortgagee title insurance upon a loan made simultaneously with the purchase of all or a part of the real estate securing such loans, where no owner's title insurance policy has been requested, shall give written notice to the purchaser-mortgagor that a mortgagee title insurance policy is to be issued, and that such policy does not provide title insurance protection to the purchaser as owner. Such notice shall be executed by the purchaser-mortgagor and the original thereof or a durable reproduction of same shall be filed with the home or branch office of the title insurer or business trust title insurer issuing the policy, or in the office of the agent or member thereof involved in such issuance for a period of not less than five years after the title insurance to the mortgagee lender has been issued.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 627.778(1)(a) FS. History—New 9-23-69, Repromulgated 12-24-74, Formerly 4-21.01, Amended 6-25-86, Formerly 4-21.001, Repealed.

4-186.002 Approved Form.

Any form of written notice given by the title insurers, ~~business trust title insurers~~, agents, members, employees thereof, or by agents, employees, officials of lending or other institutions to the purchaser-mortgagor in substantially the following language shall be deemed in compliance with Section 627.798, Florida Statutes ~~Rule 4-186.001~~:

**NOTICE TO PURCHASER-MORTGAGOR**

Pursuant to Section 627.798, Florida Statutes ~~Rule 4-186.001 of the Insurance Commissioner and Treasurer~~, notice is hereby given by \_\_\_\_\_ (Name of Title Insurer ~~or Business Trust Title Insurer~~) to the undersigned purchaser-mortgagor that a mortgagee title insurance policy is to be issued to your mortgagee lender, and that such policy does not provide title insurance protection to you as the owner of the real estate you are purchasing.

The undersigned has read the above notice and understands that such mortgage title insurance policy to be issued to the mortgagee lender does not provide title insurance protection to the undersigned as owner.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

(Signature of Purchaser)

Specific Authority 624.308, 627.798 FS. Law Implemented 624.307(1), 627.778(1)(a), 627.7825 FS. History—New 9-23-69, Repromulgated 12-24-74, Formerly 4-21.02, Amended 6-25-86, Formerly 4-21.002, Amended.

4-186.003 Title Insurance Rates.

The following are risk rate premiums to be charged by title insurers in this state for the respective types of title insurance contracts. To compute any insurance premium on a fractional thousand of insurance (except as to minimum premiums), multiply such fractional thousand by the rate per thousand applicable, considering any fraction of \$100.00 as a full \$100.00.

(1) Owner's and Leasehold Rates

(a) The risk premium for original owner's or leasehold insurance shall be:

	Per Thousand
From \$0 to \$100,000 of liability written	\$5.75
From \$100,000 to \$1 million, add	5.00
Over \$1 million and up to \$10 million, add	3.00
Over \$10 million, add	2.25
Minimum Premium for all conveyances except multiple conveyances	100.00
Minimum Premium for multiple conveyances on the same property (e.g., timesharing)	\$60.00

(b) In all cases the owner's policy shall be issued for the full insurable value of the premises.

(2) Owner's, Mortgage, and Leasehold Reissue Rates.

(a) The reissue risk premium charge for Owner's, Mortgage, and Leasehold Title insurance policies shall be:

	Per Thousand
Up to \$100,000 of liability written	\$3.30
Over \$100,000 and up to \$1 million, add	3.00
Over \$1 million and up to \$10 million, add	2.00
Over \$10 million, add	1.50
Minimum Premium	100.00

(b) Provided a previous owner's policy was issued insuring the seller or the mortgagor in the current transaction and that both the reissuing agent and the reissuing underwriter retain for their respective files copies of the prior owner's policy(ies), the reissue risk rate premiums above shall apply to:

1. Policies on real property which is unimproved except for roads, bridges, drainage facilities and utilities where the current owner's title has been insured prior to the application for a new policy, or
2. Policies on the first sale of property with an improvement that is granted a certificate of occupancy, provided the seller has not leased or occupied the premises, or
3. Policies issued with an effective date of less than one year after the effective date of the policy insuring the seller or mortgagor in the current transaction, or
4. Mortgage policies issued on refinancing of property insured by an original owner's policy which insured the title of the current mortgagor.

(c) Any amount of new insurance, in the aggregate, in excess of the amount under the previous policy shall be computed at the owner's or leasehold rates, as provided in this rule.

(1)(3) Contract Purchaser – Lessee Rates. If a contract purchaser, who has obtained a policy from an insurer insuring his contract, and thereafter obtains a deed given in pursuance of the contract, makes application for an owner's policy and surrenders the policy, insuring his contract; or a lessee who has obtained a leasehold policy of an insurer, insuring his lease, and thereafter purchases the property, makes application for an owner's policy, and surrenders such policy, the re-issue risk rate shall be:

Up to \$100,000 of liability written	25% of the rates set forth in subsection (1)
Over \$100,000 add	20% of the rates set forth in subsection (1)
Minimum premium shall be	\$100.00

(4) Mortgage Title Insurance Rates

(a) The risk premium for mortgage title insurance shall be:

	Per Thousand
From \$0 to \$100,000 of liability written	\$5.75
From \$100,000 to \$1 million of liability written, add	\$5.00
Over \$1 million and up to \$10 million, add	3.00
Over \$10 million, add	2.25
Minimum Premium	100.00
Minimum Premium for multiple conveyances on the same property (e.g., timesharing)	60.00

(b) A mortgage title policy cannot be issued for an amount less than the full principal debt. A policy can, however, be issued for an amount up to 25% in excess of the principal debt to cover interest, foreclosure costs, etc.

(5) Substitution Loans Rates. The following risk premium for substitution loans shall apply:

(a) When the same borrower and the same lender make a substitution loan on the same property, the title to which was insured by an insurer in connection with the original loan:

Age of Original Loan	Rates
3 years or under	30% of original rates
From 3 years to 4 years	40% of original rates
From 4 years to 5 years	50% of original rates
From 5 years to 10 years	60% of original rates
Over 10 years	100% of original rates
Minimum premium	\$100.00

(b) At the time a substitution loan is made, the unpaid principal balance of the original loan will be considered the amount of insurance in force on which the foregoing rates shall be calculated. To these rates shall be added the regular rates in the applicable schedules for any new insurance, that is, the difference between the unpaid principal balance of the original loan and the amount of the new loan.

~~(2)(6)~~ Simultaneous Issue Rates. The risk premium for simultaneous issues shall be as follows:

(a) When an owner's and a mortgagee's policy or policies covering identical land are to be issued simultaneously the risk premiums applicable for the owner's policy shall be the regular owner's rate as provided for herein. The rate for the mortgage policy or policies so simultaneously issued will be a minimum \$25.00 for an amount of insurance not in excess of the owner's policy. The risk premium on the amount of the mortgage policy or policies in excess of the owner's policy shall be figured at the regular original title insurance rates for mortgage policies.

(b) The title must be examined to a date which includes the filing for record of both the deed to the mortgagor and the mortgage itself. Both policies must bear identical date and the owner's policy must show the mortgage as an exception under Schedule "B" thereof. It is not essential that the property be acquired simultaneously with the giving of the mortgage, but this rate, where applicable, has reference to the simultaneous issuance of an owner's and mortgagee's policy or policies.

(c) When an owner's and leasehold policy covering identical land are to be issued simultaneously, the risk premium applicable for the owner's policy shall be the regular owner's rate as provided for herein. The rate for the leasehold policy will be 30% of the rate for the owner's policy with which it is being issued simultaneously up to the amount of said owner's policy. The risk premium on the amount of a leasehold policy in excess of the owner's policy will be figured at the regular rate for owner's policies in the applicable schedule.

~~(3)(7)~~ Unmarketability of Title – Coverage Required. Every title insurance policy issued after the effective date of this Rule shall include coverage up to the face amount of the policy against loss or damage due to the unmarketability of such title. Unless otherwise prohibited by law, this requirement shall not preclude a title insurer from inserting specific exceptions under Schedule B of the policy as to specific matters affecting the title. This subsection shall not affect policies issued pursuant to commitments or binders for policies issued prior to the effective date of this Rule unless the additional premium is paid and unmarketability of title coverage is agreed upon by the insured and the insurer.

~~(8) Rate Deviation. The legislature has made provision for rate deviation. A title insurer may petition the Department for an order authorizing a specific deviation from the adopted risk premium, and a title insurer or title agent may petition the Department for an order authorizing and permitting a specific deviation above the reasonable charge for other services rendered as specified in section 627.782(1), Florida Statutes.~~

~~(4)(9)~~ Binders and Commitments. A binder of title insurance, or a commitment to insure a title or risk, imposes certain obligations and liabilities upon a title insurer and agents with consequent benefits for an insured. Since such binders

and commitments are being increasingly utilized in transactions involving title insurance, it is deemed necessary that in accordance with section 627.7831, Florida Statutes, a portion of the risk premium must be charged for such binder or commitment when it is issued, except for transactions involving residential properties. The risk premium charge for binders and commitments shall be credited to the risk premium due on the policy to be issued.

~~(5)(10)~~ Construction Loans Secured by Revolving Notes and Mortgages. When a mortgage policy is issued to insure a mortgage securing periodic advances of the loan proceeds to finance improvements on real property, an additional risk rate premium shall be charged for the value of each new parcel of real property added to the policy's coverage after its original issuance.

~~(6)(11)~~ Minimum Retention of Premium by Insurer.

(a) A title insurer shall receive and retain at least 30% of the risk premium for policies sold by agents, including risk premium for endorsements, and it shall not be decreased, directly or indirectly, by an insurer providing services to any agent for less than actual cost.

(b) Any retention of premium by an insurer in excess of 30% shall not be decreased, directly or indirectly, by providing services to an agent for less than actual cost.

(c) The required retention of funds must be remitted to the insurer by the agent at least monthly, and until remitted these funds are "collected funds" subject to the accountability provisions of 4-186.009.

~~(7)(12)~~ Effect of Amendments to Risk Premium. Any change in the risk premium due to an amendment to this rule shall not affect policies for which a binder or commitment to issue a policy has been issued prior to the effective date of the amendment.

~~(8)(13)~~ Unlawful Rebates or Abatement of Charges.

(a) No title insurer, title insurance agent or agency, including attorney agent, shall decrease the risk premium by an illegal rebate or abatement of charges for abstracting, examinations, or closing charges. At least actual cost must be charged for related title services in addition to the adopted risk premium.

(b) Charges for related title services (title search, examination, and closing) shall be shown separately on the closing statement, and shall, at a minimum, show title search charges, examination fees, and closing charges. The risk premium as defined by section 627.7711(2), Florida Statutes, and as provided in section 627.780(1), Florida Statutes, shall be shown separately on the closing statement.

(c) Charges by an insurer for title searches, abstracting, and examination of title shall be billed and collected within 60 days of closing or within 90 days of furnishing such services if there has been no closing.

(d) Any ongoing or standing offer of gifts, compensation or special services to the same person or customer on a continuing basis as an inducement to referring title insurance transactions is prohibited.

Specific Authority 624.308(1), 626.9611, 627.782, 627.7825, FS. Law Implemented 624.307(1), 626.9541(1)(h)3.a., 627.777, 627.782, 627.7825, 627.783, 627.7831, 627.7841, 627.7845 FS. History–New 9-17-71, Amended 12-28-73, Repromulgated 12-24-74, Amended 4-12-82, 12-23-82, Formerly 4-21.03, Amended 6-25-86, 2-26-90, 7-26-90, 2-27-91, Formerly 4-21.00, Amended \_\_\_\_\_.

4-186.006 Usury or Claims of Usury Excluded from Title Insurance Coverages.

~~No title insurer or business trust title insurer admitted to transact the business of title insurance in this state shall undertake to insure any risk arising from or related to usury or claims of usury. Thenceforth, it will not be necessary for title insurers or business trust title insurers to file exclusionary endorsements relating to usury or claims of usury with the Department of Insurance nor will any filings purporting to withdraw such exclusionary endorsements be accepted by the Department of Insurance.~~

Specific Authority 624.308 FS. Law Implemented 624.307(1), 624.608, 627.777 FS. History–New 11-18-71, Repromulgated 12-24-74, Formerly 4-21.06, Amended 6-25-86, Formerly 4-21.006, Repealed \_\_\_\_\_.

4-186.008 Escrow Requirements.

(1) through (3) No change.

~~(4)(a) All collected funds shall be deposited in a trust account held in a fiduciary capacity as required by section 626.8473, Florida Statutes, and shall be insured by an agency of the federal government.~~

(4)(b) Funds received from depositors in excess of the insured amount must be deposited in a financial institution that has a rating not less than the minimum standards established by Government National Mortgage Association (GNMA).

Specific Authority 624.308 FS. Law Implemented 624.307(1), 626.8473, 627.776(1)(m), 628.151 FS. History–New 6-25-86, Amended 2-26-90, Formerly 4-21.010, Amended 2-13-95, \_\_\_\_\_.

4-186.012 Independent Searcher/Abstractor Coverage.

~~No title insurance policy shall be issued from a search performed by any person other than an employee of a title insurer or title insurance agency, unless that person has in effect an Errors and Omissions policy with minimum coverage limits of \$250,000 with a deductible no greater than \$10,000.~~

Specific Authority 624.308 FS. Law Implemented 626.8418, 626.8419 FS. History–New 2-13-95, Repealed \_\_\_\_\_.

4-186.014 Insurer Reporting for Non-Licensed Agents.

~~(1) Within 60 days of adoption of this rule, every insurer shall file with the Department a list containing the name and address of every appointed agent exempt from licensure under section 626.8417(4), Florida Statutes, who issues or countersigns binders, commitments, title insurance policies, or guarantees of title.~~

~~(2) On a monthly basis thereafter, every insurer shall report to the Department the name and address of every non-licensed agent whose appointment is granted or terminated.~~

Specific Authority 624.308 FS. Law Implemented 624.307, 624.307(1), 626.8417, 626.8421 FS. History–New 2-13-95, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Wally Senter, Financial Examiner/Analyst Supervisor, Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Steve Roddenberry, Deputy Director of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 5, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Extension of Benefits	4-203.024
Conversion of Contracts; Conditions	4-203.029
Completion of Service or Treatment	4-203.033
Primary Care Person	4-203.038

PURPOSE AND EFFECT: To repeal these rules as per the review of section 120.536(2)(b), F.S.

SUMMARY: To Repeal Rule.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.

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

SPECIFIC AUTHORITY: 636.067 FS.

LAW IMPLEMENTED: 626.008, 636.016, 636.022, 636.034 FS.

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

TIME AND DATE: 9:00 a.m., June 18, 2001

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Jim Bracher, Insurer Services, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0320, phone (850)413-2500

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Yvonne White at (850)413-4214.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-203.024 Extension of Benefit.

Specific Authority 636.067 FS. Law Implemented 636.034 FS. History--New 11-15-94, Repealed.

4-203.029 Conversion Contracts; Conditions.

Specific Authority 636.067 FS. Law Implemented 636.016, 636.022 FS. History--New 11-15-94, Repealed.

4-203.033 Completion of Service or Treatment.

Specific Authority 636.067 FS. Law Implemented 636.034 FS. History--New 11-15-94, Repealed.

4-203.038 Primary Care Person.

Specific Authority 636.067 FS. Law Implemented 636.008, 636.016 FS. History--New 11-15-94, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Jim Bracher, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Beth Vecchioli, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2001

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Conduct of Public Adjusters	4-220.051
Ethical Requirements	4-220.201

PURPOSE AND EFFECT: Rule 4-220.051 sets forth Department policy as to certain matters generally affecting public adjusters. Rule 4-220.201 will categorize the rules as a code of ethics required by 626.878, FAC., which will provide ethical standards for adjusters.

SUMMARY: This amendment will establish the required conduct of public adjusters and will explicitly categorize them as a code of ethics required by s. 626.878, F.S.

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: 624.308, 626.878, 626.9611 FS.

LAW IMPLEMENTED: 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS.

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

TIME AND DATE: 9:00 a.m., June 19, 2001

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Phil Fountain, Bureau Chief, Agent and Agency Services, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0333, phone number (850)413-5600

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Department at least 5 calendar days before the program by contacting Phil Fountain, (850)413-5600.

THE FULL TEXT OF THE PROPOSED RULES IS:

4-220.051 Conduct of Public Adjusters.

(1) Purpose and Scope. This rule sets forth Department policy as to certain matters generally affecting public adjusters. Procedures regarding application for licensure are not dealt with in this rule. Ethical provisions are not dealt with in this rule.

(2) Definitions. The following definitions shall apply for purposes of this rule.

(a) "Compensation" means anything of value, whether received directly or indirectly.

(b) "Department" means the Florida Department of Insurance.

(c) "Licensed public adjuster" and "public adjuster" refer to and include only persons actually currently licensed in good standing by the Department as public adjusters, whether the licensure is resident licensure under section 626.865, Florida Statutes, or emergency licensure under section 626.874, Florida Statutes, and whether the licensure is limited or unlimited. The phrase does not include persons licensed as public adjusters by other states but not by the State of Florida.

(d) "Resident public adjuster" and references thereto refer to a public adjuster not licensed on an emergency basis as contemplated by section 626.874, Florida Statutes, and rule 4-220.001, and who is a bona fide resident of this state.

(e) "Unlicensed persons," as used in this rule, means and refers to persons who are not actually currently licensed in good standing by this Department as resident or emergency public adjusters.

(3) Communications Concerning Public Adjuster Services.

(a) Solicitation. The solicitation of public adjusting business for compensation is deemed to be a material part of the business of public adjusting and, therefore, requires licensure as a public adjuster under the laws of Florida and the rules of the Department, and shall be engaged in only by persons licensed by this Department as ~~resident~~ public adjusters. Unlicensed persons shall not engage in such activity even under the supervision of a licensed public adjuster. The

phrase "solicitation of public adjusting business" and similar phrases as used in this rule means, for compensation, initiating contact with any person, whether in person, by mail, by telephone, or otherwise, and therein seeking, causing, urging, advising, or attempting:

1. To have any person enter into any agreement engaging the services of a public adjuster in any capacity; or

2. To have any person subsequently speak or meet with a licensed public adjuster for the purpose of engaging the services of a public adjuster in any capacity or for the purpose of being advised by a public adjuster in any regard.

(b) Answering Telephone Calls. The answering of incoming telephone calls by unlicensed persons, at the place of business of a public adjuster, is not violative of this rule so long as the unlicensed persons engage in purely administrative matters and not in judgment or interpretation with regard to any insurance contract, claim, or potential claim.

~~(c) Referrals. A public adjuster shall not accept referrals of business from any person with whom the public adjuster may conduct business where there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster. Except as between licensed public adjusters, or licensed public adjusters and members of the Florida Bar, no public adjuster may compensate any person, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.~~

(4) Advertising.

(a) As with all forms of advertising concerning the business of insurance, public adjusters shall not falsely inform or advertise as set forth in section 626.9541(1)(b), Florida Statutes, as well as any other section within the Insurance Code which relates to advertising.

(b) Only Licensed Adjusters to Advertise. No person or entity shall in any way advertise services as a public adjuster in this state, unless licensed as a resident public adjuster or a member of the Florida Bar.

(c) Advertisements to Show Licensee's Full Name. Any advertisement by a resident public adjuster shall state the full name as specified in Department records of the public adjuster who has caused the advertisement to appear. Where a firm containing multiple licensed public adjusters is causing the advertisement to appear, the firm shall designate one of said licensees whose full name as specified in Department records shall appear in the advertisement.

1. Print Advertisements. In print advertisements the public adjuster's full name as specified in Department records shall be in typeface no smaller than the typeface of the main body of text in the advertisement. Print advertisements include newspapers, magazines, flyers, brochures, business cards, adhesive and magnetic publication, and similar printed

materials. If the material is already printed when this rule takes effect, the required public adjuster's full name shall be added by means of rubber stamp, adhesive label, or other means.

2. Television Advertisements. In television advertisements the public adjuster's full name as specified in Department records shall be made to appear on the screen for a period reasonably calculated to allow a viewer to write the name down.

3. Radio Advertisements. In radio advertisements, the public adjuster's full name as specified in Department records shall be read during the advertisement, and at a speed reasonably calculated to allow an average listener to note the name of the licensee as it appears on his or her licensure.

(d) Responsibility of Advertising Licensee. The licensed adjuster whose name appears in the advertisement is responsible for personally reviewing the content of the advertisement and assuring that the advertisement complies with the rules of the Department and the Insurance Code and is in all regards fair, accurate, and in no way misleading.

(5) It is an affirmative duty of every resident public adjuster to supervise their business affairs and their staff to ensure to the extent it is within the public adjuster's power that this rule is not violated.

~~(6) All contracts for public adjuster services must be in writing. Required Contract Terms. Public adjusters shall ensure that all contracts for their services shall be in writing, and shall contain the following terms:~~

~~(a) The contract must legibly state the full name as specified in Department records of the public adjuster signing the contract. (b) The contract must be signed by the public adjuster who solicited the contract. If the public adjuster is licensed by the Department as an emergency public adjuster, the contract shall show the public adjuster's permanent home address and home phone number, and permanent home state business address and phone number and Florida Department license number.~~

~~(c) The contract must show the insured's full name, street address, address of loss, and a brief description of the loss. The contract shall also show the insured's insurance company name and policy number if these are available.~~

~~(d) The contract must show the date the contract with the public adjuster was actually signed by the insured or claimant.~~

~~(e) The full and total compensation to the public adjuster shall be stated in the contract. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Any costs to be reimbursed to the public adjuster out of the proceeds must be specified by type, with dollar estimates of same set forth in the contract.~~

~~(7) Required Disclosure:~~

~~(a) Public adjusters shall advise insureds and claimants of their right to choice of counsel to represent the insured or claimant, and that such choice is to be made solely by the insured or claimant.~~



(b) The insured or claimant is to be notified in advance of the name and location of any proposed contractor, architect, engineer, or similar professional, before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss or negotiating settlement, and the insured or claimant may exercise veto power of any of these persons in which case that person shall not be used in estimating costs.

(c) ~~The public adjuster shall ensure that if a contractor, architect, engineer, or other licensed professional is used in formulating estimates or otherwise participates in the adjustment of the claim the professional must be licensed by the Florida Department of Business and Professional Regulation.~~

~~(7)(8) No public adjuster may settle a claim unless the terms and conditions of settlement are approved by the insured.~~

Specific 624.308(1), ~~626.854, 626.9611~~ FS. Law Implemented 624.307(1); ~~624.504, 626.112(1), 626.854, 626.865(2), 626.872, 626.874, 626.878, 626.9541(1)(b), (i)~~ FS. History—New 4-26-94, Amended.

#### 4-220.201 Ethical Requirements.

(1) through (3) No change.

(4) Code of Ethics. ~~The following code of ethics shall be binding on all adjusters~~

~~(a) The work of adjusting insurance claims engages the public trust. An adjuster must put the duty for fair and honest treatment of the claimant above the adjuster's own interests, in every instance. The following are standards of conduct that define ethical behavior.~~

~~(a) An adjuster shall disclose all financial interest in any direct or indirect aspect of an adjusting transaction. For example: an adjuster shall not directly or indirectly refer or steer any claimant needing repairs or other services in connection with a loss to any person with whom the adjuster has an undisclosed financial interest, or which person will or is reasonably anticipated to provide the adjuster any direct or indirect compensation for the referral or for any resulting business.~~

~~(b) An adjuster shall treat all claimants equally. An adjuster shall not provide favored treatment to any claimant. An adjuster shall adjust all claims strictly in accordance with the insurance contract. An adjuster shall have no undisclosed financial interest in any direct or indirect aspect of an adjusting transaction. This includes the following: An adjuster shall not directly or indirectly refer or steer any claimant needing repairs or other services in connection with a loss to any person with whom the adjuster has an undisclosed financial interest, or which person will or is reasonably anticipated to provide the adjuster any direct or indirect compensation for the referral or for any resulting business.~~

~~(c) An adjuster shall approach investigations, adjustments, and settlements with an unprejudiced and open mind. An adjuster shall treat all claimants equally; an adjuster shall not~~

~~provide favored treatment to any claimant. An adjuster shall adjust all claims strictly in accordance with the insurance contract.~~

~~(d) An adjuster shall make truthful and unbiased reports of the facts after making a complete investigation. No adjuster may negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if said adjuster has knowledge of such representation, except with the consent of the attorney. For purposes of this subsection, the term "third-party claimant" does not include the insured or the insured's resident relatives.~~

~~(e) An adjuster shall handle every adjustment and settlement with honesty and integrity and allow a fair adjustment or settlement to all parties without any remuneration to himself except that to which he is legally entitled. An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect their appearance or testimony at the trial or on the witness stand. If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy thereof.~~

~~(f) An adjuster, upon undertaking the handling of a claim, shall act with dispatch and due diligence in achieving a proper disposition thereof. No adjuster may advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel to protect the claimant's interest.~~

~~(g) An adjuster shall promptly report to the Department any conduct by any licensed insurance representative of this state, which conduct violates any insurance law or Department rule or order. Unless approved in writing in advance by the insurer and such written communication can be demonstrated to the Department, no company or independent adjuster may draft special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release. Except as provided above, a company or independent adjuster is only permitted to fill in the blanks in a release form approved by the insurer they represent.~~

~~(h) An adjuster shall exercise extraordinary care when dealing with elderly clients, to assure that they are not disadvantaged in their claims transactions by failing memory or impaired cognitive processes. No adjuster may attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or may reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss. Further, the adjuster may not conclude a settlement when such settlement would be disadvantageous or to the detriment of a claimant who is in the traumatic or distressed state described above.~~

(i) An adjuster shall not negotiate or effect settlement directly or indirectly with any third-party claimant represented by an attorney, if said adjuster has knowledge of such representation, except with the consent of the attorney. For purposes of this subsection, the term "third-party claimant" does not include the insured or the insured's resident relatives. An adjuster shall not knowingly fail to advise a claimant of their claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state. An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar.

(j) An adjuster is permitted to interview any witness, or prospective witness, without the consent of opposing counsel or party. In doing so, however, the adjuster shall scrupulously avoid any suggestion calculated to induce a witness to suppress or deviate from the truth, or in any degree affect their appearance or testimony at the trial or on the witness stand. If any witness making or giving a signed or recorded statement so requests, the witness shall be given a copy thereof. An adjuster shall approach investigations, adjustments, and settlements with an unprejudiced and open mind.

(k) An adjuster shall not advise a claimant to refrain from seeking legal advice, nor advise against the retention of counsel to protect the claimant's interest. An adjuster shall make truthful and unbiased reports of the facts after making a complete investigation.

(l) An adjuster shall not attempt to negotiate with or obtain any statement from a claimant or witness at a time that the claimant or witness is, or would reasonably be expected to be, in shock or serious mental or emotional distress as a result of physical, mental, or emotional trauma associated with a loss. Further, the adjuster would not conclude a settlement when such settlement would be disadvantageous or to the detriment of a claimant who is in the traumatic or distressed state described above. An adjuster shall handle each and every adjustment and settlement with honesty and integrity and allow a fair adjustment or settlement to all parties without any remuneration to himself except that to which he is legally entitled.

(m) An adjuster shall not knowingly fail to advise a claimant of their claim rights in accordance with the terms and conditions of the contract and of the applicable laws of this state. An adjuster shall exercise care not to engage in the unlicensed practice of law as prescribed by the Florida Bar. An adjuster, upon undertaking the handling of a claim, shall act with dispatch and due diligence in achieving a proper disposition thereof.

(n) A company or independent adjuster shall not draft, unless approved in writing in advance by the insurer and such written communication can be demonstrated to the Department, special releases called for by the unusual circumstances of any settlement or otherwise draft any form of release. Except as provided above, a company or independent

adjuster is only permitted to fill in the blanks in a release form approved by the insurer they represent. An adjuster shall not undertake the adjustment of any claim concerning which the adjuster is not currently competent and knowledgeable as to the terms and conditions of the insurance coverage, or which otherwise exceeds the adjuster's current expertise.

~~(o) No person shall as a public adjuster represent any person or entity whose claim they previously adjusted while acting as an adjuster representing any insurer or independent adjusting firm. No person shall, as a company or independent adjuster, represent themselves or any insurer or independent adjusting firm, against any person or entity which they previously represented as a public adjuster.~~

~~(p) A public adjuster shall not represent or imply to any client or potential client to the effect that insurance companies, company adjusters, or independent adjusters, routinely attempt to or do in fact deprive claimants of their full rights under an insurance policy. No insurer, independent adjuster, or company adjuster shall represent or imply to any claimant that public adjusters are unscrupulous, or that engaging a public adjuster will delay or have other adverse effect upon the settlement of a claim.~~

~~(q) No public adjuster, while so licensed in the Department's records, may represent or act as an insurance company adjuster, independent adjuster, or general lines agent. No independent adjuster or company adjuster, while so licensed in the Department's records, may represent or act as a public adjuster.~~

~~(r) An adjuster shall promptly report to the Department any conduct by any licensed insurance representative of this state, which conduct violates any insurance law or Department rule or order.~~

~~(s) An adjuster shall exercise extraordinary care when dealing with elderly clients, to assure that they are not disadvantaged in their claims transactions by failing memory or impaired cognitive processes.~~

(5) Public Adjusters, Other Ethical Constraints. In addition to considerations set out above for adjusters, The following ethical considerations are specific to public adjusters and shall be binding upon public adjusters, in addition to considerations set out elsewhere in this rule for adjusters.

(a) A public adjuster's contract with a client shall be revocable or cancellable, without penalty or obligation, by the insured or claimant, for at least three business days after the contract is entered into for the insured to elect to settle the claim directly with an adjuster representing the insurer. If the insured elects to cancel the contract, prompt notice must be received by the adjuster. The public adjuster must disclose to the insured that the insured has the right to cancel with prompt notice within the revocation period. Nothing in this provision shall be construed to prevent an insured from pursuing any civil remedy after the three-day cancellation period. A public adjuster shall not prevent, or attempt to dissuade or prevent, a

claimant from speaking privately with the insurer, company or independent adjuster, attorney, or any other person, regarding the settlement of the claim.

(b) A public adjuster shall ensure that all contracts for the public adjuster's services are in writing, set forth all terms and conditions of the engagement, and contain the following: A public adjuster's contract with a client shall be revocable or cancellable, without penalty or obligation, by the insured or claimant, for at least three business days after the contract is entered into for the insured to elect to settle the claim directly with an adjuster representing the insurer. If the insured elects to cancel the contract, prompt notice must be received by the adjuster. The public adjuster must disclose to the insured that the insured has the right to cancel with prompt notice within the revocation period. Nothing in this provision shall be construed to prevent an insured from pursuing any civil remedy after the three-day cancellation period.

1. The contract must legibly state the full name as specified in Department records of the public adjuster signing the contract.

2. The contract must be signed by the public adjuster who solicited the contract. If the public adjuster is licensed by the Department as an emergency public adjuster, the contract shall show the public adjuster's permanent home address and home phone number, and permanent home state business address and phone number and Florida Department license number.

3. The contract must show the insured's full name, street address, address of loss, and a brief description of the loss. The contract shall also show the insured's insurance company name and policy number if these are available.

4. The contract must show the date the contract with the public adjuster was actually signed by the insured or claimant.

5. The full and total compensation to the public adjuster shall be stated in the contract. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Any costs to be reimbursed to the public adjuster out of the proceeds must be specified by type, with dollar estimates of same set forth in the contract.

(c) A public adjuster shall advise insureds and claimant in advance of their right to choice of counsel to represent the insured or claimant, and that such choice is to be made solely by the insured and claimant. The full compensation to the public adjuster shall be stated in the contract with the client. If the compensation is based on a share of the insurance settlement, the exact percentage shall be specified. Any cost to be reimbursed to the public adjuster out of the proceeds, or to be paid by the consumer otherwise, must be specified by type, with dollar estimates set forth in the contract.

(d) The public adjuster shall notify the insured or claimant in advance of the name and location of any proposed contractor, architect, engineer, or similar professional, before any bid or proposal by any of these persons may be used by the public adjuster in estimating the loss or negotiating settlement,

and the insured or claimant may exercise veto power of any of these persons in which case that person shall not be used in estimating costs. Choice of counsel to represent the insured or claimant is to be made solely by the insured or claimant.

(e) The public adjuster shall ensure that if a contractor, architect, engineer, or other licensed professional is used in formulating estimates or otherwise participates in the adjustment of the claim the professional must be licensed by the Florida Department of Business and Professional Regulation. A public adjuster shall not enter into a contract or accept a power of attorney which vests in the public adjuster the effective authority to choose the persons who shall perform repair work.

(f) A public adjuster shall not enter into a contract or accept a power of attorney which vests in the public adjuster the effective authority to choose the persons who shall perform repair work. A public adjuster shall assure that all contracts for the public adjuster's services are in writing and set forth all terms and conditions of the engagement.

(g) A public adjuster shall not prevent, or attempt to dissuade or prevent, a claimant from speaking privately with the insurer, company or independent adjuster, attorney, or any other person, regarding the settlement of the claim. A public adjuster shall not acquire any interest in salvaged property, except with the consent and permission of the insured.

(h) A public adjuster shall not acquire any interest in salvaged property, except with the consent and permission of the insured.

(i) A public adjuster shall not accept referrals of business from any person with whom the public adjuster may conduct business where there is any form or manner of agreement to compensate the person, whether directly or indirectly, for referring business to the public adjuster. Except as between licensed public adjusters, or licensed public adjusters and members of the Florida Bar, no public adjuster may compensate any person, whether directly or indirectly, for the principal purpose of referring business to the public adjuster.

Specific Authority 624.308, 626.878, 626.9611 FS. Law Implemented 624.307(1), 626.611, 626.621, 626.865(2), 626.878, 626.9541(1)(i) FS. History—New 6-2-93, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Phil Fountain, Bureau Chief, Agent and Agency, Department of Insurance, 200 East Gaines Street, Tallahassee, FL 32399-0333, phone number (850)413-5600

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: March 29, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE TITLE: Financial Records and Reports  
RULE NO.: 6A-14.072

PURPOSE AND EFFECT: The purpose is to prescribe the data and procedures to be used to maintain financial records in a consistent manner at the 28 community colleges. The effect is to ensure the financial records at the 28 community colleges and data shown on financial reports will be comparable throughout the Community College System.

SUMMARY: The current rule requires each community college to keep financial records in accordance with the 1999 Accounting Manual for Florida's Public Community Colleges. The proposed rule amendment would require the records to be kept in accordance with the 2001 Manual.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

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

TIME AND DATE: 9:30 a.m., June 26, 2001

PLACE: Room LL03, The Capitol, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges, Division of Community Colleges, 325 West Gaines St., Tallahassee, FL 32399-0400

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-14.072 Financial Records and Reports.

(1) Each community college shall keep financial records according to the Department of Education publication, "Accounting Manual for Florida's Public Community Colleges, 2001 ~~1999~~," incorporated herein by reference. Copies may be obtained from the Division of Community Colleges, Department of Education, Tallahassee, Florida 32399-0400.

(2) Enrollment related financial records shall be kept for all instruction so as to facilitate verification, confirmation, and comparison.

(3) If financial reports are not received from a community college when due, the State Board of Community Colleges may withhold apportionments of state funds to the college until the reports are received.

Specific Authority 229.053(1), 240.325 FS. Law Implemented ~~240.311, 240.325, 240.347, 240.349, 240.363~~ FS. History—Formerly 6A-8.11, Repromulgated 12-19-74, Amended 12-26-77, 7-2-79, 5-14-85, Formerly 6A-14.72, Amended 11-12-91, 7-7-92, 2-16-94, 12-18-94, 11-27-95, 11-13-96, 12-9-97, 5-18-99, 2-29-00. Cf. Accounting Manual for Florida's Public Community Colleges.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sydney H. McKenzie III, General Counsel, State Board of Community Colleges

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: J. David Armstrong Jr., Executive Director

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 30, 2001

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Incorporation by Reference  
RULE CHAPTER NO.: 14-15

RULE TITLE: Toll Facilities Description and  
Toll Rate Schedule  
RULE NO.: 14-15.0081

PURPOSE AND EFFECT: The purpose of this notice of rulemaking is to allow the public an opportunity to provide input to changes in the Toll Facilities Description and Toll Rate Schedule required by the construction of the Western Beltway, Part C. Section 338.155(1), Florida Statutes, does not permit the use of the State's toll facilities without paying a toll. The Florida Department of Transportation will construct the Western Beltway, Part C, from Interstate 4 in Osceola County to Seidel Road in Orange County, a distance of approximately 11 miles. Tolled ramps are proposed to be located at the following interchanges: Sinclair Road, US 192, and Seidel Road. A mainline toll plaza will also be constructed north of US 192. Additionally, the Western Beltway, Part C, from Seidel Road to SR 50 will be constructed by the Orlando/Orange County Expressway Authority.

SUMMARY: The proposed action is being taken to determine the Toll Rate Schedule resulting from the Florida Department of Transportation's construction of the Western Beltway, Part C, from Interstate 4 to Seidel Road and its associated toll plazas. The project is located in Osceola and Orange counties. The Toll Rate Rulemaking Public Hearing is being held in conjunction with the Design Public Hearing for the Western Beltway, Part C, from I-4 to Seidel Road. The required Toll Rate Rule Development Workshop was held September 16, 1999.

SPECIFIC AUTHORITY: 334.044(2) FS.

LAW IMPLEMENTED: 338.222, 338.231, 338.155 FS.

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.

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

TIME AND DATE: 7:00 p.m., June 21, 2001 (Informal session to begin at 6:00 p.m.)

PLACE: Ramada Plaza Hotel and Inn, 7470 Highway 192, West, Kissimmee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Administrative and Management Support Level IV, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-15.0081 Toll Facilities Description and Toll Rate Schedule.

The Toll Facilities Description and Toll Rate Schedule, adopted November 15, 1987, and amended on February 8, 1988, August 1, 1988, February 2, 1989, May 10, 1989, July 1, 1991, August 1, 1991, November 6, 1991, July 11, 1993, November 28, 1993, September 18, 1994, June 6, 1995, July 9, 1995, January 1, 1996, March 31, 1996, April 28, 1996, June 2, 1996, July 28, 1996, September 23, 1997, November 24, 1997, February 12, 1998, June 30, 1998, July 29, 1998, January 6, 1999, February 9, 1999, April 29, 1999, ~~and~~ June 21, 1999, and \_\_\_\_\_, is hereby incorporated by this rule and made a part of the rules of the Department. Copies of this Department of Transportation Toll Facilities Description and Toll Rate Schedule and any amendments thereto are available at no more than cost.

Specific Authority 334.044(2), 338.155(1) FS. Law Implemented 338.222, 338.231, 338.155 FS. History—New 11-15-87, Amended 2-8-88, 8-1-88, 2-2-89, 5-10-89, 7-1-91, 8-1-91, 11-6-91, 7-11-93, 11-28-93, 9-18-94, 6-6-95, 7-9-95, 1-1-96, 3-31-96, 4-28-96, 6-2-96, 7-28-96, 9-23-97, 11-24-97, 2-12-98, 6-30-98, 7-29-98, 1-6-99, 2-9-99, 4-29-99, 6-21-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Deborah Stemle, Director, Office of Toll Operations

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Thomas F. Barry, Jr., P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 27, 1999

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

DOCKET NO.: 00-30R

RULE CHAPTER TITLE: Florida Aquatic Preserves  
RULE CHAPTER NO.: 18-20

RULE TITLE: Lake Weir Aquatic Preserve  
RULE NO.: 18-20.018

PURPOSE, EFFECT AND SUMMARY: The proposed rulemaking is required to conform the rules to Chapter 2000-197, Laws of Florida, effective June 5, 2000. This law repealed section 258.3989, F.S., which removed Lake Weir

from designation as an aquatic preserve. Therefore, section 18-20.018 containing the standards and criteria to conduct activities or construct structures in Lake Weir must be repealed. Also, reference to Lake Weir as an aquatic preserve will be deleted from Rule 18-21.003(13), F.A.C., under separate rulemaking.

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

Any person who wishes to provide information regarding a 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: 258.42, 258.43(1) FS.

LAW IMPLEMENTED: 258.398, 258.42, 258.43(1), 258.44 FS., Chapter 2000-197, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice Heathcock, Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, or e-mail at Alice.Heathcock@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

18-20.018 Lake Weir Aquatic Preserve.

Specific Authority 258.42, 258.43(1) FS. Law Implemented 258.398, 258.42, 258.43(1), 258.44 FS. History—New 5-22-97, Repealed \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

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

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

DOCKET NO.: 00-31R

RULE CHAPTER TITLE: Sovereignty Submerged Lands Management  
RULE CHAPTER NO.: 18-21

RULE TITLE: Definitions  
RULE NO.: 18-21.003

PURPOSE AND EFFECT: The proposed rulemaking is required to conform the rule to Chapter 2000-197, Laws of Florida, effective June 5, 2000. This law repealed section 258.3989, F.S., which removed Lake Weir from designation as

an aquatic preserve. Therefore, reference to Lake Weir as an aquatic preserve must be deleted from 18-21.003(13), F.A.C. Additionally, repeal of section 18-20.018 containing the standards and criteria to conduct activities or construct structures in Lake Weir will be repealed under separate notice. SUMMARY: Deletion of rule reference to Lake Weir as an aquatic preserve.

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

Any person who wishes to provide information regarding a 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: 253.03(7), 253.0345 FS.

LAW IMPLEMENTED: 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS., Chapter 2000-197, Laws of Florida.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Alice Heathcock, Department of Environmental Protection, Bureau of Submerged Lands and Environmental Resources, 2600 Blair Stone Road, MS 2500, Tallahassee, FL 32399-2400, or e-mail at Alice.Heathcock@dep.state.fl.us.

THE FULL TEXT OF THE PROPOSED RULE IS:

18-21.003 Definitions.

When used in these rules, the following definitions shall apply unless the context clearly indicates otherwise:

- (1) through (12) No change.
- (13) "Coastal island" means a coastline geological feature lying above mean high water that is completely separated from the coastal mainland by marine or estuarine waters, including those parcels of land which become insular due to natural causes, and is composed of any substrate material, including spoil material. This specifically includes, in addition to exposed coastal islands:
  - (a) all islands within aquatic preserves except for Lake Jackson, Rainbow River, ~~Lake Weir~~ and Wekiva River Aquatic Preserves; and
  - (b) No change.
- (14) through (57) No change.

Specific Authority 253.03(7), 253.0345 FS. Law Implemented 253.002, 253.02, 253.03, 253.0345, 253.1221, 253.67, 253.77 FS. History--New 9-26-77, Formerly 16C-12.01, 16Q-17.01, Amended 3-27-82, 8-1-83, 2-25-85, Formerly 16Q-21.03, 16Q-21.003, Amended 12-25-86, 1-25-87, 3-15-90, 7-21-92, 3-20-94, 10-15-98,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kirby B. Green, III, Deputy Secretary

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 9, 2001

STATE BOARD OF ADMINISTRATION

RULE TITLES: RULE NOS.:

Asset Transfer Procedures: True Up Transfer for Initial Transfers Occurring Between 7/1/02 and 3/31/03 19-10.002

Asset Transfer Procedures: For Employees Who Become Eligible to Participate in PEORP by Reason of Employment in a Regularly Established Position With a State Employer Commencing After June 1, 2002; or With a District School Board Employer Commencing After September 1, 2002; or With a Local Employer Commencing After December 1, 2002 19-10.003

PURPOSE AND EFFECT: These two new rules provide for additional asset transfer procedures as required by Section 121.4501(3)(c)4., Florida Statutes.

SUMMARY: Proposed new Rule 19-10.002, FAC. provides procedures for the true-up transfer after the initial transfer of assets for public employees choosing to move from the defined benefit program of the Florida Retirement System to the defined contribution program. Proposed new Rule 19-10.003, FAC. provides procedures for those employees who become employed after the dates for the initial transfers and adopts a form.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: The Board has prepared a statement and found the cost to be appropriately divided between the defined benefit program and the defined contribution program. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY 121.4501(3)(c)4.,(8)(a) FS.

LAW IMPLEMENTED 121.4501(2),(3),(4),(5),(6),(8),(15), 121.571(1),(2), 215.44(8)(b) FS.

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

TIME AND DATE: 9:30 a.m. – 11:30 a.m., Monday, June 18, 2001

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

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

THE FULL TEXT OF THE PROPOSED RULES IS:

19-10.002 Asset Transfer Procedures: True Up Transfer for Initial Transfers Occurring between 7/1/02 and 3/31/03.

(1) Purpose. The primary purpose of this rule is to implement subsection (3)(c)4. of Section 121.4501, Florida Statutes, regarding procedures for transferring assets from the current defined benefit plan of the Florida Retirement System to the new defined contribution program, called the Public Employee Optional Retirement Program. However, since the implementation procedures will necessarily involve several other entities, the roles and responsibilities of those entities are part of this rule.

(2) Definitions.

(a) “ABO” means the present value of the member's accumulated benefit obligation in the defined benefit program of the Florida Retirement System to which the member would be entitled if the member retired from the current defined benefit plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., Florida Statutes. This amount will be shown on Form SBA-PEORP election, rev. 3/2001, (the enrollment form), and will be called the “current value of my FRS benefit.”

(b) “Division” means the Division of Retirement within the Department of Management Services.

(c) “Effective date of enrollment in PEORP” means the date on which the employee is entitled to receive employer contributions for his PEORP account or accounts in accordance with Section 121.571(2), Florida Statutes.

(d) “Effective enrollment in PEORP” means that the employee has completed the enrollment form; that the completed enrollment form has been received by the employee's employer; that the employer has forwarded the completed enrollment form to the TPA; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division of the employee's effective enrollment in PEORP.

(e) “Employee” means an eligible employee as defined in Section 121.4501(2)(d), Florida Statutes.

(f) “Employer” means an employer as defined in Section 121.4501(2)(e), Florida Statutes. For purposes of the PEORP, there are three general categories of employers: state agencies; school districts; and local employers.

(g) “Florida Retirement System Trust Fund” or “FRSTF” shall mean the trust fund holding the assets of the defined benefit plan of the Florida Retirement System.

(h) “Participant” means an employee who has joined the PEORP after the effective dates in Section 121.4501(4), Florida Statutes.

(i) “Public Employee Optional Retirement Program” or “PEORP” means the new defined contribution retirement program of the Florida Retirement System established by Section 121.4501, Florida Statutes.

(j) “SBA” means the State Board of Administration.

(k) “TPA” means the third-party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the PEORP.

(l) “True-up Amount” means the difference between the ABO calculated by using the participant's actual creditable service and the actual final average compensation as of the participant's effective date in PEORP and the ABO initially transferred.

(3) Election by Current Employees to Transfer to PEORP from the Defined Benefit Plan of the Florida Retirement System. The procedure for current employees to transfer to PEORP from the Defined Benefit Plan is provided for in Rule 19-10.001.

(4) The total amount initially credited to each PEORP participant's account who chooses to move his or her ABO out of the Defined Benefit Plan is an estimate of the participant's ABO as calculated by the division, in accordance with the provisions of Rule 19-10.001. Thereafter, pursuant to Section 121.4501(3)(c)3., Florida Statutes, the division shall recompute the ABO not later than 60 days after the initial transfer of funds and, if the recomputed amount differs from the transferred ABO amount by \$10 or more, the division shall cause an adjustment of the transfer of assets between PEORP account(s) of the affected participant(s) and the FRSTF through a true-up transfer in accordance with that statutory section.

(5) If the recomputed ABO is greater than the initial amount transferred by \$10 or more, the amount to be transferred to the participant's PEORP account from the FRSTF will equal the excess of the recomputed ABO over the amount initially transferred plus interest. The amount transferred to each investment product shall be based on the percentage of total investment allocated to each investment product by the participant on his or her election form as adopted and incorporated by reference in Rule 19-10.001.

(6) If the recomputed ABO is less than the original amount transferred by \$10 or more, the TPA shall cause to be transferred from the participant's PEORP account to the FRSTF an amount equal to the excess of the initial amount transferred over the recomputed ABO plus interest. The amount transferred from each investment product shall be based on the percentage of total investment allocated to each

investment product by the participant on his or her election form as adopted and incorporated by reference in Rule 19-10.001.

(7) The division shall notify the SBA of the aggregate true-up amount plus interest within 45 days of the initial transfer. The division shall notify the TPA of the true-up amounts plus interest by participant account within 45 days of the initial transfer. The true-up transfer shall include the true-up amount determined by the division plus interest at the rates specified in Section 121.4501(3)(c)3., Florida Statutes, from the date of the initial transfer to the date of the true-up transfer. The transfer of the true-up amount plus interest shall occur on the 60th day following the initial transfer. In the event the 60th day following the initial transfer falls on a Saturday, Sunday, or a legal holiday, the true-up transfer shall occur on the last business day preceding the Saturday, Sunday, or legal holiday.

(8) The division shall calculate the interest owed on true-up amounts. If the recomputed ABO is greater than the original amount transferred by \$10 or more, the participant will be owed a true-up amount plus interest. Interest will be calculated using the rate of 8% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer, as specified in subsection (7), above. If the recomputed ABO is less than the original amount transferred by \$10 or more, the participant will owe a true-up amount plus interest. Interest will be calculated on the amount owed based upon 6% effective annual interest, compounded annually, and the number of days from the date of the initial transfer to the date of the true-up transfer.

(9) Costs associated with the liquidation or transfer of assets from the FRSTF to the PEORP will be deducted from the FRSTF. The FRSTF will not be responsible for any transaction costs associated with the purchase or liquidation of PEORP assets. Those costs will be deducted from PEORP accounts or otherwise charged to PEORP participants.

(10) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), Florida Statutes, the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, Florida Statutes, until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4.,(8)(a) FS. Law Implemented 121.4501(2),(3),(4),(5),(6),(8),(15), 121.571(1),(2), 215.44(8)(b) FS. History—New \_\_\_\_\_.

19-10.003 Asset Transfer Procedures: For Employees Who Become Eligible to Participate in PEORP By Reason of Employment in a Regularly Established Position With a State Employer Commencing After June 1, 2002; or With a District

School Board Employer Commencing After September 1, 2002; or With a Local Employer Commencing After December 1, 2002.

(1) Purpose. The primary purpose of this rule is to implement Section 121.4501(3)(c)4., Florida Statutes, regarding procedures for transferring assets from the current defined benefit plan of the Florida Retirement System to the new defined contribution program, called the Public Employee Optional Retirement Program. However, since the implementation procedures will necessarily involve several other entities, the roles and responsibilities of those entities are part of this rule.

(2) Definitions.

(a) “ABO” or the accumulated benefit obligation means the present value of a member’s benefit in the defined benefit program of the Florida Retirement System to which the member would be entitled if the member retired from the current defined benefit plan. This present value shall be calculated in accordance with the formula set out in Section 121.4501(3)(c)2., Florida Statutes. This amount will be shown on Form SBA-PEORP election, rev. 3/2001, (The Enrollment Form) and will be titled the “current value of my FRS benefit.”

(b) “Division” means the Division of Retirement within the Department of Management Services.

(c) “Effective date of enrollment in PEORP” means the date on which the employee is entitled to receive employer contributions for his PEORP account or accounts in accordance with Section 121.571(2), Florida Statutes.

(d) “Effective enrollment in PEORP” means that the employee has completed the enrollment form; that the completed enrollment form has been received by the employee’s employer; that the employer has forwarded the completed enrollment form to the TPA; that the TPA has entered the employee into its recordkeeping system; and that the TPA has informed the division of the employee’s effective enrollment in PEORP.

(e) “Employee” means an eligible employee as defined in Section 121.4501(2)(d), Florida Statutes.

(f) “Employer” means an employer as defined in Section 121.4501(2)(e), Florida Statutes. For purposes of the PEORP, there are three general categories of employers: state agencies; school districts; and local employers.

(g) “Florida Retirement System Trust Fund” or “FRSTF” shall mean the trust fund holding the assets of the defined benefit plan of the Florida Retirement System.

(h) “Participant” means an employee who elects to join the PEORP after the effective dates in Section 121.4501(4)(a)1., (b)1, or (c)1., Florida Statutes.

(i) “Public Employee Optional Retirement Program” or “PEORP” means the new defined contribution retirement program of the Florida Retirement System established by Section 121.4501, Florida Statutes.



(j) "SBA" means the State Board of Administration.

(k) "TPA" means the third-party administrator hired by the SBA, pursuant to Section 121.4501(8)(b)1., Florida Statutes, to provide administrative services to the PEORP.

(3) Election by employees who become eligible to participate in PEORP by reason of employment in a regularly established position with a state employer commencing after June 1, 2002; or with a district school board employer commencing after September 1, 2002; or with a local employer commencing after December 1, 2002.

(a) For employees hired after the initial PEORP enrollment dates specified in Section 121.4501(4)(a)1., (b)1., or (c)1., Florida Statutes, the employee shall have 180 days after his/her employment commences to enroll in the PEORP or to elect to remain in the defined benefit plan.

(b) Employees hired after the initial PEORP enrollment dates specified in Section 121.4501(4)(a)1., (b)1., or (c)1., Florida Statutes, must complete an enrollment form, Form SBA/PEORP – New Employee Election, rev. 5/2001, which is hereby adopted and incorporated by reference.

(c) The enrollment form shall be complete if all the required information is clearly indicated. Specifically, the form shall include a statement that the employee elects to remain in the defined benefit program, elects to transfer to the PEORP with a transfer of his or her ABO, or elects to transfer to the PEORP without a transfer of his or her ABO which shall then remain in the defined benefit plan.

(d) The employer shall determine that the employee's enrollment in PEORP is within the prescribed 180 days, the form in toto is complete, and the employee's election is clearly indicated. If the employer determines that the form is incomplete, the form shall be returned to the employee and resubmitted when complete.

(e) If the employee has elected to enroll in PEORP and the employer has determined the form is complete, it shall be distributed as follows:

1. One copy of the completed form is retained by the employee.

2. One copy of the completed form is retained by the employer.

3. One copy of the completed form is forwarded by the employer to the TPA.

4. One copy of the completed form is forwarded by the employer to the division.

(f)1. The employer shall submit the enrollment forms for employees electing to enroll in PEORP during the month to the TPA and the division on the last business day of the month. Enrollment in the optional program for employees under this rule shall be effective on the first day of the month for which a full month's employer contribution is made to the optional program.

2. Example: If the employer submits the enrollment forms received during the month of June by June 30th, the employee's effective date of enrollment in PEORP is July 1st.

(g) Upon receipt of the form by the TPA, the TPA shall enroll the employee in the PEORP. Upon completion of the enrollment, but no later than three days after enrollment, the TPA shall send confirmation of the effective enrollment to the employee at the employee's home address, to the employee's employer, and to the division to inform the division that the employee is no longer in the defined benefit plan.

(h) Employers shall pay retirement contributions monthly for their PEORP employees and those contributions are due to the division by the 5th business day of the month following the month for which the contributions are made. The employer shall correct its employee records to reflect that the contribution rates effective on the effective date of enrollment, in accordance with Section 121.571(2), Florida Statutes, are applicable to those of its employees who have elected to transfer to PEORP.

(4) Asset Transfer Procedures.

(a) For employees who elect to transfer to PEORP with a transfer of his or her ABO, the division shall determine the amount of the employee's ABO. This amount shall be transferred to the employee's PEORP account and shall be allocated to each investment product selected by the participant on his or her election form as adopted and incorporated by reference in this rule.

(b)1. The division shall determine the employee's ABO as of the last day of the month prior to the employee's effective date of enrollment in PEORP.

2. Example: If the division receives the enrollment form during the month of June, the effective date of enrollment for the employee in PEORP is July 1. The division shall determine the employees accumulated benefit through June 30.

(c) By the 15th day of the month, the division shall notify the TPA of the ABO for each employee whose effective date of enrollment is the first day of the month and the division shall notify the SBA of the aggregate ABO of employees whose effective date of enrollment is the first day of the month.

(d) Within 30 days of the employee's effective date of enrollment in PEORP, the SBA shall transfer the aggregate ABO amount to the PEORP custodian for distribution to PEORP participant accounts. Such distribution shall be directed by the TPA and shall be based on the percentage of total investment allocated to each investment product by the participant on his or her election form.

(e) Once a new employee has made an election to transfer to PEORP or remain in the defined benefit plan, that election is irrevocable, even though the 180-day period may not have expired. Section 121.4501(4)(e), Florida Statutes, provides one additional opportunity for an employee to change his or her mind after the employee's 180-day election period.

(5) Costs associated with the liquidation or transfer of assets from the FRSTF to the PEORP will be deducted from the FRSTF. The FRSTF will not be responsible for any transaction costs associated with the purchase of PEORP assets. Those costs will be deducted from PEORP accounts or otherwise charged to PEORP participants.

(6) The amount transferred to each investment product shall be based on the percentage of total investment allocated to each fund by the participant on his or her election form as adopted and incorporated by reference in this rule, in subsection (3)(a), above. However, pursuant to Section 121.4501(4)(d), Florida Statutes, amounts not specified will be invested in the default option designated in the Investment Policy Statement, as approved by the Trustees on February 27, 2001, and adopted and incorporated by reference in Rule 19-9.001.

(7) In order to effectively and efficiently administer the investment programs of the SBA and in accordance with Section 215.44(8)(b), Florida Statutes, the records and other information relating to investments made by the SBA will be confidential and exempt from Chapter 119, Florida Statutes, until 30 days after completion of each investment transaction.

Specific Authority 121.4501(3)(c)4.,(8)(a) FS. Law Implemented 121.4501(2),(3),(4),(5),(6),(8),(15), 121.571(1),(2), 215.44(8)(b) FS. History—New

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 15, 2001

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

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Offender Grievance Procedures  
RULE NO.: 33-302.101

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify titles and procedures relating to offender grievances.

SUMMARY: The proposed rule clarifies titles, alters time frames for the filing of grievances, ensures complete review by providing for the forwarding of grievances and responses to the next level for purposes of review, and clarifies the routing process for grievances.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Giselle Lylen Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.101 Offender Grievance Procedures.

(1) No change.

(2) The following procedures outline the steps to be taken by an offender under field supervision, including an offender in pretrial intervention, who has a complaint concerning actions on supervision. Steps for filing complaints are:

(a) The offender should first discuss any complaint with the correctional probation officer assigned to her or his case to determine if a resolution to the problem can be obtained. Additionally, the offender may discuss the complaint with the officer's supervisor in order to reach a resolution.

(b) If the offender is dissatisfied with the outcome of the verbal discussion with the officer, and the officer's supervisor if the offender chooses to discuss the complaint verbally with the supervisor, ~~The offender may submit a written grievance outlining the problem to the officer's immediate supervisor for further review if the issue is not resolved with his correctional probation officer.~~ The supervisor shall respond, in writing, with a response that attempts to resolve the issue, within 20 ~~45~~ calendar days of the receipt of the grievance. A copy of both the grievance and the supervisor's response shall be forwarded to the circuit ~~correctional probation~~ administrator for informational purposes. A copy of the grievance and all responses to the grievance shall be maintained in the offender file.

(c) In the event the issue is not resolved with the supervisor, the offender may forward her or his grievance, along with the supervisor's response, to the circuit administrator for review ~~contact can be made by the offender with the correctional probation administrator for the purpose of review.~~ The circuit ~~correctional probation~~ administrator shall respond to the offender in writing, with a response that attempts to resolve the issue, within 20 ~~40~~ calendar days of receipt of the grievance ~~of contact~~.

(d) In the event the issue is not resolved with the circuit ~~correctional probation~~ administrator, the offender may forward her or his grievance, along with the circuit administrator's response to file a written complaint with the regional ~~regional~~ director of regional community corrections for review. The ~~regional~~ director of regional community corrections shall provide a

written response, which attempts to resolve the issue, within 20 30 calendar days of receipt of the grievance with a copy to the Department of Corrections Inspector General's Office.

(e) In the event the issue is not resolved with the director of regional community corrections, the offender may forward her or his grievance, along with the director of regional community correction's response, to the Bureau of Inmate Grievance Appeals in the Central Office.

(3) All grievances shall be filed within 10 calendar days of the date the incident or action being petitioned occurred.

(4) Grievances outlining the problem shall be handwritten or typed on a plain sheet of paper and must identify the complainant and contain her or his signature.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New 5-28-86, Amended 10-1-89, 9-30-91, 2-15-98, Formerly 33-24.005, Amended 3-4-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Shari Britton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Offender Classification System

RULE NO.: 33-302.107

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish an offender classification system whereby offenders are systematically assessed and evaluated to allow placement in the appropriate level of supervision.

SUMMARY: The proposed rule establishes requisite criteria for evaluation of an offender's needs and risk of re-offending or violating supervision, establishes applicable time frames, provides applicable forms, and provides for appropriate referrals to treatment and community resources.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Giselle Lysten Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.107 Offender Classification System.

(1) Correctional probation officers shall utilize the "Offender Classification System" to evaluate an offender placed on supervision. The system:

(a) Is a methodology used to ensure that each offender placed on active supervision is systematically assessed and evaluated in order to place the offender in the appropriate level of supervision; and,

(b) Evaluates an offender's level of need in specific treatment or service areas and evaluates the offender's potential risk of re-offending or violating supervision in order to ensure the offender is monitored at an appropriate level of supervision.

(2) Criteria used to evaluate an offender's needs include:

(a) Academic level;

(b) Vocational skills;

(c) Employment needs;

(d) Alcohol or drug usage;

(e) Mental illness;

(f) Mental ability;

(g) Sexual behavior; and,

(h) The evaluating officer's impression of the offender's problems and the amount of officer intervention time the offender will require.

(3) Criteria used to evaluate an offender's risk of re-offending or violating supervision include:

(a) Prior convictions;

(b) Prior incarceration;

(c) Age at first commitment;

(d) Commitment offense;

(e) Any supervision revoked;

(f) Drug or alcohol dependence; and,

(g) The employment, education, and supervision plan for the offender.

(4) An initial assessment shall be conducted by the correctional probation officer within thirty days of the onset of supervision or acceptance of supervision from another state.

(a) The correctional probation officer shall utilize the Case Assessment, Form DC3-265, and Classification Reassessment, Form DC3-266, to record the needs and risk information relating to each offender. Form DC3-265 and Form DC3-266 are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of these forms is \_\_\_\_\_.



- b. Court costs, fines, or other financial obligations;
- c. Public service work requirements;
- d. Evaluation and treatment requirements;
- e. Prohibitions against contact with the victim or victims;
- f. Participation in education or self-improvement programs;
- g. Participation in HIV or AIDS awareness programs;
- h. Incarceration required as a condition of supervision;
- i. Victim related special conditions; and,
- j. Any other special conditions imposed by the court or releasing authority.

(3) Offenders shall be provided an opportunity to ask questions or request clarification of any or all of the conditions of his or her supervision.

(a) After acknowledging an understanding of the conditions of supervision, the offender shall sign and date the orders of supervision. If an offender refuses to sign and date the conditions of probation, the correctional probation officer shall make note of this on the orders of supervision.

(b) The offender shall be provided with a copy of the orders of supervision.

(4) Restoration of Civil Rights:

(a) If the offender is convicted of a felony offense, the officer shall advise the offender that statutory employment restrictions may apply during the supervision period until the offender's rights are restored.

(b) The officer shall advise the offender that more information regarding the restoration of civil rights process shall be provided as the offender's scheduled termination date approaches.

(c) The officer shall direct further questions regarding the civil rights review process to the Office of Executive Clemency.

(5) The correctional probation officer shall instruct on and review the information contained in Section 944.512, F.S., which prohibits all felons convicted in Florida or their assignees, from receiving any financial benefits from literary or cinematic accounts of crimes for which the offender was convicted and which empowers and sets guidelines for the courts to place liens upon proceeds payable or accruing to offenders, or their assignees.

(a) The correctional probation officer and offender shall sign and date an Acknowledgment of Understanding of Responsibilities for Notification of Involvement in Crimes Accounts, Form DC1-204, certifying that the offender has received instructions regarding requirements stated in Section 944.512, F.S. Form DC1-204 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(b) The correctional probation officer shall provide the offender with a copy of the executed Form DC1-204 and place the original in the offender file.

(6) The correctional probation officer shall instruct on and review the information contained in the Instructions to the Offender, Form DC3-246. Form DC3-246 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(a) The contents of Form DC3-246 include:

1. The offender grievance procedure;
2. The means whereby the offender may obtain twenty-four hour emergency access to the correctional probation office or officer;
3. Drug testing procedures;
4. Criminal registration requirements;
5. Firearms prohibition instructions; and,
6. Employer notification instructions.

(b) The correctional probation officer and offender shall sign and date Form DC3-246, Instructions to the Offender, certifying that the offender has received orientation regarding the topics listed in section (6)(a).

(c) The original executed Form DC3-246 shall be placed in the offender file and a copy shall be provided to the offender.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Shari Britton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLE: Written Monthly Reports  
RULE NO.: 33-302.110

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to establish procedures relating to the written monthly report offenders on supervision must submit to their correctional probation officer.

SUMMARY: The proposed rule establishes guidelines as to notification of this requirement, provides requisite forms, establishes guidelines for the content of written monthly reports, and establishes procedures for the review and retention of written monthly reports.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 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: Giselle Lylen Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.110 Written Monthly Reports.

(1) Correctional probation officers shall inform the offender, at the time orientation is provided, that she or he is required to submit a full and truthful report to the officer on a monthly basis, unless otherwise specified by the supervision order.

(a) Form DC3-268, Written Monthly Report, is the form offenders shall submit on a monthly basis to their correctional probation officer. Form DC3-268 is hereby incorporated by reference. A copy of this form may be obtained from the Forms Control Administrator, Office of General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of this form is \_\_\_\_\_.

(b) The Written Monthly Report, Form DC3-268, requires the offender to provide information relating to activities for the previous month, including:

- 1. The offender's place of residence;
- 2. The offender's place of employment;
- 3. The offender's gross income;
- 4. Payments made by the offender including restitution, court costs, cost of supervision, or other monetary obligations imposed by the court or releasing authority;
- 5. Problems experienced by the offender; and,
- 6. Other information that needs to be discussed with the correctional probation officer during the required office visit.

(2) Upon receipt, the correctional probation officer shall review the Written Monthly Report, Form DC3-268, submitted by the offender under his or her supervision to:

- (a) Ensure the report is complete;
- (b) Identify status changes not reported previously in employment, residence, or arrest activity;
- (c) Identify problems occurring during the month that the offender wishes to discuss further;
- (d) Review any difficulties or irregularities;
- (e) Determine necessary action to rectify any difficulties or irregularities; and,

(f) Make referrals in order to assist the offender with community resources and services available, as necessary.

(3) The correctional probation officer shall sign and date Form DC3-268 to acknowledge the report was reviewed. He or she shall also document receipt of Form DC3-268 in the electronic case notes, including any additional instructions given to the offender or information obtained during the office visit.

(4) The original copies of all of the Written Monthly Reports submitted by an offender will be maintained by the correctional probation officer in the offender's file.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Shari Britton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**DEPARTMENT OF CORRECTIONS**

RULE TITLES:	RULE NOS.:
Community Release Programs	33-601.602
Placement of Inmates into Community Release Programs	33-601.606

PURPOSE AND EFFECT: The purpose and effect of the proposed rules is to clarify procedures related to community release programs.

SUMMARY: The proposed rules update form numbers and titles, correct program titles, correct form incorporation language, and clarify ineligibility criteria for community release programs.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 945.091 FS.

LAW IMPLEMENTED: 945.091 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Giselle Lylen Rivera, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

## THE FULL TEXT OF THE PROPOSED RULES IS:

## 33-601.602 Community Release Programs.

## (1) Definitions.

(a) through (d) No change.

(e) Modality IV Community Tier IV – A community based residential substance abuse treatment program for inmates.

(f) through (g) No change.

## (2) Inmate Conduct While On Community Release.

(a) During the inmate orientation process, inmates will be instructed of the following conduct requirements. Upon completion of the orientation program, the inmate shall be given a Certificate of Orientation, Form DC6-126 DC4-837. Form DC6-126 DC4-837 is incorporated in (16) of this rule.

1. through 10. No change.

(b) No change.

(c) Every inmate assigned to a community release facility shall immediately, upon arrival, sign a Letter of Notice, Form DC6-102 DC4-866, or the inmate shall be terminated from the program. The inmate shall be furnished a copy of the Letter of Notice and must agree to abide by the conditions of the Letter of Notice. Form DC6-102 DC4-866 is incorporated by reference in (16) of this rule.(d) The work release center classification officer shall complete a Personalized Program Plan for Work Release Centers, Form DC6-118A DC4-838, on all inmates assigned to the work release center within 14 days of receipt of the inmate at the center. Form DC6-118A DC4-838 is incorporated by reference in (16) of this rule. The completed personalized program plan shall be signed by the inmate, the classification officer and the correctional officer major. Once the personalized program plan is signed, it shall be given to the staff member assigned to work with the inmate. Any changes in the personalized program plan shall be discussed with the inmate and shall be documented on Form DC6-118B DC4-838A, Personalized Program Plan – Modification Plan. Form DC6-118B DC4-838A is incorporated by reference in (16) of this rule. The inmate's progress towards achieving the goals of the personalized program plan shall be reviewed bi-weekly with the inmate. The outcome of each review shall be documented on Form DC6-118C DC4-838B, Personalized Program Plan – Monthly Progress Review. Form DC6-118C DC4-838B is incorporated by reference in (16) of this rule. Staff are authorized to schedule subsequent progress reviews upon request of the inmate.

(e) No change.

(3) through (6) No change.

(7) Employment.

(a) through (e) No change.

(f) The prospective employer shall sign an Employer's Community Work Release Agreement, Form DC6-124. Form DC6-124 is incorporated by reference in (16) of this rule.

Inmates engaged in paid employment are not considered an employee of the state or the department while engaging in or traveling to and from such employment.

(g) through (h) No change.

(i) Facility personnel shall visit the inmate's place of employment for new employers within the first five working days to verify employment. Documentation of on-site employment verification shall be placed in the inmate's file by utilizing Form DC6-125 DC4-832, Employment Contacts. Form DC6-125 DC4-832 is incorporated by reference in (16) of this rule.(j) There shall be a minimum of three employment contacts per inmate per month by facility personnel to substantiate attendance and discuss any problems that may have arisen. Two of the contacts shall be accomplished either through telephone calls or site visits to the inmate's place of employment, and documentation of the contacts shall be made on Form DC6-125 DC4-832, Employment Contacts. One of the three monthly contacts shall be a personal on-site job check. The documentation of the contacts shall be made on Form DC6-125 DC4-832 and placed in the inmate's file for future reference.(k) Facility personnel shall establish a primary and secondary job contact person at all employment sites. The primary and secondary contact person shall be named on Form DC6-125 DC4-832, Employment Contacts.

(l) No change.

(8) through (9) No change.

(10) Disbursement of Earnings.

(a) through (g) No change.

(h) A work releasee who is receiving Worker's' Compensation or sick pay shall pay subsistence fees commensurate with the rate set forth in subparagraph (d) above based on the amount of compensation received, less any legally required payroll deductions.

(i) through (k) No change.

(l) Any requests for special withdrawal shall be completed on Form DC2-304 DC2-401, Special Withdrawal. Form DC2-304 DC2-401 is incorporated by reference in Rule 33-203.201, F.A.C. (16) of this rule. The effective date of this form is May 7, 2000.

(11) Restitution.

(a) through (d) No change.

(e) Restitution requirements shall be recorded on Form DC6-123 DC4-803A, Monetary Reimbursement Agreement. Form DC6-123 DC4-803A is incorporated by reference in (16) of this rule.

(12) through (15) No change.

(16) Forms. The following forms are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

~~(a) DC2-304, Special Withdrawal Form, effective 3-13-01.~~

~~(a)(b) DC6-123 DC4-803A, Monetary Reimbursement Agreement, effective 3-13-01.~~

~~(e) DC4-822, Center Work Assignment, effective 3-13-01.~~

~~(b)(4) No change.~~

~~(c)(e) DC6-125 DC4-832, Employment Contacts, effective 3-13-01.~~

~~(d)(f) DC6-126 DC4-837, Certificate of Orientation, effective 3-13-01.~~

~~(e)(g) DC6-118A DC4-838, Personalized Program Plan for Work Release Centers, effective 3-13-01.~~

~~(f)(h) DC6-118B DC4-838A, Personalized Program Plan – Modification Plan, effective 3-13-01.~~

~~(g)(i) DC6-118C DC4-838B, Personalized Program Plan – Monthly Progress Review, effective 3-13-01.~~

~~(h)(j) No change.~~

~~(i)(k) DC6-127, Checklist for Transfers to Work Release Centers ~~Community Residential Facilities~~, effective 3-13-01.~~

~~(j)(l) DC6-102 DC4-866, Letter of Notice, effective 3-13-01.~~

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New 12-7-97, Amended 4-13-98, 10-20-98, Formerly 33-9.023, Amended 3-13-01, \_\_\_\_\_.

33-601.606 Placement of Inmates into Community Release Programs.

(1) No change.

(2) Eligibility and Ineligibility Criteria.

(a) An inmate is ineligible for community release programs if he has:

1. through 4. No change.

5. Refused to complete substance programs Modality Tier II, III, or IV, unless the refusal was based upon objections to the religious based content of the program, in which case, an alternate non-deity based substance abuse program will be offered and must be successfully completed.

6. through (5)(c) No change.

Specific Authority 945.091 FS. Law Implemented 945.091 FS. History—New 3-13-01, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: David Tune

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael W. Moore, Secretary, Department of Corrections

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE TITLE: Medical Director

RULE NO.: 59A-4.1075

PURPOSE AND EFFECT: The Agency proposes to develop a rule consistent with the provisions of s. 400.141(2), Florida Statutes, that became effective July 1, 1999. The legislation provides for specific criteria for the appointment of a medical director.

SUMMARY: Specific criteria for the appointment of a medical director.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 400.141 FS.

LAW IMPLEMENTED: 400.141(2) FS.

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

TIME AND DATE: 10:00 a.m., June 20, 2001

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Richard Kelly, Agency for Health Care Administration, Long-Term Care Unit, 2727 Mahan Drive, Suite 228, Tallahassee, Florida 32308, (850)488-5861

THE FULL TEXT OF THE PROPOSED RULE IS:

59A-4.1075 Medical Director.

(1) Each facility will have only one physician who is designated as Medical Director.

(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, Florida Statutes. The nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.

(b) A Medical Director who does not have hospital privileges shall be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations (JCAHO), the American Medical Directors Association, the Florida Medical Directors Association or a health maintenance organization licensed in Florida.

(c) A physician must have his/her principal office within 60 miles of all facilities for which he/she serves as Medical Director. Principal office is the office maintained by a physician pursuant to ss. 458.351, Florida Statute and



applicable rules, where the physician delivers the majority of medical services. The physician must specify the address of his/her principal office at the time of becoming Medical Director. The agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

(d) The facility shall appoint a Medical Director who shall visit the facility at least once a month. The Medical Director shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of 10 nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.

(4) The Medical Director appointed by the facility shall meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director appointed by the facility shall participate in the development of the comprehensive care plan for the resident when he/she is also the attending physician of the resident.

Specific Authority 400.141 FS. Law Implemented 400.141(2) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Richard F. Kelly, Health Services and Facilities Consultant,  
Managed Care and Health Quality

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Ruben J. King-Shaw, Jr., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: April 30, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: June 9, 2000

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE TITLE: Outpatient Hospital Services  
RULE NO.: 59G-4.160

PURPOSE AND EFFECT: The purpose of the rule amendment is to incorporate by reference the Florida Medicaid Hospital Coverage and Limitations Handbook, January 2001. The handbook contains the 2001 outpatient hospital laboratory

and pathology codes and fee schedule. The effect will be to incorporate in the rule the current Florida Medicaid Hospital Coverage and Limitations Handbook.

SUMMARY: The proposed rule incorporates by reference the Florida Medicaid Hospital Coverage and Limitations Handbook, January 2001. The handbook update consists of code and fee revisions to Appendix C, Laboratory and Pathology Codes and Fee Schedule, routinely updated every year in January. The revised code list is effective for dates of service beginning on January 1, 2001.

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

Any person who wishes to provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

TIME AND DATE: 9:00 a.m. – 10:00 a.m., June 18, 2001

PLACE: Agency for Health Care Administration, 2728 Fort Knox Blvd., Building 3, Conference Room C, Tallahassee, Florida 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ouida Mazzoccoli, Medical/Health Care Program Analyst, Medicaid Program Development Office, 2728 Fort Knox Boulevard, Building 3, Tallahassee, FL 32308, (850)922-7351

THE FULL TEXT OF THE PROPOSED RULE IS:

59G-4.160 Outpatient Hospital Services.

(1) This rule applies to all hospital providers enrolled in the Medicaid program.

(2) All hospital providers enrolled in the Medicaid program must comply with the Florida Medicaid Hospital Coverage and Limitations Handbook, January 2001 ~~May 2000~~, and the Florida Medicaid Provider Reimbursement Handbook, UB-92, October 1998, both incorporated by reference in this rule. Both handbooks are available from the fiscal agent contractor.

Specific Authority 409.919 FS. Law Implemented 409.905, 409.908, 409.9081 FS. History—New 1-1-77, Revised 12-7-78, 1-18-82, Amended 7-1-83, 7-16-84, 7-1-85, 10-31-85, Formerly 10C-7.40, Amended 9-16-86, 2-28-89, 5-21-91, 5-13-92, 7-12-92, 1-5-93, 6-30-93, 7-20-93, 12-21-93, Formerly 10C-7.040, Amended 6-13-94, 12-27-94, 2-21-95, 9-11-95, 11-12-95, 2-20-96, 10-27-98, 5-12-99, 10-18-99, 3-22-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Ouida Mazzoccoli

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Ruben King-Shaw, Jr., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 11, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 23, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Barbers'**

RULE TITLE: Special Assessment Fee  
RULE NO.: 61G3-20.022

PURPOSE AND EFFECT: The Board proposes to promulgate this new rule to be included in Chapter 61G3-20.

SUMMARY: The proposed rule set forth guidelines for Special Assessment Fees.

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: 455.219(2), 476.064(4) FS.

LAW IMPLEMENTED: 455.219(2) 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: Julie Baker, Executive Director, Barbers' Board, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G3-20.022 Special Assessment Fee.

(1) In order to eliminate the current cash deficit in the operating funds of the Board and to maintain the Board's financial integrity, each active and voluntary inactive licensee, including all licensed barbers, restricted barbers, barbers assistants, and barbershop license holders, who received their initial license prior to the effective date of this rule shall pay a one-time special assessment fee of one hundred dollars (\$100.00).

(a) All licensed barbers, restricted barbers, and barbers assistants who receive their initial license after the effective date of this rule shall pay a one-time special assessment fee of one hundred dollars (\$100.00) no later than 5:00 p.m. on July 31, 2002.

(b) All barbershop license holders who receive their initial license after the effective date of this rule shall pay a one-time special assessment fee of one hundred (\$100.00) no later than 5:00 p.m. on November 30, 2002.

(c) All licensed barbers, restricted barbers, and barbers assistants who are scheduled to renew their license during 2002 shall pay the special assessment fee of one hundred dollars (\$100.00) no later than 5:00 p.m. on July 31, 2002.

(d) All barbershop license holders who are scheduled to renew their license during 2002 shall pay the special assessment fee of one hundred (\$100.00) no later than 5:00 p.m. on November 30, 2002.

(2) The special assessment fee applies to all licensees, including those whose licenses are in delinquent status, suspended and who have been placed on probation.

(3) Failure to comply with this rule and pay the required fee shall constitute grounds for disciplinary action pursuant of Section 476.204(i), and 455.227(1)(b) and (q) F.S.

Specific Authority 455.219(2), 476.064(4) FS. Law Implemented 455.219(2) FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Barbers'

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Barbers'

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 2, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 20, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Construction Industry Licensing Board**

RULE TITLE: Time for Compliance With Final Order  
RULE NO.: 61G4-12.008

PURPOSE AND EFFECT: The Board proposes to amend this rule to set forth the terms and status of a probationers license if the probationer fails to make satisfactory appearances before the Board.

SUMMARY: Language is being added to this rule to clarify the effects that unsatisfactory appearances by probationers will have on the length of the probation period.

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: 455.227(2), 489.108 FS.

LAW IMPLEMENTED: 455.227(2), 489.129(2),(6) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Marlene Gundy, Interim Executive Director, Construction Industry Licensing Board, 7960 Arlington Expressway, Suite 300, Jacksonville, Florida 32211-7467

THE FULL TEXT OF THE PROPOSED RULE IS:

61G4-12.008 Time for Compliance With Final Order.

(1) through (5)(c) No change.

(d) Should the licensee fail to make a satisfactory appearance as determined by the Board, the term of the probationary period shall automatically be extended by six (6) months. If there occurs a second such failure, then the term of the probationary period will be extended an additional year. Should the Board determine a third failure of the licensee to make a satisfactory appearance, then the stay of suspension of the licensee's licensure to practice contracting shall be lifted and the license shall remain in suspended status unless and until a further stay is granted by the Board.

~~(e)~~ Should the licensee's licensure to practice contracting be suspended or otherwise placed on inactive status, or if the licensee leaves the practice of contracting for thirty (30) days or more, the probation period shall be tolled and shall resume running at the time the licensee reactivates the license or returns to the active practice of contracting, and the licensee shall then serve the time remaining in the term of probation.

~~(f)~~ The licensee's licensure to practice contracting shall be suspended for the period of probation, with the suspension stayed for the period of probation. The time of the suspension and the stay shall run concurrently with the period of probation, except as provided otherwise in the Final Order. If the licensee successfully completes probation, the suspension shall terminate. If the licensee fails to comply with the requirements set forth in this rule or in the Final Order imposed in this case, or fails to make satisfactory appearances as determined by the Board, the stay shall be lifted. Once the stay is lifted, the license shall remain in suspended status unless and until a further stay is granted by the Board.

Specific Authority 455.227(2), 489.108 FS. Law Implemented 455.227(2), 489.129(2),(6) FS. History—New 1-6-80, Amended 12-19-82, Formerly 21E-12.08, Amended 5-29-90, 7-21-92, Formerly 21E-12.008, Amended 8-21-95, 11-25-97,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Construction Industry Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Construction Industry Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 12, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 27, 2001

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Veterinary Medicine**

RULE TITLE: Suspension  
RULE NO.: 61G18-15.009

PURPOSE AND EFFECT: The Board proposes to promulgate a new rule entitled "Suspension", numbered 61G18-15.009.

SUMMARY: The Board has determined that a new rule should be created which will set forth the time period if the Board determines a suspension is appropriate.

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: 474.206, 474.215 FS.

LAW IMPLEMENTED: 474.215 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: Sherry Landrum, Executive Director, Board of Veterinary Medicine, Northwood Centre, 1940 N. Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G18-15.009 Suspension.

If the Board determines that a period of suspension against a permit is appropriate, such suspension shall be for one year.

Specific Authority 474.206, 474.215 FS. Law Implemented 474.215 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Veterinary Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Veterinary Medicine

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 26, 2001

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE TITLE: Disciplinary Guidelines  
RULE NO.: 64B8-55.001

PURPOSE AND EFFECT: The Board proposed to update the existing rule.

SUMMARY: This amendment addresses specific requirements for disciplinary guidelines.

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

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

SPECIFIC AUTHORITY: 456.072, 456.079, 478.52(4) FS.

LAW IMPLEMENTED: 456.072, 456.079, 478.52(4) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kaye Howerton, Executive Director, Electrolysis Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-55.001 Disciplinary Guidelines.

(1) through (3) No change.

(4) Aggravating and Mitigating Circumstances. Based upon consideration of aggravating and mitigating factors present in an individual case, the Board may deviate from the penalties recommended above. The Board shall consider as aggravating or mitigating factors the following:

(a) through (c) No change.

~~(d) The number of times the same offense or offenses have previously been committed by the licensee or applicant;~~

~~(d)(e)~~ The disciplinary history of the applicant or licensee in any jurisdiction and the length of practice;

~~(e)(f)~~ Pecuniary benefit or self-gain inuring to the applicant or licensee;

~~(f)(g)~~ Any other relevant mitigating or aggravating factors.

Specific Authority 456.072, 456.079, 478.52(4) FS. Law Implemented 456.072, 456.079, 478.52(4) FS. History—New 11-16-93, Formerly 61F6-80.001, Amended 1-2-95, Formerly 59R-55.001, Amended 2-9-98, 10-12-98, 3-1-00, 9-28-00.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrolysis Council

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2000

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 13, 2001

**DEPARTMENT OF HEALTH**

**School Psychology**

RULE TITLES:

Collection and Payment of Fees

Biennial Renewal Fee

RULE NOS.:

64B21-501.001

64B21-501.003

Application Fees	64B21-501.005
Reactivation Fee	64B21-501.006
Change of Status Fee	64B21-501.0065
Inactive Renewal Fee	64B21-501.007
Application Fee for Inactive Status	64B21-501.008
Initial Licensure Fee	64B21-501.009
Continuing Education Provider Fee	64B21-501.010
Delinquency Fee	64B21-501.011
Fee to Enforce Prohibition Against Unlicensed Activity	64B21-501.012
Duplicate License and Wall Certificate Fee	64B21-501.013

PURPOSE AND EFFECT: The Department of Health is proposing amendments to school psychology rules regulating fees.

SUMMARY: Proposed amendments are being made by the Department of Health to increase existing fees and establish new fees for the profession of school psychology.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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: 490.015, 490.007, 490.008, 456.013, 456.036, 490.085, 456.025(2),(7) FS.

LAW IMPLEMENTED: 490.007(1), 456.013, 490.005, 490.006, 490.085, 456.036, 456.025(2),(7), 456.065 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting, is asked to advise the agency at least 5 calendar days before the meeting by contacting Ivy Shivers at: (850)245-4444, Ext. 3482. If you are hearing or speech impaired, please contact the agency by calling (850)245-4474.

All written material received by the Department within 21 days of the date of publication of this notice shall be made a part of the official record.

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE DEPARTMENT WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, THEY WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

**64B21-501.001 Collection and Payment of Fees.**

Specific Authority ~~120.53(1)~~, 490.015(2) FS. Law Implemented 490.005(2) FS. History—New 4-13-82, Formerly 21U-501.01, Amended 1-28-92, 6-21-92, Formerly 21U-501.001, 61E9-501.001, Repealed.

**64B21-501.003 Biennial Renewal Fee.**

The fee for biennial license renewal is \$250.00 ~~\$100.00~~ for school psychologists.

Specific Authority ~~120.53(4)~~, 490.007(1), 490.015(2), ~~455.219(4)~~ FS. Law Implemented 490.007(1) FS. History—New 4-13-82, Amended 4-20-83, 3-19-85, Formerly 21U-501.03, Amended 7-10-89, 1-10-91, Formerly 21U-501.003, 61E9-501.003, Amended.

**64B21-501.005 Application Fees.**

(1) The non-refundable application fee for ~~initial~~ licensure by examination is \$250.00 ~~\$150~~.

(2) The non-refundable application fee for licensure by endorsement is \$250.00 ~~\$150~~.

Specific Authority ~~120.53(4)~~, 456.013, 490.015, ~~455.217(2)~~ FS. Law Implemented 490.005 ~~490.005(2)~~, 490.006 FS. History—New 8-27-84, Amended 12-16-84, 2-21-85, Formerly 21U-501.05, Amended 1-28-92, 6-21-92, Formerly 21U-501.005, 61E9-501.005, Amended.

**64B21-501.006 Reactivation Fee.**

The fee for reactivation of an inactive license shall be \$150.00 ~~\$50.00~~. Such fee shall be in addition to the biennial licensure fee as prescribed in Rule 64B21-501.003, F.A.C., ~~the inactive status application fee as prescribed by Rule 64B21-501.008, F.A.C.,~~ and any other applicable fees ~~inactive renewal fee as prescribed by Rule 64B21-501.007, F.A.C.~~

Specific Authority ~~120.53(4)~~, 456.036, 490.015(2), ~~490.008(3)~~ FS. Law Implemented 456.036 ~~490.008~~ FS. History—New 3-13-85, Formerly 21U-501.06, Amended 7-10-89, 1-10-91, Formerly 21U-501.006, 61E9-501.006, Amended.

**64B21-501.0065 Change of Status Fee.**

If a licensee seeks to change the status of his or her license at any time other than the biennial renewal period, a change of status fee of \$50.00, shall be applied.

Specific Authority 490.015(2) FS. Law Implemented 456.036 FS. History—New \_\_\_\_\_.

**64B21-501.007 Inactive Renewal Fee.**

The fee for renewal of an inactive status shall be \$150.00 ~~\$50.00~~.

Specific Authority ~~120.53(4)~~, 490.015(2), 456.036, ~~490.008(3)~~ FS. Law Implemented 456.036 ~~490.008~~ FS. History—New 2-21-85, Formerly 21U-501.07, Amended 7-10-89, 1-10-91, Formerly 21U-501.007, 61E9-501.007, Amended.

**64B21-501.008 Application Fee for Inactive Status.**

Specific Authority 490.008(3), 490.015 FS. Law Implemented 490.008 FS. History—New 7-10-89, Amended 1-10-91, Formerly 21U-501.008, 61E9-501.008, Repealed.

**64B21-501.009 Initial Licensure Fee.**

The fee for initial licensure shall be \$250.00 ~~\$100.00~~. This fee is refundable if the applicant is not eligible for licensure.

Specific Authority ~~455.213(2)~~, 456.013, 490.015, ~~455.219(4)~~ FS. Law Implemented 456.013 ~~455.213(2)~~ FS. History—New 7-10-89, Amended 1-10-91, 6-21-92, Formerly 21U-501.009, 61E9-501.009, Amended.

**64B21-501.010 Continuing Education Provider Fee.**

The application fee and the renewal fee for Department approval of a provider of continuing education for school psychologists shall be \$500.00 ~~\$100.00~~.

Specific Authority 490.015, 490.085(2) FS. Law Implemented 490.085(2) FS. History—New 7-10-89, Formerly 21U-501.010, 61E9-501.010, Amended.

**64B21-501.011 Delinquency fee.**

If a licensee fails to renew his or her license before the license expires, the license becomes delinquent in the license cycle following expiration. When such licensee applies for an active or inactive license, the licensee shall pay a delinquency fee of \$250.

Specific Authority 456.036 FS. Law Implemented 456.036 FS. History—New \_\_\_\_\_.

**64B21-501.012 Fee to Enforce Prohibition Against Unlicensed Activity.**

Each initial licensee and each renewing licensee shall pay \$5.00 in addition to the fee for initial licensure and licensure renewal to fund the efforts of the Department of Health to combat unlicensed activity.

Specific Authority 456.004 FS. Law Implemented 456.065 FS. History—New \_\_\_\_\_.

**64B21-501.013 Duplicate License and Wall Certificate Fee.**

(1) Licensees may obtain duplicate licenses for replacement of a lost or destroyed license by submitting a written request to the Department along with a \$25.00 fee.

(2) Licensees licensed prior to July 1, 1998, may obtain wall certificates by submitting a written request to the Department along with a \$25.00 fee.

(3) Licensees may obtain a duplicate wall certificate by submitting a written request to the Department along with a \$25.00 fee.

Specific Authority 456.025(2),(7) FS. Law Implemented 456.025(2),(7) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Kaye Howerton, Executive Director, Department of Health,  
4052 Bald Cypress Way, BIN #C05, Tallahassee, FL  
32399-3255

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Kaye Howerton, Executive  
Director, Department of Health, 4052 Bald Cypress Way, BIN  
#C05, Tallahassee, FL 32399-3255

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: May 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 18, 2001

**DEPARTMENT OF HEALTH**

**School Psychology**

RULE TITLES:	RULE NOS.:
Continuing Education	64B21-502.001
Continuing Education Credit Guidelines	64B21-502.004
Initial Licensure Period	64B21-502.005

PURPOSE AND EFFECT: The Department of Health is proposing amendments to school psychology rules regulating continuing education requirements.

SUMMARY: Amendments are proposed to school psychology continuing education rules to simplify and clarify the conditions with which a licensee must comply, and to include a statutory requirement that one (1) of every thirty (30) hours of continuing education be on domestic violence.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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: 490.007(2), 490.0085, 490.015 FS.

LAW IMPLEMENTED: 490.0085, 456.031 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this meeting, is asked to advise the agency at least 5 calendar days before the meeting by contacting Ivy Shivers at: (850)245-4444, Ext 3482. If you are hearing or speech impaired, please contact the agency by calling (850)245-4474.

All written material received by the Department within 21 days of the date of publication of this notice shall be made a part of the official record.

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE DEPARTMENT WITH RESPECT TO ANY MATTER CONSIDERED AT THIS

HEARING, THEY WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, THEY MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, FL 32399-3255

THE FULL TEXT OF THE PROPOSED RULES IS:

64B21-502.001 Continuing Education.

(+) Every applicant for renewal of licensure shall demonstrate evidence of having obtained thirty (30) contact hours of continuing education credit earned during each biennial renewal period. One (1) of the thirty (30) hours must be on domestic violence consistent with Section 456.031, F.S. The licensee shall retain for four (4) years certificates of attendance or other records to document the completion of the continuing education requirement. The Department will audit at random a number of licensees as is necessary to assure that the continuing education requirements are met.

~~(2) The Department may grant provider approval for programs relating to the profession for which license renewal is sought.~~

Specific Authority ~~20.53(1), 490.007(2), 490.0085,~~ 490.015 FS. Law Implemented 456.031, 490.007(2), 490.0085 FS. History—New 4-13-82, Amended 11-27-83, 2-21-85, Formerly 21U-502.01, Amended 12-26-91, 6-24-92, Formerly 21U-502.001, 61E9-502.001, Amended \_\_\_\_\_.

64B21-502.004 Continuing Education Credit Guidelines.

(1) Licensees who obtain initial licensure in the first year of a biennium will be required to demonstrate fifteen (15) hours of continuing education during the biennium in which licensure was obtained for the first renewal of their license. Persons certified for licensure in the second half of a biennium are exempt from the continuing education requirements for that biennium. Continuing education requirements must be met for each biennium thereafter.

~~(2)(1)~~ For the purpose of renewing or reactivating a school psychologist license, only those continuing education hours approved by the Department of Health will be acceptable for credit. Credit will be approved for programs ~~approved pursuant to Section (3) or~~ offered by a continuing education provider ~~Provider~~ approved pursuant to the requirements of this rule ~~Section (8).~~

~~(2) One (1) hour of continuing education credit is defined as no less than fifty (50) minutes of uninterrupted learning in one (1) hour.~~

~~(3) Programs approved for continuing education credits will contain the following characteristics:~~

~~(a) Continuing education speakers must:~~

1. Be faculty, post-graduate faculty or former faculty of a university or college accredited by an accrediting agency approved by the United States Department of Education, or

2. Have been awarded a doctorate which is psychological in nature from a college or university which is accredited by an accrediting agency approved by the United States Department of Education, or

3. Are licensed as medical doctors in the state of their residence and can document completion of a residency in psychiatry which was approved by the American Medical Association, or

4. Be able to present two (2) signed affidavits from persons licensed under Chapter 490, Florida Statutes, which can verify that the presenter has extensive experience, to include not less than two (2) years of practical application or research, involving the subject area being taught in the program.

(b) The content of all continuing education programs must be psychological in nature and provide information concerning human behavior and/or methods of providing psychological services. Continuing education credit will be granted only for those courses designed to improve the counseling skills of the licensee.

(3)(e) Programs accepted for continuing education credit shall be offered by providers approved by the National Association of School Psychologists (NASP), the American Psychological Association, or fall into one of the following categories.

(a)1. Post-graduate courses; and seminars related to school psychology and approved courses given by universities accredited by an accrediting agency approved by the United States Department of Education, or recognized hospitals and training institutes.

(b)2. Continuing education programs presented at international, national, regional and state school psychology and psychology association conferences meetings.

3. Workshops and institutes, which include approved workshops at conventions.

4. Post-masters graduate level courses completed at an accredited college or university.

(4) Continuing education credit received during conventions or conferences must be verified by the provider of the continuing education credit. Continuing education credit will be awarded for preparing to teach a continuing education program.

(5) Presenters/Moderators of programs designed for continuing education may receive credit on a one (1) time basis for programs where they are actually in attendance for the complete program. A maximum of ten (10) hours of credit per biennium may be received for presenting/moderating a program.

(6) A licensee attending a continuing education program must have that attendance verified in writing by the program's registrar or sponsor. Such verification will only be submitted to the Department if the licensee's file is audited.

(7) In order to receive approval for a continuing education program from the Department of Health, one must provide the following information:

(a) A completed form provided by the Department titled "Request for Approval of Continuing Education Program";

(b) A vita of all speakers, moderators and/or leaders of the activity which includes names, titles, degrees awarded, and any faculty status ever held at an accredited university or college; and

(c) An outline of the program which details the method of learning, the content, and the specific time scheduled for each speaker and topic.

(8) Continuing education providers will be approved for one (1) biennial renewal cycle who meet to the Department's satisfaction the following criteria:

(a) Provide to the Department:

1. A proposed program which meets the criteria of subsection (3);

2. A completed Provider Application form.

(b) Sign and abide by a written agreement to:

1. Provide an identifiable person to act as the Continuing Education Director and be responsible for each presentation of the continuing education programs;

2. Retain a list of attendees for at least three (3) years;

3. Provide all programs for continuing education credit in accordance with subsection (3);

4. Assign an identifiable person to be present at each continuing education activity whose responsibilities will include recording of attendance and monitoring of attendance to assure that credit is awarded only for those hours actually attended;

5. Provide the participants with the Department approved certificate of attendance containing the provider's name and number, title of the program, instructor, date of the program, location, number of hours of continuing education credit and the participant's license number(s);

6. Notify the Department of any significant changes relative to the maintenance of standards as set forth in these rules;

7. The Department retains the right and authority to audit and/or monitor programs given by the provider. The Department may rescind provider status or reject individual programs given by the provider if the provider has disseminated any false or misleading information in connection with the continuing education program; or if the provider has failed to conform to and abide by the written agreement and rules of the Department.

Specific Authority 490.015 FS. Law Implemented 490.0085(1),(2) FS.; ~~Chapter 84-168, Laws of Florida~~ History-New 7-3-83, Amended 11-27-83, 2-21-85, Formerly 21U-502.04, Amended 12-26-91, 6-24-92, Formerly, 21U-502.004, 61E9-502.004, Amended.

64B21-502.005 Initial Licensure Period.

Specific Authority 120.53(1), 490.015 FS. Law Implemented 455.213(2) FS. History-New 2-21-85, Formerly 21U-502.05, Amended 12-26-91, Formerly 21U-502.005, 61E9-502.005, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, FL 32399-3255

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kaye Howerton, Executive Director, Department of Health, 4052 Bald Cypress Way, BIN #C05, Tallahassee, FL 32399-3255

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 14, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

DEPARTMENT OF HEALTH

Division of Disease Control

RULE TITLE:

RULE NO.:

Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines

64D-3.011

PURPOSE AND EFFECT: The Bureau proposes an amendment to update forms and guidelines that are incorporated by reference.

SUMMARY: The proposed amendment to Rule 64D-3.011, FAC., provides the required procedure for form completion of the DH Form 680 and immunization guidelines.

STATEMENT OF ESTIMATED REGULATORY COST: At this time, a Statement of Estimated Regulatory cost is not available.

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: 381.003(1)(e),(2) FS.

LAW IMPLEMENTED: 232.032 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 PLACE: 1:00 p.m., (EST), June 15, 2001

PLACE: Room 340N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Susan Lincicome, Senior Management Analyst II, Department of Health, Bureau of Immunization,

Room 210N, 2585 Merchants Row Blvd., Tallahassee, FL 32399-1719, whose telephone number is (850)245-4342 (Mailing address is 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719)

THE FULL TEXT OF THE PROPOSED RULE IS:

64D-3.011 Control of Communicable Diseases, Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12; Forms and Guidelines.

- (1) No change.
- (2) Documentation Requirements.

(a) Certification of Immunization – Only fully immunized children shall be issued a Florida Certification of Immunization, which must be provided on DH Form 680 Florida Certification of Immunization, Certificate of Immunization for K-12 Excluding 7th Grade Requirements (Part A-1), and/or Certificate of Immunization Supplement for 7th Grade Requirement (Part A-2), incorporated by reference in Section 64D-3.011(5), F.A.C. DH Form 680, Florida Certification of Immunization, shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools and Child Care Facilities ~~School Year 1998-99, or Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000, or Immunization Guidelines Florida Schools and Child Care Facilities~~ Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2001, as incorporated by reference in Section 64D-3.011(5), F.A.C. A child may attend school only after an authorized school official has examined the certificate for validity. A valid Florida Certification of Immunization shall be properly dated and signed or authorized by a physician. Data elements transferred through the Florida Automated System for Transferring Education Records (FASTER) will include all antigen doses by dates of immunization. The original paper DH Form 680, the Florida Certification of Immunization, shall remain in the student’s cumulative health record.

(b) Exemptions – A child may attend school without a valid DH Form 680, Florida Certification of Immunization, Certificate of Immunization for K-12 Excluding 7th Grade Requirements (Part A-1) and/or Certificate of Immunization Supplement for 7th Grade Requirement (Part A-2) only if he presents a completed DH Form 680, Florida Certification of Immunization Temporary Medical Exemption (Part B), Permanent Medical Exemption (Part C), or completed Form DH 681, Religious Exemption From Immunization, incorporated by reference in Section 64D-3.011(5), F.A.C., or if he is a transfer student. Exemption forms noted shall be completed per instructions for the appropriate school year provided in Immunization Guidelines Florida Schools and Child Care Facilities ~~School Year 1998-99, or Immunization Guidelines Florida Schools And Child Care Facilities School~~



~~Year 1999-2000, or Immunization Guidelines Florida Schools and Child Care Facilities Effective August 2000, or Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Effective July 2001,~~ as incorporated by reference in Section 64D-3.011(5), F.A.C.

(5) Forms and Guidelines – Forms used to document compliance with section 232.032, F.S., and guidelines for completion of the forms, are hereby incorporated by reference:

FORM #	EFFECTIVE DATE	TITLE	FORMS AND GUIDELINES AVAILABILITY
DH 680A-	(Aug 98)	Florida Certification of Immunization physicians' offices	DOH county health departments (DOH CHDs);
DH 680	(Aug 2000)	Florida Certification of Immunization	DOH CHDs, physicians' offices
DH 680	(July 2001)	Florida Certification of Immunization	DOH CHDs, physicians' offices
DH 681	(May 99)	Religious Exemption From Immunization	DOH CHDs
DH 684	(Nov 96)	Immunization Annual Report of Compliance for Kindergarten and Seventh Grade	DOH CHDs
DH 685	(Nov 96)	Kindergarten and Seventh Grade Annual Report of Compliance County Summary	DOH CHDs
	(Aug 98)	Immunization Guidelines Florida Schools and Child Care Facilities School Year 1998-99	DOH CHDs
	(Aug 99)	Immunization Guidelines Florida Schools and Child Care Facilities School Year 1999-2000	DOH CHDs
	(Aug 2000)	Immunization Guidelines Florida Schools and Child Care Facilities Effective August 2000	DOH CHDs
	(Jul 2001)	Immunization Guidelines Florida Schools, Child Care Facilities and Family Day Care Homes Effective July 2001	DOH CHDs

Specific Authority 232.032(1), 381.0011(13), 381.003(1), 381.003(2), 381.005(2) FS. Law Implemented 232.032(1), 381.0011(4), 381.003(1), 381.005(1)(i), 458, 459, 460 FS. History—New 12-29-77, Amended 6-7-82, 11-6-85, Formerly 10D-3.88, Amended 2-26-92, 9-20-94, 9-21-95, 4-7-96, Formerly 10D-3.088, Amended 7-14-99, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Henry T. Janowski, M.P.H., Chief, Bureau of Immunization  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Landis K. Crockett, M.D., M.P.H., Director, Division of Disease Control  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 9, 2001  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Friday, April 20, 2001

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

RULE TITLE: Contract Penalties for Noncompliance  
RULE NO.: 65-29.001

PURPOSE AND EFFECT: The purpose of this rule is to implement the provisions of Section 402.73(7), Florida Statutes (F.S.), to provide procedures for incremental financial penalties to be imposed by the department upon a service provider as a result of such a provider's failure to comply with a requirement for corrective action.

SUMMARY: This rule provides guidelines that will be used by the department to implement financial penalties for provider noncompliance. Noncompliance determined by the department to have a direct effect on client health and safety will result in a financial penalty of ten percent (10%) imposed upon the provider. Noncompliance issues involving provisions not having a direct effect on client health and safety will result in a five percent (5%) penalty imposed upon the provider. Noncompliance as a result of unacceptable administrative support will result in a two percent (2%) penalty imposed upon the provider.

SUMMARY OF THE STATEMENT OF ESTIMATED REGULATORY COST: An estimate of regulatory cost has not been prepared for this rule.

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: 402.73(7) FS.

LAW IMPLEMENTED: 402.73(7) FS.

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

TIME AND DATE: 9:00 a.m. (EST), June 18, 2001

PLACE: 1317 Winewood Blvd., Building 5, Room 117, Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Joy Neves, ASCA, Policies and Publications, (850)413-7464 or Suncom 293-7464

THE FULL TEXT OF THE PROPOSED RULE IS:

65-29.001 Contract Penalties for Noncompliance.

(1) Purpose. The purpose of this rule is to implement the provisions of Section 402.73(7), F.S., and to provide procedures for the imposition of financial penalties upon providers that fail to comply with a department request for corrective action.

(2) Definitions. For the purpose of this rule, the following definitions shall apply:

(a) "Corrective Action" means required acts of remediation the provider is required to make in response to department findings of noncompliance to the terms and conditions of a contract.

(b) "Corrective Action Plan" means the official plan prepared by the provider and approved by the department, which describes how and when deficiencies for nonperformance or unacceptable performance are to be corrected.

(c) "Department" means the Florida Department of Children and Families.

(d) "Findings of Fact" means the conclusions reached by the department upon factual issues.

(e) "Notice of Intent to Impose a Financial Penalty" means a written notice issued by the department to the provider making the provider aware that a financial penalty is pending if the provider does not successfully complete the required corrective action plan within a specified time limit.

(f) "Provider" means an organization or individual providing services to or on behalf of the department.

(3) Penalty Provision. All contracts entered into by the department for services shall contain penalty provisions for noncompliance with the terms and conditions of a contract. Such provisions shall address the following:

(a) Corrective action plans for noncompliance, nonperformance, or unacceptable performance.

(b) The increments of penalty imposition that shall apply unless the department determines that extenuating circumstances exist. These increments shall be based upon the severity of the provider's noncompliance, and shall not exceed ten percent (10%) of the total contract payments during the period of noncompliance. Noncompliance that is determined to have a direct effect on client health and safety shall result in the imposition of a ten percent (10%) penalty of the total contract payments during the period of noncompliance. Noncompliance involving the provision of service not having a direct effect on client health and safety shall result in the imposition of a five percent (5%) penalty. Noncompliance as a result of unacceptable administrative support shall result in the imposition of a two percent (2%) penalty.

(c) The deadline for payment of a penalty.

(d) The potential deduction of a financial penalty from the department's payments to a provider.

(4) Process. If at any time during the effective contract period the department gives notice to the provider that its delivery of services is unacceptable or is not in compliance with the terms and conditions of the contract, the department shall request corrective action. The department's request for corrective action shall identify the incident(s) of noncompliance or unacceptable performance, and be submitted to the provider in writing. The provider, in turn, must submit a corrective action plan within thirty (30) calendar days of receipt of the department's request. The provider's failure to timely submit a corrective action plan that is determined acceptable to the department shall result in the imposition of a financial penalty.

(5) Source of Funds Available for Payment of Financial Penalty. A provider shall not pay a financial penalty with funds intended to be used, or which are budgeted, to provide services to clients. The provider shall not reduce the quantity or quality of services being delivered to clients as a result of the imposition of a financial penalty pursuant to this rule.

(6) Preliminary Findings of Fact. The department shall give the provider a written Notice of Intent to Impose a Financial Penalty, which shall include the following information:

(a) The factual basis upon which the department determined that contract performance was unacceptable.

(b) A description of the corrective action, which was not implemented or satisfactorily accomplished; and

(c) The amount of the penalty imposed.

(7) Contesting a Penalty. Within twenty-one (21) calendar days of receipt of the Notice of Intent to Impose a Financial Penalty, the provider may file written exceptions to the Preliminary Findings of Fact. If no exceptions are timely filed, the department shall adopt such Preliminary Findings of Fact in its Final Order Imposing a Financial Penalty. FAILURE TO TIMELY FILE WRITTEN EXCEPTIONS TO THE PRELIMINARY FINDINGS OF FACT SHALL CONSTITUTE A WAIVER OF PROCEEDINGS PURSUANT TO CHAPTER 120, FLORIDA STATUTES.

(8) Failure to Pay a Financial Penalty. The department may, at its discretion, deduct the amount of financial penalty from funds that would otherwise be due a provider. This deduction, however, may not exceed ten percent (10%) of the invoice amount that would otherwise be due such provider for the period of noncompliance. A provider's failure to include such deductions in a request for payment may constitute grounds for the department to reject the provider's request for payment.

(9) The remedies identified in this rule do not limit or restrict the department's application of any other remedy available to it in the contract or under law. Furthermore, the remedies described in this rule may be cumulative and may be assessed upon each separate failure in order to enforce provider compliance.

Specific Authority 402.73(7) FS. Law Implemented 402.73(7) FS. History—New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Joy Neves, ASCA (850)413-7464 or Suncom 293-7464

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bob Fierro, Director of Contracted Client Services, ASC

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 19, 2001

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 20, 2000

**FLORIDA HOUSING FINANCE CORPORATION**

<b>RULE CHAPTER TITLE:</b>	<b>RULE CHAPTER NO.:</b>
Affordable Housing Loan Program	67-31
<b>RULE TITLES:</b>	<b>RULE NOS.:</b>
Definitions	67-31.002
General Program Restrictions	67-31.004
Application and Selection Criteria for Loans to Very Low-Income and Low-Income Persons	67-31.005
Terms and Conditions for Loans to Very Low-Income and Low-Income Persons	67-31.006
Application and Selection Criteria for Loans to Developers and Sponsors	67-31.007
Terms and Conditions for Loans to Developers and Sponsors	67-31.008
Adjustments for Family Size	67-31.009
Special Allowances to Adjusted Gross Income	67-31.010

**PURPOSE AND EFFECT:** The purpose of this proposed rule is to repeal these rules related to the Affordable Housing Loan Program. The underlying statutory authority for these rules has been repealed and thus Rules 67-31.002, 67-31.004, 67-31.005, 67-31.006, 67-31.007, 67-31.008, 67-31.009 and 67-31.010, are obsolete and unnecessary. Repeal of Rules 67-31.002, 67-31.004, 67-31.005, 67-31.006, 67-31.007, 67-31.008, 67-31.09 and 67-31.010, Florida Administrative Code, is proposed to eliminate the obsolete and unnecessary rules and should cause no adverse affect.

**SUMMARY:** The proposed rule would repeal Rules 67-31.002, 67-31.004, 67-31.005, 67-31.006, 67-31.007, 67-31.008, 67-31.009 and 67-31.010, Florida Administrative Code, which are unnecessary and obsolete.

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

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

**SPECIFIC AUTHORITY:** 420.507(12) FS.

**LAW IMPLEMENTED:** 420.507(12) FS.

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

**TIME AND DATE:** 10:00 a.m., June 18, 2001

**PLACE:** Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES AND ECONOMIC STATEMENT IS:** Andrew T. Price, Esq., Senior Attorney, Florida Housing Finance Corporation, 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32399-1329, phone (850)488-4197

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

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

**67-31.002 Definitions.**

Specific Authority 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Amended 11-11-90, Formerly 9I-31.002, Repealed.

**67-31.004 General Program Restrictions.**

Specific Authority 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Amended 11-11-90, Formerly 9I-31.004, Repealed.

**67-31.005 Application and Selection Criteria for Loans to Very Low-Income and Low-Income Persons.**

Specific Authority 420.507(12), 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Formerly 9I-31.005, Repealed.

**67-31.006 Terms and Conditions for Loans to Very Low-Income and Low-Income Persons.**

Specific Authority 420.507(12), 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Amended 2-8-90, Formerly 9I-31.006, Repealed.

**67-31.007 Application and Selection Criteria for Loans to Developers and Sponsors.**

Specific Authority 420.507(12), 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Formerly 9I-31.007, Repealed.

**67-31.008 Terms and Conditions for Loans to Developers and Sponsors.**

Specific Authority 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Amended 11-11-90, Formerly 9I-31.008, Repealed.

**67-31.009 Adjustments for Family Size.**

Specific Authority 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Amended 11-11-90, Formerly 9I-31.009, Repealed.

**67-31.010 Special Allowances to Adjusted Gross Income.**

Specific Authority 420.507(12), 420.605(6) FS. Law Implemented 420.605 FS. History--New 8-10-89, Formerly 9I-31.010, Repealed.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Andrew T. Price, Esq.

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Mark Kaplan

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** November 30, 2000

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Shrimping and Stonecrabbing:  
Closed Areas and Seasons

RULE TITLE: Taylor County Shrimp Closure  
RULE NO.: 68B-38.003

PURPOSE AND EFFECT: The line established in Rule 68B-38.003, F.A.C., separates food shrimp producers from stone and blue crab trappers and smaller scale live bait shrimp producers. During the first week of May, 2001, the Fish and Wildlife Conservation Commission was made aware that two navigational flashing light markers, numbers 18 and 22, used as visible points along the line established to separate food shrimpers from crab trappers and bait shrimpers, had been removed by the United States Coast Guard. The Commission staff determined from discussions with Coast Guard District 7 personnel in Miami that these markers would not be replaced. Emergency Rule 68BER01-1, which inserts latitude and longitude coordinates for the points where the flashing light navigational markers once stood, was adopted. The purpose of this rule amendment is to make the same changes to the rule on a permanent basis and to also insert coordinates as well for the two other markers used in the rule to define the closure line. The effect of this rulemaking should be to preserve the status quo in this sensitive area where conflicts between commercial harvesters using different gear types could erupt otherwise.

SUMMARY: Subsection (3) of Rule 68B-38.003, F.A.C., is amended to insert in parentheses the latitude and longitude coordinates for four navigational markers used to define a closure line keeping food shrimp producers a certain distance from shore in Taylor County waters.

A STATEMENT OF ESTIMATED REGULATORY COST HAS NOT BEEN PREPARED REGARDING THESE PROPOSED RULES.

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

SPECIFIC AUTHORITY: Article IV, Section 9, Florida Constitution; Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla.

LAW IMPLEMENTED: Article IV, Section 9, Florida Constitution; Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE, A HEARING ON THE PROPOSED RULES WILL BE HELD AT A TIME, DATE AND PLACE TO BE LATER ANNOUNCED BY NOTICE IN THIS PUBLICATION.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the

agency at least 5 calendar days before the workshop/meeting by contacting Andrena Knicely at (850)487-1406. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

All written material received by the Commission within 21 days of the date of publication of this notice shall be made a part of the official record.

SECTION 286.0105, FLORIDA STATUTES, PROVIDES THAT, IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT THIS HEARING, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSES, HE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS BASED.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

THE FULL TEXT OF THE PROPOSED RULE IS:

68B-38.003 Taylor County Shrimp Closure.

(1) through (2) No change.

(3) Except as provided in subsection (4), no person shall operate any trawl within the following described area of state waters off Taylor County:

Beginning at a point on the shoreline of the Gulf of Mexico on the north side of the channel at Steinhatchee; thence westerly along the line of navigational buoys marking the north side of said channel to flashing light number "1" marking the outer extent of said channel (29°39.21'N., 83°27.21'W.); thence westerly to navigational flashing light number "18" (29°40.045'N., 83°35.218'W.); thence northwesterly to navigational flashing light number "22" (29°53.253'N., 83°53.01'W.); thence north-northwesterly to a privately maintained flashing light at Gamble Point near the mouth of the Aucilla River (30°04.38'N., 83°59.20'W.); thence southeasterly along the shoreline along the Gulf of Mexico to the point of beginning.

Specific Authority Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. Law Implemented Art. IV, Sec. 9, Fla. Const., Chapter 83-134, Laws of Fla., as amended by Chapter 84-121, Laws of Fla. History—New 1-1-91, Formerly 46-38.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Allan L. Egbert, Ph.D., Executive Director, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 9, 2001  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 18, 2001

**Section III**  
**Notices of Changes, Corrections and Withdrawals**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Funeral and Cemetery Services**

RULE NO.: 3F-7.012                      RULE TITLE: Criteria for Filing a Surety Bond in Lieu of Trusting

**NOTICE OF CHANGE**

Pursuant to subparagraph 120.54(3)(d)1., F.S., notice is hereby given that the following changes have been made to the proposed rule published in Vol. 27, No. 10, March 9, 2001 issue of the Florida Administrative Weekly. Based on comments received from the JAPC, the Board has voted to amend subsection 5(b) as follows:

(b) The surety company must have an "underwriting limitation" of not less than \$10,000,000 as reported in the U.S. Department of the Treasury's Fiscal Service Dept. Circular 570, incorporated herein by reference and effective \_\_\_\_\_.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diana Evans, Executive Director, Board of Funeral and Cemetery Services, 101 East Gaines Street, Tallahassee, Florida 32399-0350

**DEPARTMENT OF INSURANCE**

RULE NOS.: 4-166.023  4-166.026  4-166.027  4-166.028	RULE TITLES: Misrepresentation of Policy Provisions Standards for Prompt, Fair and Equitable Settlements Application to All Insurers Standards for Prompt, Fair and Equitable Settlement Applicable to Automobile Insurance Standards for Prompt, Fair and Equitable Settlement Applicable to Homeowners' and Personal and Commercial Fire and Extended Coverages Type Policies with Replacement Cost Coverage
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**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rules, as noticed in Vol. 27, No. 15, April 13, 2001, in the April 13, 2001 issue of the Florida Administrative Weekly, have been withdrawn.

**DEPARTMENT OF INSURANCE**

**Division of Fire Marshal**

RULE NO.: 4A-47.011	RULE TITLE: Uniform Fire Safety Standards for Elevators
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**NOTICE OF CHANGE**

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., Florida Statutes, published in Vol. 27, No. 12, March 23, 2001, of the Florida Administrative Weekly:

4A-47.011 the first sentence of this rule will be changed to read "The following shall be in compliance with those standards adopted in Chapter 61C-5, Florida Elevator Safety Code, which is hereby incorporated by reference:"

The remainder of the rule reads as previously published.

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Animal Industry**

RULE CHAPTER NO.: 5C-22  RULE NOS.: 5C-22.002 5C-22.003 5C-22.004 5C-22.005  5C-22.009  5C-22.011	RULE CHAPTER TITLE: Contagious Equine Metritis  RULE TITLES: Definitions Procedures, General Approval of Quarantine Facilities Quarantine and Release from Quarantine for Contagious Equine Metritis Disposition of Horses Which Fail to Qualify for Release from Quarantine Fees for Services of the Department
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**NOTICE OF WITHDRAWAL**

Pursuant to Section 120.54(3)(d)1., Florida Statutes, notice is hereby given that the above proposed rule amendments, as noticed in Vol. 27, No. 6, February 9, 2001 issue of the Florida Administrative Weekly, have been withdrawn in response to comments received from the Joint Administrative Procedures Committee.