

agency at least 5 calendar days before the workshop/meeting by contacting Cindy Hoffman, ADA Coordinator, (850)488-6411. If you are hearing or speech impaired, please contact the agency by calling (850)488-9542.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: James V. Antista, General Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-31.010 Northwest Region Food Shrimp Production Gear Specifications.

Each person harvesting shrimp in the Northwest Region as a food shrimp producer shall comply with the requirements specified in this rule.

(1) Allowable Gear – No person shall harvest shrimp in the nearshore and inshore Florida waters of the region as a food shrimp producer with any type of gear other than:

(a) A roller frame trawl meeting the following specifications:

1. Neither the upper nor lower horizontal beam on a roller frame trawl so used is greater than 16 feet in length.

2. The vertical bars shielding the trawl opening are spaced no further than 3 inches apart.

3. No more than two such trawls, unconnected, shall be towed by a single vessel at any time.

4. The netting of the trawl shall be no larger in mesh area than specified by subsection 68B-31.0035(2), F.A.C.

(b) No more than two unconnected otter trawls, each with a perimeter around the leading edge of the net not greater than 66 feet and a net no larger in mesh area than specified by Rule 68B-31.0035(2), F.A.C. The two otter trawls allowed in the nearshore and inshore Florida waters of this region shall include any try net being towed.

(c) ~~No Only in the area of the Northwest Region specified herein, no more than two unconnected skimmer trawls meeting the following specifications:~~

1. The perimeter around the leading edge of any skimmer trawl shall not exceed 56 feet.

2. No more than two skimmer trawls, unconnected other than being attached to the same vessel, shall be deployed from a single vessel at any time.

3. The netting of a skimmer trawl shall be no larger in mesh area than specified by subsection 68B-31.0035(2), F.A.C.

~~4. No skimmer trawl shall be used to harvest shrimp except in the following described area in Apalachicola Bay in the Northwest Region: All waters of Apalachicola Bay in Franklin County bounded on the north by the John Gorrie~~

~~Memorial Bridge, on the west by the Apalachicola Shipping Channel to Channel Marker No. 2, on the south by ICWW Channel, and on the east by the Bryant Patton Bridge.~~

(2) No trawl shall be used for food shrimp production in the inshore waters of the Northwest Region that has a mesh size less than 3/4 inch bar measurement in the body of the net and 5/8 inch bar measurement in the cod end. In any trawl with a rigid turtle excluder device (TED), the section of netting surrounding the device shall have a mesh size no smaller than 1/2 inch bar measurement and shall be no more than 50 meshes in total length.

(3) No otter or skimmer trawl shall be used for food shrimp production in the Northwest Region that is not in compliance with Rule 68B-31.004, F.A.C.

(4) In the Northwest Region, no person harvesting shrimp as a food shrimp producer shall operate or fish any otter or skimmer trawl, or possess any otter or skimmer trawl that is rigged for fishing aboard any vessel, which trawl does not have a bycatch reduction device (BRD) installed therein meeting the requirements of Rule 68B-31.0045, F.A.C.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History–New 1-1-92, Amended 1-1-96, 8-17-98, 6-1-99, Formerly 46-31.010, Amended 5-2-01 _____.

Section II Proposed Rules

DEPARTMENT OF INSURANCE

RULE CHAPTER TITLE: Actuarial Opinion and Memorandum RULE TITLES: Purpose Scope Definitions General Requirements Required Opinions Statement of Actuarial Opinion Not Including An Asset Adequacy Analysis Statement of Actuarial Opinion Based on Asset Adequacy Analysis Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary Additional Considerations for Analysis PURPOSE, EFFECT AND SUMMARY: To adopt the same changes made by the NAIC: the elimination of non-asset adequacy opinions, greater reliance on revised actuarial standards of practice and guidelines to permit an alternative to a state of filing opinion. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: None.	RULE CHAPTER NO.: 4-138 III RULE NOS.: 4-138.040 4-138.041 4-138.042 4-138.043 4-138.044 4-138.045 4-138.046 4-138.047 4-138.048
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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), 625.121(3), 625.121(3)(a) FS.

LAW IMPLEMENTED: 624.307(1), 624.316(1)(c), 624.424(1), 625.121, 625.121(3), 632.627 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: 10:00 a.m., Tuesday, November 5, 2002

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, L & H Insurer Solvency, Department of Insurance, 200 East Gaines Street, Tallahassee, Florida 32399-0327, (850)413-5038

THE FULL TEXT OF THE PROPOSED RULE IS:

4-138.040 Purpose.

The purpose of this part is to prescribe:

(1) ~~Requirements Guidelines and standards~~ for statements of actuarial opinion ~~that which~~ are to be submitted in accordance with subsection (3) of the Standard Valuation Law, and for supporting memoranda;

(2) ~~Guidelines and standards for statements of actuarial opinion which are to be submitted when a company is exempt from subsection (3)(b) of the Standard Valuation Law; and~~

(2)(3) Rules applicable to the appointment of an appointed actuary and

(3) Guidance as to the meaning of "adequacy of reserves."

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 625.121(3), 632.627 FS. History—New 5-18-93, Amended _____.

4-138.041 Scope.

(1) This part shall apply to all life and health insurance companies and fraternal benefit societies doing business in this state, and to all life insurance companies and fraternal benefit societies that are authorized to reinsure life insurance, annuities, or accident and health insurance business in this state. This part shall be applied in a manner that allows the appointed actuary to utilize his or her professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Department shall

~~have the authority to specify specific methods of actuarial analysis and actuarial assumptions when these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items shall be applicable to all annual statements filed with the Department beginning with the annual statement for calendar year 1993, due on March 1, 1994.~~

(2) ~~This rule shall be applicable to all annual statements filed with the Department after the effective date of this rule. Except with respect to companies which are exempted pursuant to rule 4-138.044 of this part, a A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Rule 4-138.046 of this part, and a memorandum in support thereof in accordance with Rule 4-138.047 of this part, shall be required each year. Any company so exempted must file a statement of actuarial opinion pursuant to rule 4-138.045 of this part.~~

(3) ~~Notwithstanding the foregoing, the Department shall require any company otherwise exempt pursuant to this part to submit a statement of actuarial opinion and to prepare a memorandum in support thereof in accordance with rules 4-138.046 and 4-138.047 of this part if the Department makes a specific finding that such opinion and memorandum are necessary in order for the Department to determine that the life and health insurer or the fraternal benefit society is in compliance with chapters 624, 625, 626, 627, or 632 of the Insurance Code; or the Department has reason to believe that the financial statement upon which the calculations are based is incomplete, inaccurate, or otherwise not in compliance with Rule 4-137.001, Florida Administrative Code; or the company is using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state hazardous or injurious to the policyholders or to the public.~~

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History—New 5-18-93, Amended 2-16-94, _____.

4-138.042 Definitions.

(1) "Actuarial Opinion" means the opinion of an appointed actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Rule 4-138.046, F.A.C., and with applicable actuarial standards of practice.

(2)(4) "Actuarial Standards Board" means is the board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice.

(3)(2) No change.

(4)(3) An "Appointed Aactuary" is a qualified actuary who is appointed or retained, either directly by or by the authority of the board of directors through an executive officer

of the company other than an officer who is the qualified actuary, to prepare the statement of actuarial opinion as required by subsection (3) of the Standard Valuation Law.

(4) through (6) renumbered (5) through (7) No change.

~~(7) "Medium to Lower Quality Obligations" are those designated as classes 3, 4, 5 or 6 by the NAIC Securities Valuation Office.~~

(8) through (9) No change.

(10) "Qualified Actuary" means any individual who meets the criteria specified in paragraph Rule 4-138.043(2)(b), F.A.C.

(11) No change.

Specific Authority 625.121(3)(a) FS. Law implemented 625.121(3) FS. History—New 5-18-93, Amended.

4-138.043 General Requirements.

(1) Submission of Statement of Actuarial Opinion.

(a)1. Included on or attached to Page 1 of the annual statement for each year, beginning with the year in which this part becomes effective, shall be the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Rule 4-138.046, F.A.C. of this part.

~~2. Any company exempted pursuant to rule 4-138.044 of this part from submitting a statement of actuarial opinion in accordance with rule 4-138.046 of this part shall include on or attach to Page 1 of the annual statement a statement of actuarial opinion rendered by an appointed actuary in accordance with rule 4-138.045 of this part.~~

~~(b) If in the previous year a company provided a statement of actuarial opinion in accordance with rule 4-138.045 of this part, and in the current year fails the exemption criteria as stated in paragraph 4-138.044(3)(a), (3)(b), or (3)(c) to again provide an actuarial opinion in accordance with rule 4-138.045, the statement of actuarial opinion in accordance with rule 4-138.046 shall not be required until August 1 following the date of the annual statement. In this instance, the company shall provide a statement of actuarial opinion in accordance with rule 4-138.045 with appropriate qualification noting the intent to subsequently provide a statement of actuarial opinion in accordance with rule 4-138.046.~~

~~(c) In the case of a statement of actuarial opinion required to be submitted by a foreign or alien company, the Department may accept the statement of actuarial opinion filed by the company with the insurance supervisory official of another state if the Department determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.~~

~~(b)(d)~~ Upon written request by the company, the Department has the authority to ~~may~~ grant an extension of the date for submission of the statement of actuarial opinion.

(2) Qualified Appointed Actuary.

(a) No change.

(b) Any appointed actuary will be considered to be a "Qualified Actuary" if he ~~is an individual who:~~

1. Is a member in good standing of the American Academy of Actuaries; ~~and~~

2. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; ~~and~~

3. Is familiar with the valuation requirements applicable to life and health insurance companies; ~~and~~

4. Has not been found by the Department (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing, to have:

a. Violated any provision of, or any obligation imposed by, the Insurance Code or other state or federal law relating to insurance in the course of his or her dealings as a qualified actuary; ~~or~~

b. Been found guilty of or pleaded guilty or nolo contendere to fraudulent or dishonest practices without regard to whether a judgment of conviction has been entered by the court having jurisdiction in such case; ~~or~~

c. Demonstrated his or her incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; ~~or~~

d. Submitted to the Department during the past ~~five~~ (5) years, pursuant to this part, an actuarial opinion or memorandum that the Department rejected because it did not meet the provisions of this part including standards set by the Actuarial Standards Board; or

e. Resigned or been removed as an appointed actuary within the past ~~five~~ (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and

5. Has not failed to notify the Department of any action taken by any insurance supervisory official of any other state similar to that under subparagraph 4-138.043(2)(b)4. above.

(c) Once notice is furnished, no further notice is required with respect to this person provided the company shall give the Department written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in paragraph subsection 4-138.043(2)(b), F.A.C. Notice must be prior to or concurrent with the termination of the actuary's appointment or retention, or upon discovery that the actuary no longer meets the requirements set forth in paragraph subsection 4-138.043(2)(b), F.A.C.

(d) No change.

(3) No change.

(4) Liabilities to be Covered.

(a) Under authority of subsection (3) of the Standard Valuation Law, Section 625.121, Florida Statutes, the statement of actuarial opinion shall apply to all in-force business on the statement date regardless of when or where issued, e.g., reserves of Exhibits ~~5 8, 6 9, and 7 10~~, and claim liabilities in Exhibit ~~8 11~~, Part I of the Annual Statement, and equivalent items in the separate account statement or statements.

(b) No change.

~~(c) For years ending prior to December 31, 1995, the company may, in lieu of establishing the full amount of the additional reserve in the annual statement for that year, set up an additional reserve in an amount not less than the following:~~

~~1. For the year ending on December 31, 1993, the additional reserve divided by three.~~

~~2. For the year ending on December 31, 1994, two times the additional reserve divided by three.~~

~~(c)(d)~~ Additional reserves established under paragraphs (b) or (e) above and deemed not necessary in subsequent years may be released. Any amounts released shall ~~must~~ be disclosed in the actuarial opinion for the applicable year. The release of such reserves will not be deemed an adoption of a lower standard of valuation.

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History—New 5-18-93, Amended 2-16-94, _____.

4-138.044 Required Opinions.

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History—New 5-18-93, Amended 2-16-94, 4-9-97, 4-4-99, 11-30-99, Repealed.

4-138.045 Statement of Actuarial Opinion Not Including an Asset Adequacy Analysis.

Specific Authority 624.308(1), 625.121(3)(a) FS. Law implemented 624.307(1), 624.316(1)(c), 624.424(1), 625.121(3) FS. History—New 5-18-93, Amended 2-16-94, Repealed.

4-138.046 Statement of Actuarial Opinion Based on an Asset Adequacy Analysis.

(1) General Description. The statement of actuarial opinion submitted in accordance with this section shall consist of:

(a) through (d) No change.

(e) One or more additional paragraphs will be needed in individual company cases as follows:

1. No change.

~~2. If the appointed actuary must disclose the method of aggregation for reserves of different products or lines of business for asset adequacy analysis;~~

~~3. If the appointed actuary must disclose reliance upon any portion of the assets supporting the Asset Valuation Reserve (AVR), Interest Maintenance Reserve (IMR), or other mandatory or voluntary statement reserves for asset adequacy analysis;~~

4. through 6. renumbered 2. through 4. No change.

(2) Recommended Language. The following paragraphs are to be included in the statement of actuarial opinion. Language is that which in typical circumstances shall be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary shall use language that which clearly expresses his or her professional judgment, and retains all pertinent aspects of the language provided in this section.

(a) The opening paragraph shall indicate the appointed actuary's relationship to the company and his or her qualifications to sign the opinion.

1. For a company actuary, the opening paragraph of the actuarial opinion shall include a statement such ~~read~~ as follows:

"I, (name), am (title) of (insurance company name) and a member of the American Academy of Actuaries. I was appointed by, or by the authority of, the Board of Directors of said insurer to render this opinion as stated in the letter to the Department of Insurance dated (insert date). I meet the Academy qualification standards for rendering the opinion, and am familiar with the valuation requirements applicable to life and health insurance companies."

2. For a consulting actuary, the opening paragraph shall contain a sentence such as:

"I, (name), a member of the American Academy of Actuaries, am associated with the firm of (name of consulting firm). I have been appointed by, or by the authority of, the Board of Directors of (name of company) to render this opinion as stated in the letter to the Department of Insurance dated (insert date). I meet the Academy qualification standards for rendering the opinion, and am familiar with the valuation requirements applicable to life and health insurance companies."

(b) The scope paragraph shall include a statement such as the following:

"I have examined the actuarial assumptions and actuarial methods used in determining reserves and related actuarial items listed below, as shown in the annual statement of the company, as prepared for filing with state regulatory officials, as of December 31, ~~2019~~. Tabulated below are those reserves and related actuarial items which have been subjected to asset adequacy analysis.

Asset Adequacy Tested Amounts – Reserves and Liabilities					
Statement Item	Formula Reserves (1)	Additional Actuarial Reserves (2) Note (i) below	Analysis Method Note (ii) below	Other Amount (3)	Total Amount (1)+(2)+(3) (4)
Exhibit 5					
A Life Insurance					
B Annuities					
C Supplementary Contracts Involving Life Contingencies					
D Accidental Death Benefit					
E Disability – Active					
F Disability – Disabled					
G Miscellaneous					
Total (Exhibit 5 Item 1, Page 3)					
Exhibit 6					
A Active Life Reserve					
B Claim Reserve					
Total (Exhibit 6 Item 2, Page 3)					
Exhibit 7					
Premium and Other Deposit Funds (Column 5, Line 14)					
Guaranteed Interest Contracts (Column 2, Line 14)					
Other (Column 6, Line 14)					
Supplemental Contracts and Annuities Certain (Column 3, Line 14)					
Dividend Accumulations or Refunds (Column 4, Line 14)					
Total Exhibit 7 (Column 1, Line 14)					
Exhibit 8 Part 1					
1 Life (Page 3, Line 4.1)					
2 Health (Page 3, Line 4.2)					
Total Exhibit 8, Part 1					

Separate Accounts (Page 3 of the Annual Statement of Separate Accounts, Lines 1, 2, 3.1, 3.2, 3.3)					
TOTAL RESERVES					

IMR (General Account, Page _____ Line _____) (Separate Accounts, Page _____ Line _____)	
AVR (Page _____ Line _____)	Note (iii) below
Net Deferred and Uncollected Premium	

Note (i): The additional actuarial reserves are the reserves established under paragraphs (b) and (e) of subsection 4-138.043(4), F.A.C.

Note (ii): The appointed actuary shall indicate the method of analysis, determined in accordance with the standards for asset adequacy analysis referred to in subsection 4-138.043(3), F.A.C. of this part, by means of symbols which shall be defined in footnotes to the table.

Note (iii): Allocated amount of Asset Valuation Reserve (AVR).

Statement-Item	Reserves and Liabilities				
	Asset Adequacy Tested Amounts				
	Formula Reserves	Additional Actuarial Reserves (a)	Analysis Method (b)	Other Amount (c)	Total Amount (1)+(2)+(3) (4)
	(1)	(2)	(3)	(4)	

Exhibit 8
A Life Insurance
B Annuities
C Supplementary Contracts Involving Life Contingencies
D Accidental Death Benefit
E Disability – Active
F Disability – Disabled
G Miscellaneous

Total (Exhibit 8 Item 1, Page 3)

Exhibit 9
A Active Life Reserve
B Claim Reserve

Total (Exhibit 9 Item 2, Page 3)

Exhibit 10

- 1 Premiums and Other Deposit Funds
 - 1.1 Policyholder Premiums (Page 3, Line 10.1)
 - 1.2 Guaranteed Interest Contracts (Page 3, Line 10.2)
 - 1.3 Other Contract Deposit Funds (Page 3, Line 10.3)
- 2 Supplementary Contracts Not Involving Life Contingencies (Page 3, Line 3)
- 3 Dividend and Coupon Accumulations (Page 3, Line 5)

Total Exhibit 10 Exhibit 11 Part 1

- 1 Life (Page 3, Line 4.1)
- 2 Health (Page 3, Line 4.2)

Total Exhibit 11, Part 1

Separate Accounts
(Page 3, Line 27)

TOTAL RESERVES

IMR (Page _____ Line _____)

AVR (Page _____ Line _____)

(c)1.a. If the appointed actuary has relied on other experts to develop certain portions of the analysis, the reliance paragraph shall include a statement such as the following:

“I have relied on [name], [title] for [e.g., “anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios” or “certain critical aspects of the analysis performed in conjunction with forming my opinion”], as certified in the attached statement. I have reviewed the information relied upon for reasonableness.”~~“I have relied on (name), (title) for (e.g., anticipated cash flows from currently owned assets, including variations in cash flows according to economic scenarios) and, as certified in the attached statement, . . .”~~

or

~~“I have relied on personnel as cited in the supporting memorandum for certain critical aspects of the analysis in reference to the accompanying statement.”~~

b. Such a statement of reliance on other experts shall be accompanied by a statement by each of such experts of the form prescribed by subsection 4-138.046(5), F.A.C.

2. If the appointed actuary has examined the underlying asset and liability records, the reliance paragraph shall also include a statement such as the following:

“My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic asset and liability records and such tests of the actuarial calculations as I considered necessary.”

3.a. If the appointed actuary has not examined the underlying records, but has relied upon data, (e.g., listings and summaries of policies in force ~~and/or asset records~~) prepared by the company ~~or a third party~~, the reliance paragraph shall include a statement ~~sentence~~ such as:

“In forming my opinion on [specify types of reserves] I relied upon data prepared by [name and title of company officer certifying in force records or other data] as certified in the attached statements. I evaluated that data for reasonableness and consistency. I also reconciled that data to [exhibits and schedules to be listed as applicable] of the company’s current annual statement. In other respects, my examination included review of the actuarial assumptions and actuarial methods used and tests of the calculations I considered necessary.”

~~“I have relied upon listings and summaries (of policies and contracts, of asset records) prepared by (name and title of company officer certifying in force records) as certified in the attached statement. In other respects my examination included such review of the actuarial assumptions and actuarial methods and such tests of the actuarial calculations as I considered necessary.”~~

or

~~“I have relied upon (name of accounting firm) for the substantial accuracy of the in-force records inventory and information concerning other liabilities, as certified in the attached statement. In other respects my examination included review of the actuarial assumptions and actuarial methods and tests of the actuarial calculations as I considered necessary.”~~

b. Such a section shall ~~must~~ be accompanied by a statement by each person relied upon of the form prescribed by subsection 4-138.046(5), F.A.C.

(d) The opinion paragraph shall include a statement ~~such as the following~~:

“In my opinion the reserves and related actuarial values concerning the statement items identified above:”

- 1. No change.
- 2. Are based on actuarial assumptions that ~~which~~ produce reserves at least as great as those called for in any contract provision as to reserve basis and method, and are in accordance with all other contract provisions;
- 3. No change.
- 4. Are computed on the basis of assumptions consistent with those used in computing the corresponding items in the annual statement of the preceding year-end (with any exceptions noted below); and
- 5. Include provision for all actuarial reserves and related statement items which ought to be established.

“The reserves and related items, when considered in light of the assets held by the company with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on the ~~such~~ assets, and the considerations anticipated to be received and retained under the ~~such~~ policies and contracts, make adequate provision, according to presently

accepted actuarial standards of practice, for the anticipated cash flows required by the contractual obligations and related expenses of the company.

“The actuarial methods, considerations and analyses used in forming my opinion conform to the appropriate Standards of Practice as promulgated by the actuarial Standards Board which form the basis of this statement of opinion.”

“To the best of my knowledge, there have been no material changes from the applicable date of the annual statement to the date of the rendering of this opinion which shall be considered in reviewing this opinion.”

or

“The following material change(s) which occurred between the date of the statement for which this opinion is applicable and the date of this opinion shall be considered in reviewing this opinion: (describe the change or changes.)”

NOTE: Choose one of the above two paragraphs, whichever is applicable.

The impact of unanticipated events subsequent to the date of this opinion is beyond the scope of this opinion. The analysis of asset adequacy portion of this opinion shall be viewed recognizing that the company’s future experience may not follow all the assumptions used in the analysis.

Signature of Appointed Actuary

Address of Appointed Actuary

Telephone Number of Appointed Actuary

Date”

(3) Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption ~~that which~~ differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Rule 4-138.046, F.A.C.

(4) No change.

(5) Reliance on Information ~~Data~~ Furnished by Other Persons.

(a) If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance.

(b) The persons on whom the appointed actuary relies shall provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness, or reasonableness, as applicable, of the items. The certification shall include the

signature, title, company, address, and telephone number of the person rendering the certification, as well as the date on which it is signed.

~~If the appointed actuary does not express an opinion as to the accuracy and completeness of the listings and summaries of policies in force and/or asset oriented information, there shall be attached to the opinion the statement of a company officer or accounting firm who prepared such underlying data similar to the following:~~

~~“I (name of officer), (title), of (name of company or accounting firm), hereby affirm that the listings and summaries of policies and contracts in force as of December 31, 19__, and other liabilities prepared for and submitted to (name of appointed actuary) were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

Signature of the Officer of the Company or Accounting Firm

Address of the Officer of the Company or Accounting Firm

Telephone Number of the Officer of the Company or Accounting Firm”

and/or

~~“I, (name of officer), (title) of (name of company, accounting firm, or security analyst), hereby affirm that the listings, summaries and analyses relating to data prepared for and submitted to (name of appointed actuary) in support of the asset oriented aspects of the opinion were prepared under my direction and, to the best of my knowledge and belief, are substantially accurate and complete.~~

Signature of the Officer of the Company, Accounting Firm or Security Analyst

Address of the Officer of the Company, Accounting Firm, or Security Analyst

Telephone Number of the Officer of the Company, Accounting Firm, or Security Analyst”

(6) Alternate Option

(a) The Standard Valuation Law gives the Department broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of subparagraph 4-138.046(2)(d)3., F.A.C., the Department shall make one or more of the following additional approaches available to the opining actuary:

1. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile.”

a. Under this alternative, a formal written list of standards and conditions shall be made available.

b. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year shall apply to statements for that calendar year, and they shall remain in effect until they are revised or revoked. If no list is available, this alternative is not available.

2. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company’s request to file an opinion based on the law of the state of domicile has been approved and that any conditions required by the Department for approval of that request have been met.”

a. Under this alternative, a formal written statement of such allowance shall be issued no later than March 31 of the year it is first effective. It shall remain valid until rescinded or modified by the Department. Such rescission or modifications shall be issued no later than March 31 of the year they are first effective.

b. Subsequent to that statement being issued, if a company chooses to use this alternative, the company shall file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed.

c. The request shall be deemed approved on October 1 of that year if the Department has not denied the request by that date.

3. A statement that the reserves “meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the required comparison as specified by this state.”

a.(I) Under this alternative, a formal written list of products (to be added to the table in Item b below) for which the required comparison shall be provided will be published.

(II) If a company chooses to use this alternative, the list in effect on July 1 of a calendar year shall apply to statements for that calendar year, and it shall remain in effect until it is revised or revoked. If no list is available, this alternative is not available.

b. If a company desires to use this alternative, the appointed actuary shall provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided shall be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

c. The information listed shall include all products identified by either the state of filing or any other states subscribing to this alternative.

d. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary shall provide detailed disclosure of the specific method and assumptions used in determining the reserves held.

e. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

4. Notwithstanding the above, if the state of domicile opinion and the additional information provided to the Department is not sufficient to demonstrate that the opinion complies with the laws and regulations of this state, the Department shall reject this alternative and require an opinion based on the laws and regulations of this state. If a company is unable to provide the opinion within 60 days of the request or such other period of time determined by the Department after consultation with the company, the Department may contract an independent actuary at the company’s expense to prepare and file the opinion.

Specific Authority 625.121(3)(a) FS. Law implemented 625.121(3) FS. History—New 5-18-93, Amended _____.

4-138.047 Description of Actuarial Memorandum Including an Asset Adequacy Analysis and Regulatory Asset Adequacy Issues Summary.

(1) General

(a)1. In accordance with subsection (3) of the Standard Valuation Law, the appointed actuary shall prepare a memorandum to the company describing the analysis done in support of his or her opinion regarding the reserves ~~under a rule 4-138.046 opinion.~~

2. The memorandum shall be made available for examination by the Department upon its request. Any memorandum in support of the opinion, and any other material provided by the company to the Department in connection therewith, is confidential and exempt from the provisions of Section s. 119.07(1), Florida Statutes, as provided in Section s. 625.121(3)(a)10., Florida Statutes F.S.

(b) In preparing the memorandum, the appointed actuary may ~~rely on, and~~ include as a part of his or her own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of subsection

4-138.043(2), F.A.C., ~~of this part~~ with respect to the areas covered in the memoranda, and shall so state in their memoranda.

(c) No change.

(d) 1. through 3. No change.

4. The reviewing actuary shall not be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this part for the current year or any one of the preceding ~~three (3)~~ years.

(e) In accordance with Section 625.121(3), Florida Statutes, the appointed actuary shall prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 4-138.047(3), F.A.C.

1. The regulatory asset adequacy issues summary shall be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is required.

2. The regulatory asset adequacy issues summary shall be kept confidential to the same extent and under the same conditions as the actuarial memorandum.

(2) Details of the Memorandum Section Documenting Asset Adequacy Analysis (~~rule 4-138.046~~). When an actuarial opinion ~~under rule 4-138.046~~ is provided, the memorandum shall demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in subsection 4-138.043(3), F.A.C., ~~of this part~~ and any additional standards under this part. It shall specify:

(a) For reserves:

1. through 5. No change.

6. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis

7.a. Documentation of assumptions to test reserves for the following:

(I) Lapse rates (both base and excess);

(II) Interest crediting rate strategy;

(III) Mortality;

(IV) Policyholder dividend strategy;

(V) Competitor or market interest rate;

(VI) Annuitization rates;

(VII) Commissions and expenses; and

(VIII) Morbidity.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(b) For assets:

1. through 3. No change.

4. Asset valuation bases; and

5.a. Documentation of assumptions made for:

(I) Default costs;

(II) Bond call function;

(III) Mortgage prepayment function;

(IV) Determining market value for assets sold due to disinvestment strategy; and

(V) Determining yield on assets acquired through the investment strategy.

b. The documentation of the assumptions shall be such that an actuary reviewing the actuarial memorandum can form a conclusion as to the reasonableness of the assumptions.

(c) For the ~~a~~Analysis basis:

1. through 2. No change.

3. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of “materiality” that was used in determining how rigorously to analyze different blocks of business);

4. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under “moderately adverse conditions” or other conditions as specified in relevant actuarial standards of practice); and

5. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis ~~Effect of federal income taxes, reinsurance, and other relevant factors.~~

(d) Summary of material changes in methods, procedures, or assumptions from prior year’s asset adequacy analysis;

(d) through (e) renumbered (e) through (f) No change.

(3) Details of the Regulatory Asset Adequacy Issues Summary.

(a) The regulatory asset adequacy issues summary shall include:

1. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios.

a. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values.

b. Ending surplus values shall be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force.

2. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis;

3. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion;

4. Comments on any interim results that may be of significant concern to the appointed actuary;

5. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and

6. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis.

(b) The regulatory asset adequacy issues summary shall contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and shall be signed and dated by the appointed actuary rendering the actuarial opinion.

(3) No change.

(4) Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve.

(a) An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, shall be used in any asset adequacy analysis.

1. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets may not be applied for any other risks with respect to reserve adequacy.

2. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support.

(b)1. The amount of the assets used for the AVR shall be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum.

2. The method used for selecting particular assets or allocated portions of assets shall be disclosed in the memorandum.

(5) Documentation. The appointed actuary shall retain on file for at least seven (7) years sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained.

Specific Authority 625.121(3)(a) FS. Law Implemented 625.121(3) FS. History—New 5-18-93, Amended _____.

4-138.048 Additional Considerations for Analysis.

Specific Authority 625.121(3)(a) FS. Law implemented 625.121(3) FS. History—New 5-18-93, Repealed _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Bureau of Life and Health Insurer Solvency, Division of Insurer Services, Department of Insurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Bureau of Life & Health, Insurance Solvency, Division of Insurer Services, Department of Insurance

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 17, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLES:	RULE NOS.:
Registration	5J-4.004
Exemption	5J-4.005
Reduction of Security	5J-4.007

PURPOSE AND EFFECT: The purpose and effect of rule changes to 5J-4.004 and 5J-4.005, F.A.C., is to eliminate the effective date of form 10300 and corrects the name and address of the Department of Agriculture and Consumer Services, Division of Consumer Services. Rule change 5J-4.005, F.A.C., identifies the Affidavit of Exemption form location and Rule 5J-4.007, F.A.C., is being repealed.

SUMMARY: Rules 5J-4.004 and 5J-4.005, F.A.C., rule changes eliminates the effective date of form 10300 and correctly identify the name and current address of the Department of Agriculture and Consumer Services, Division of Consumer Services. Rule 5J-4.007, F.A.C., is being repealed.

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: 501.014(2)(a) FS.

LAW IMPLEMENTED: 501.013, 501.015(1),(2),(4), 501.016(4), 501.016(6) 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: 10:00 a.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-4.004 Registration.

Any person who intends to open or operate as a health studio shall, prior to engaging in such activities, register with the Department using ~~Form DACS 10300, Health Studio Registration, Revised 7-10-94, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 407 South Calhoun Street, Mayo Building, 2nd Floor, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-65000800. The registrant shall submit with ~~Form DACS 10300~~ a copy of each contract offered to the public relating to the sale of health studio services.

Specific Authority 501.014(2)(a) FS. Law Implemented 501.015(1),(2),(4) FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, _____.

5J-4.005 Exemption.

(1) Any person claiming an exemption pursuant to the provisions of Section 501.013, Florida Statutes, from the health studio laws shall, prior to engaging in health studio activities, file with the Department ~~the executed an affidavit on Form 10301, Affidavit of Exemption, which is included in Form DACS 10300 Revised 7-10-94, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 407 South Calhoun Street, Mayo Building, 2nd Floor, Attention: Health Studios, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-65000800.

(2) The Department may request a person claiming an exemption under Section 501.013, Florida Statutes, to submit supporting documentation necessary to establish the person is entitled to such exemption.

Specific Authority 501.014(2)(a) FS. Law Implemented 501.013, 501.016(6), (7) FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, _____.

5J-4.007 Reduction of Security.

~~Any person claiming a reduction shall file annually with the Department Form 10304, Application for Reduction, effective 2-9-93, hereby incorporated by reference. Copies of this form may be obtained from the Division of Consumer Services, 407 South Calhoun Street, Mayo Building, 2nd Floor, Attention: Health Studios, Tallahassee, Florida 32399-0800.~~

Specific Authority 501.014(2)(a) FS. Law Implemented 501.016(4) FS. History—New 2-9-93, Amended 7-10-94, 5-24-95, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLES:

RULE NOS.:

Licensing Requirement, Commercial

Telephone Seller, Salesperson

5J-6.005

Exemption

5J-6.013

Denials

5J-6.014

PURPOSE AND EFFECT: The purpose and effect of rule change 5J-6.005, F.A.C., is to correctly identify and locate Registration forms and correct the name and address of the Department of Agriculture, Division of Consumer Services. It also repeals Subsections (2) and (3) of rule 5J-6.005, F.A.C., which deals with forms 10001 and 10002. Paragraph 5J-6005(4)(a), F.A.C., clarifies the specific forms needed to obtain Interim Operating Authority as a Commercial Telephone Salesperson. In addition, Section (6), dealing with submitting a photocopy of the original submission for licensing, is repealed. Rule change to 5J-6.013, F.A.C., correctly identifies the Affidavit of Exemption's form number and corrects the address of the Division. Rule 5J-6.014, F.A.C., relates to Section 501.612(1), F.S., and sets guidelines for the denial of a license.

SUMMARY: Rule changes correctly identify Registration and Affidavit of Exemption forms, eliminate forms 10001 and 10002, specify what forms are necessary to submit for Interim Authority to operate as a Commercial Telephone Salesperson, and corrects the name and current address of the Department of Agriculture and Consumer Services, Division of Consumer Services. A new Rule 5J-6.014, F.A.C., Denials, relates to Section 501.612(1), F.S., dealing with denials of licenses. This rule sets the guidelines for denial of licenses.

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: 501.626 FS.

LAW IMPLEMENTED: 501.612 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: 2:00 p.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, Phone (850)410-3679

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-6.005 Licensing Requirement, Commercial Telephone Seller, Salesperson.

(1) No person may act as a commercial telephone seller or salesperson without first obtaining a license to conduct such activity. All applications for a license shall be in writing, on a form DACS 10001, provided as herein by the Department, verified by the applicant, and accompanied by the required fee. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

~~(2) The commercial telephone seller shall utilize Form 10001, effective 4-12-92, entitled Application for License, Commercial Telephone Seller, hereby adopted and incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attn: Telemarketing, Mayo Building, Second Floor, Tallahassee, Florida 32399-0800.~~

~~(3) The salesperson shall utilize Form 10002, effective 4-12-92, entitled Application for License, Salesperson, hereby adopted and incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attn: Telemarketing, Mayo Building, Second Floor, Tallahassee, Florida 32399-0800.~~

(2)(4)(a) In the event a licensed commercial telephone seller hires an employee to function as a salesperson, but the employee does not possess a current commercial telephone salesperson license, the licensed commercial telephone seller may obtain interim operating authority for the unlicensed salesperson from the Department by submitting the Application for license as a Commercial Telephone Salesperson and the Statement of Verification, which are included in Form DACS 10001 10002, and a written request that the applicant be granted interim operating authority.

(b) The interim operating authority shall be effective until such time as the Department notifies the applicant of denial or approval of license. In no event shall the interim operating authority exceed a period of 90 days.

(c) In the event a license is denied, the interim operating authority shall immediately terminate and the applicant for a salesperson license shall immediately discontinue operating as a salesperson.

~~(3)(5)~~ The licensee shall notify the Department of all material changes in the information submitted in the application for license, including the original application for

license, or any application for renewal of the license, occurring prior to renewal within 10 days of the change. The licensee shall utilize form DACS 10001 10003, effective 4-12-92 entitled Material Change, Commercial Telephone Seller/Salesperson, hereby adopted and incorporated by reference, and shall remit proper fees as applicable.

~~(6) The licensee shall attach a photocopy of the original information which was submitted as a condition of initial or renewal license to form 10003, Material Change, Commercial Telephone Seller/Salesperson, and the photocopy shall be Noted and conspicuously identified.~~

~~(4)(7)~~ In the event that a salesperson licensee changes his/her company affiliation, the salesperson shall utilize form DACS 10001, 10003 Material Change, Commercial Telephone Seller/Salesperson. Additionally, the salesperson shall utilize a properly executed form 10004, effective 4-12-92, entitled Statement of Verification, hereby adopted and incorporated by reference, and pay the prescribed \$10 fee. Such change in status shall be submitted to the Department within 10 days of the change.

~~(5)(8)~~ In the event that the salesperson intends to affiliate with more than one company, the salesperson shall indicate such, as provided on form DACS 10001, by executing the 10002 Application for License, Salesperson, and shall submit an executed form 10004, Statement of Verification, for each Commercial Telephone Seller with which the salesperson intends to affiliate.

Specific Authority 501.626 FS. Law Implemented 501.605, 501.607, 501.608, 501.609 FS. History—New 4-12-92, Amended 2-15-93, 6-26-94, 5-15-95, 2-11-98, _____.

5J-6.013 Exemption.

(1) Any business entity claiming an exemption pursuant to Section 501.608(1)(b), Florida Statutes, shall file the Affidavit of Exemption included in Form DACS 10001 10005 entitled Affidavit of Exemption, Florida Telemarketing Act, effective 6-26-94, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Telemarketing, 227 North Bronough Street, Suite 7200, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32301 32399-6500.

(2) Any business entity claiming to be exempt under Section 501.604(22), Florida Statutes, shall furnish the Department copies of occupational licenses, lease agreements, or tax returns which verify the entity has been operating a retail establishment at least one year under the same name as that used in connection with telemarketing; and

(a) Shall provide a written statement that products are displayed and offered for sale, or services are offered for sale, and provided at the business establishment; and

(b) Shall furnish the Department copies of sales records, customer lists, purchase orders, general ledger entries, journals, or other documents which verify that a majority of the

seller's business involves the buyer obtaining such products or services at the seller's location. For the purposes of this rule, a "majority of the Seller's business" shall mean that at least 51% of each of the following occurs at the seller's business establishment:

1. The total annual dollar volume of sales;
 2. The total number of individual customer transactions;
- and
3. The total number of sales.

Specific Authority 501.626 FS. Law Implemented 501.604, 501.608 FS. History—New 6-26-94, Amended 2-11-98, _____.

5J-6.014 Denials.

The purpose of this rule part is to implement s. 501.612(1), Florida Statutes. The department shall not issue an initial or renewal license to any person applying for a commercial telephone seller or salesperson license if the department finds that the applicant, or any of its owners, operators, officers, directors, partners, or other individuals engaged in the management activities of the applicant, has:

(1) Been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, any misdemeanor crime within the last 5 years that involves racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or any other crime involving moral turpitude.

(2) Been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, any felony crime within the last 7 years that involves racketeering or any offense involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property.

(3) Been convicted or found guilty of, or entered a plea of guilty or nolo contendere to any capital offense within the last 10 years.

(4) Been convicted or found guilty of, or entered a plea of guilty or nolo contendere to, any crime that involves racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or involving moral turpitude, and who has not successfully completed or satisfied all the conditions and/or terms of his or her sentencing, including any probation or parole.

(5) Had entered against him or her, or any business for which he or she has been affiliated as an owner, operator, officer, director, partner, or worked in the management activities, an injunction, a temporary restraining order, or a final judgment or order, including a stipulated judgment or order, an assurance of voluntary compliance, or any similar document, in any civil or administrative action involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, or the use of any untrue or misleading representation in an attempt to sell or

dispose of real or personal property or the use of any unfair, unlawful, or deceptive trade practice and who has not satisfied all the conditions and/or terms of his or her judgment or order.

Specific Authority 501.626 FS. Law Implemented 501.612 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLE: Registration

RULE NO.: 5J-8.003

PURPOSE AND EFFECT: The purpose and effect of this rule change is to identify form DACS 10700 and eliminate the effective date for Form 10700, Dance Studio Registration, and correct the address of the Department of Agriculture and Consumer Services, Division of Consumer Services.

SUMMARY: This rule correctly identifies form DACS 10700, eliminates the old effective date for Form 10700 and updates the current address of the Division of Consumer Services.

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: 501.143(12) FS.

LAW IMPLEMENTED: 501.143(3),(4) FS.

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

TIME AND DATE: 9:30 a.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-8.003 Registration.

(1) Any person who intends to open or operate as a dance studio shall, prior to engaging in such activity, register with the Department using ~~f~~Form DACS 10700, Dance Studio Registration, ~~effective March 22, 1993, revised June 23, 1994, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention Attn: Dance Studio Registration, 2005 Apalachee Parkway, Terry L. Rhodes Building, Mayo Building, Second Floor, Tallahassee, Florida 32399-6500 0800. The registrant shall submit the registration fee to the Department at the time of registration for each of the dance studio's locations. The registration fee shall be non-refundable. The registrant shall submit with ~~f~~Form DACS 10700 a copy of each contract offered to the public relating to the sale of dance studio services.

(2) For the purpose of Section 501.143(4), Florida Statutes, and these rules, a "contract for ballroom dance studio services or lessons" shall not include:

(a) A single contract sold by a ballroom dance studio for a duration of seven (7) calendar days or less to any customer without any option for renewal or any other condition which establishes any right in the term;

(b) Which requires an advance payment of \$250 or less; and

(c) Which does not require the customer to provide payments in installments.

(3) In the event a contract for ballroom dance studio lessons or services meets the requirements of subsection (2) above, the contract need not be in writing.

Specific Authority 501.143(12) FS. Law Implemented 501.143(3),(4) FS. History--New 3-22-93, Amended 6-23-94, 5-24-95, 2-11-98,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLES:

Registration, Document Submission
Security Requirement

RULE NOS.:

5J-9.002
5J-9.006

PURPOSE AND EFFECT: The purpose and effect of 5J-9.002(1),(2), F.A.C., rule change is to identify the registration package for a Seller of Travel and correct the mailing address for the Division of Consumer Services. Rule change to subsection 5J-9.006(1), F.A.C., is to correctly identify the Surety Bond form as being included in the Registration packet and eliminate an outdated address for the Department of Agriculture and Consumer Services. Rule change 5J-9.006(2),(3) correctly identifies the Application for Reduction of Security form as being included in the Registration packet and deletes an outdated address for the Department of Agriculture and Consumer Services.

SUMMARY: This rule correctly identifies the package a Seller of Travel must complete to comply with the registration requirement under Section 559.928, F.S., and corrects the mailing address for the Division.

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: 559.9355(3) FS.

LAW IMPLEMENTED: 559.928, 559.929, 559.935(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: 11:30 a.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Conference Room, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-9.002 Registration, Document Submission.

The following statement in bold print:

(1) Any person who intends to operate as a seller of travel shall submit form DACS 10200, Seller of Travel ~~the~~ registration and fee to the Department at the time of registration. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Building, Tallahassee, Florida 32399-6500.

If the application is withdrawn or denied, the registration fee shall be retained by the Department to cover the administrative cost of implementing Sections 559.926-~~559.939~~, Florida Statutes.

(2) Any person claiming an exemption pursuant to the provisions of Section 559.935(3), Florida Statutes, shall file an affidavit of exemption with the Department using form DACS 10211 ST 10210 effective 9/95, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel Section, 2005 Apalachee Parkway, Terry L. Rhodes Mayo Building, Tallahassee, Florida 32399-6500 0800.

(3) No change.

Specific Authority 559.9355(3) FS. Law Implemented 559.928, 559.935(3) FS. History—New 10-6-93, Amended 1-3-95, 6-4-95, 12-27-95, 2-11-98,

5J-9.006 Security Requirement.

(1) Prior to engaging in any activities as a seller of travel, each seller of travel shall file with the Department an original performance bond in an amount determined by subsection (2) below. The applicant shall utilize the use Form ST 10203, Surety Bond Form, an example of which is included in form DACS 10200 Registration packet effective February 8, 1994, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Sellers of Travel, Mayo Building, Second Floor, Tallahassee, Florida 32399-0800.

(2) The amount of the security for sellers of travel that do not offer vacation certificates shall be \$25,000; however, the seller of travel may apply for a reduction by completing the Security Reduction Application, which is included in form DACS 10200 Registration packet filing Form 10208, Application for Reduction of Security, effective February 8, 1994, hereby incorporated by reference, and providing. The Seller of Travel must provide copies of its federal income tax return or an audited financial statement for the immediately preceding fiscal year. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Attention: Sellers of Travel, Mayo Building, Second Floor, Tallahassee, Florida 32399-0800. To apply for reduction of the security, the seller of travel must have a satisfactory consumer complaint history. The amount of the security reduction shall be determined by the seller of travel's dollar amount of gross annual sales, as follows:

(a) A business that has been in operation under the same ownership and control for at least one year with under \$500,000 in gross annual sales, may request to reduce its security to \$10,000.

(b) A business that has been in operation under the same ownership and control for at least one year with gross annual sales between \$500,000 and \$1,000,000, may request to reduce its security to \$15,000.

(c) A business that has been in operation under the same ownership and control for at least one year with gross annual sales between \$1,000,000 and \$2,000,000, may request to reduce its security to \$20,000.

(3) The amount of the security for a newly established business or a business under new ownership shall be \$25,000; however, the seller of travel may apply to reduce its security to \$10,000 by executing the Application for Reduction of Security included in form DACS 10200 Registration Packet filing Form 10208. To be eligible for a reduction in security, a newly established seller of travel must meet the following criteria:

(a) Has not been in operation for more than one year;

(b) None of its owners, directors, officers, or general partners have had any civil, criminal, or administrative action instituted against him in the vacation or travel business, and none of its owners, directors, officers, or general partners have been affiliated with any seller of travel that has had any civil, criminal, or administrative action instituted against it in the vacation or travel business; and

(c) None of its owners, directors, officers, or general partners have an unsatisfactory consumer complaint history with the Department or have been affiliated with any seller of travel that has had an unsatisfactory consumer complaint history with the Department.

(4) No change.

Specific Authority 559.9355(3) FS. Law Implemented 559.929(1) FS. History—New 2-8-94, Amended 6-4-95, 11-6-95, 12-27-95, 2-11-98,

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLE: Franchises
 RULE NO.: 5J-10.002

PURPOSE AND EFFECT: The purpose and effect of this rule change is to eliminate the effective date for form DACS 10500 and to correct the address of the Department of Agriculture and Consumer Services, Division of Consumer Services.

SUMMARY: This rule eliminates the effective date of form DACS 10500 and correctly identifies the address of the Department of Agriculture and Consumer Services, Division of Consumer Services.

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: 570.07(23) FS.

LAW IMPLEMENTED: 559.802 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: 10:30 a.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-10.002 Franchises.

Every franchisor claiming an exemption pursuant to Section 559.802, Florida Statutes, shall file form ~~number~~ DACS 10500, ~~Annual Franchise Notice of Exemption Application, effective 11-15-94, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, 2005 Apalachee Parkway, Terry L. Rhodes Building, 407 South Calhoun Street, Mayo Building, 2nd Floor, Attention: Business Opportunities, Tallahassee, Florida 32399-6500~~800~~. The franchisor shall submit a filing fee of \$100 with ~~f~~Form DACS 10500. The filing fee shall be non-refundable. The exemption may be renewed each year by filing ~~f~~Form DACS 10500 and paying a renewal fee of \$100.

Specific Authority 570.07(23) FS. Law Implemented 559.802 FS. History—New 11-15-94, Amended 6-4-95, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLE: Registration

RULE NO.: 5J-12.002

PURPOSE AND EFFECT: The purpose and effect of this rule change is to eliminate the effective date of form DACS 10900 and correct the address of the Department of Agriculture and Consumer Services, Division of Consumer Services.

SUMMARY: This rule eliminates the effective date of form DACS 10900 and updates the current address of the Division of Consumer Services.

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: 570.07(23) FS.

LAW IMPLEMENTED: 559.904, 559.916 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: 11:00 a.m., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-12.002 Registration.

(1)(a) Any person who intends to operate a motor vehicle repair shop shall, before engaging in such activities, annually apply for and obtain a registration certificate from the Department using ~~f~~Form DACS 10900, Registration Application Form, Motor Vehicle Repair Act,~~effective 1-18-95, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Bureau of Motor Vehicle Repair, 2005 Apalachee Parkway, Terry L.

~~Rhodes Building 227 North Bronough Street, City Centre Building, Suite 7200, Tallahassee, Florida 32399-6500 32301-1329.~~

(b) If the motor vehicle repair shop is located in a municipality or county that has an ordinance containing standards that the Department has determined are at least equal to the requirements of the Florida Motor Vehicle Repair Act, the motor vehicle repair shop must register with the Department and provide one of the following to evidence compliance with the local ordinance:

1. The registration number provided to the motor vehicle repair shop by the municipality or county in the appropriate space on Form DACS 10900; or
2. A copy of the receipt of payment of the required fee for the municipality or county issued registration; or
3. A copy of the actual registration issued by the municipality or county.

(c) The following 11" x 17" sign with 30 point type shall be provided by the Department, and shall be posted pursuant to Section 559.916, Florida Statutes, to each registrant: SEE FLORIDA ADMINISTRATIVE CODE FOR "SIGN"

The registration certificate shall be attached to the sign by the registrant in the designated area. The sign with the accompanying registration certificate shall be conspicuously posted at the customer service area in full view of the motor vehicle repair shop's customers.

(d) If the registrant has multiple customer service areas and the area is configured so that a single sign and accompanying registration certificate cannot be posted in full view of the motor vehicle repair shop's customers, the registrant may request from the Department only such copies of the sign and registration certificate sufficient to comply with these rules.

(2)(a) Form DACS 10900 will not be deemed incomplete for failure to furnish a valid occupational license number, provided the motor vehicle repair shop is unable to obtain such number until it exhibits an active registration certificate issued by the Department pursuant to Section 559.904(7), Florida Statutes.

(b) If the Department approves the application submitted by the motor vehicle repair shop and issues a registration certificate to conduct business as a motor vehicle repair shop, the motor vehicle repair shop shall, within 30 days after issuance, provide the occupational license number to the Department.

(c) If the motor vehicle repair shop fails to provide the valid occupational license number within the prescribed 30 day period, such failure shall be grounds for suspension or revocation of registration.

Specific Authority 570.07(23) FS. Law Implemented 559.904, 559.916 FS. History—New 1-18-95, Amended 5-24-95, 2-11-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

RULE TITLES:	RULE NOS.:
Licensing Requirement	5J-13.002
Security Requirement	5J-13.003

PURPOSE AND EFFECT: The purpose and effect of Rule 5J-13.002, F.A.C., rule change is to eliminate the effective date of the Application form, identify the revised Application form number and correct the address of the Department of Agriculture and Consumer Services, Division of Consumer Services. The purpose and effect of Rule 5J-13.003, F.A.C., rule change is to locate and identify the Surety Bond form and to correct the address of the Department of Agriculture and Consumer Services, Division of Consumer Services.

SUMMARY: Rule change 5J-13.002, F.A.C., eliminates the effective date of Application form, changes the application form number and the address of the Division of Consumer Services under paragraph 539.001(5)(a),(c),(8)(a), F.S. Rule Change 5J-13.003, F.A.C., identifies the location of the Surety Bond form and corrects the address of the Division of Consumer Services under Section 539.001(4)(a)2., F.S.

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: 570.07(23) FS.

LAW IMPLEMENTED: 539.001(5)(a),(c),(8)(a), 539.001(4)(a)2. 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., November 5, 2002

PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3679

THE FULL TEXT OF THE PROPOSED RULES IS:

5J-13.002 Licensing Requirements.

(1) Any person who intends to operate as a pawnbroker shall annually submit a licensing fee of \$300 to the Department, for each pawnshop location, at the time of applying for a license.

(2) A person applying for a license as a pawnbroker must submit with the license application a copy of the Pawnbroker Transaction Form. Applicants for license shall use ~~Form DACS 10111 10-111, Registration Application Form, Florida Pawnbroking Act effective 12-10-96, hereby incorporated by reference.~~ Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Pawnshops, 2005 Apalachee Parkway, Terry L. Rhodes Mayo Building, Tallahassee, Florida 32399-65000800.

Specific Authority 570.07(23) FS. Law Implemented 539.001(5)(a),(c),(8)(a) FS. History—New 12-10-96, Amended.

5J-13.003 Security Requirements.

(1) Any person claiming to have a net worth of \$50,000 pursuant to Section 539.001(4)(a)2., F.S., shall file with the Department, at the time of applying for a license, a copy of their current financial statement prepared by a person who is part of an accounting firm or holds a permit to practice public accounting in Florida licensed accountant. In lieu of the financial statement, a person may file a copy of their most recently filed federal income tax return.

(2) If filing a surety bond pursuant to Section 539.001(4)(a)2., F.S., the applicant shall utilize the use Form DACS 10113, Surety Bond example form included in form DACS 10111, effective 12-10-96, hereby incorporated by reference. Copies of this form may be obtained from the Department of Agriculture and Consumer Services, Division of Consumer Services, Attention: Pawnshops, Mayo Building, Tallahassee, Florida 32399-0800.

Specific Authority 570.07(23) FS. Law Implemented 539.001(4)(a)2. FS. History—New 12-10-96, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dee Keck, Regulatory Program Administrator, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James R. Kelly, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 13, 2002

DEPARTMENT OF EDUCATION

State Board of Education

RULE TITLE: RULE NO.:

Course Requirements – Grades 6-12 Basic 6A-1.09412
and Adult Secondary Programs

PURPOSE AND EFFECT: The purpose of this rule amendment is to adopt the course requirements to be used in grades 6-12, basic and adult secondary programs. The effect will be the adoption of a document that ensures instructional consistency in courses taught in grades 6-12.

SUMMARY: The proposed amendment incorporates the 2002-2003 course descriptions for grades 6-12/adult, basic, education as part of the rule by reference.

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 the notice.

SPECIFIC AUTHORITY: 229.565 FS.

LAW IMPLEMENTED: 229.565, 229.592, 230.23(7), 233.165 FS.

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

TIME AND DATE: 9:00 a.m., November 13, 2002

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Betty Coxe, Deputy Commissioner for Educational Programs, 325 West Gaines Street, Tallahassee, Florida 32399-0400, (850)488-2601

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-1.09412 Course Requirements – Grades 6-12 Basic and Adult Secondary Programs.

A course description directs district personnel by providing the essential content and course requirements for each course in grades 6-12 contained in the “Course Code Directory and Instructional Personnel Assignments” adopted by Rule 6A-1.09441, F.A.C. Course requirements approved by the State Board of Education are contained in the publication “2002-2003 2001-2002 Florida Course Descriptions for Grades 6-12/Adult, Basic Education” which is hereby incorporated by reference and made a part of this rule. District school boards of education are authorized, through local rules, to approve a variance of up to ten (10) percent of the course requirements of each course description. Copies of approved

course descriptions may be obtained from the Division of Public Schools and Community Education, Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399.

Specific Authority 229.565 FS. Law Implemented 229.565, 229.592, 230.23(7), 233.165 FS. History--New 2-21-85, Formerly 6A-1.9412, Amended 1-29-86, 1-1-87, 9-6-88, 12-13-88, 12-11-89, 1-15-91, 2-20-92, 6-6-93, 10-18-94, 8-28-95, 5-14-96, 9-15-97, 10-13-98, 5-3-99, 5-3-01, 10-16-01,

NAME OF PERSON ORIGINATING PROPOSED RULE: Betty Coxe, Deputy Commissioner for Educational Programs, Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Charlie Crist, Commissioner of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF ELDER AFFAIRS

Statewide Public Guardianship Office

RULE TITLE: Professional Guardian Registration

RULE NO.: 58M-2.001

PURPOSE AND EFFECT: The purpose of this rule is to establish the form that will be used by professional guardians to register with the Statewide Public Guardianship Office pursuant to Section 744.1083, F.S. Professional guardian registration will make important information available to all judicial circuits and will provide an accurate account of the number of professional guardians in the state.

SUMMARY: This is a new rule that incorporates the form professional guardians will use to submit to the Statewide Public Guardianship Office information and documentation that the statutory qualifications to serve as a professional guardianship requirements have been met. The information will be used to create a professional guardian registry.

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 regulatory alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 744.1083(2).(4) FS.

LAW IMPLEMENTED: 744.1083(2).(4) FS.

Written comments or suggestions on the proposed rule may be submitted to the Statewide Public Guardianship Office within 21 days after the date of this notice for inclusion in the record of the proceeding.

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

TIME AND DATE: 10:00 a.m., October 28, 2002

PLACE: MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in the hearing, please advise the Agency at least 5 calendar days before the hearing by contacting Karen P. Campbell, (850)487-4609, Ext. 103

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen P. Campbell, Office of the Public Guardian, 1923B Capital Circle, N. E., Tallahassee, FL 32308

THE FULL TEXT OF THE PROPOSED RULE IS:

STATEWIDE PUBLIC GUARDIANSHIP OFFICE

58M-2.001 Professional Guardian Registration.

(1) A person seeking to register with the Statewide Public Guardianship Office as a professional guardian must complete the Statewide Public Guardianship Office Guardian Registration Form, Form No. 100-1, with all requested information provided as specified in Section 744.1083, F.S. The Guardian Registration Form, Form No.100-1, is incorporated herein by reference and available at the Statewide Public Guardianship Office, MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(a) The Guardian Registration Form shall be signed, under oath, by the professional guardian (or corporate officer if the professional guardian is a corporation) or an individual designated in writing by the professional guardian or corporate officer, who is at least 18 years old.

(b) The completed registration form shall be delivered to the Statewide Public Guardianship Office by hand-delivery or mail. No facsimile submissions will be accepted. The completed registration form shall be delivered to the Statewide Public Guardianship Office, MHF 104, University of South Florida Campus, 13301 Bruce B. Downs Blvd., Tampa, FL 33612.

(c) The following documentation, or signed verification from the Clerk of Court that documentation is on file, shall be attached to and delivered with the completed registration form:

1. Credit History for Guardian and Employees with Fiduciary Responsibilities.

2. Criminal History for Guardian and Employees with Fiduciary Responsibilities.

3. Documentation of Bonding.

4. Documentation that Educational Requirements have been met.

5. List of Employees with Fiduciary Responsibilities. An employee with fiduciary responsibilities means an individual who holds a position of trust and confidence to the ward and

who is obligated by virtue of the guardianship relationship to protect and preserve the wards assets, property and who has access to the ward's personal identifiable information.

(2) The Guardian Registration Form, shall be submitted annually on or before January 1 of each year to the Statewide Public Guardianship Office with a \$25.00 registration fee. The registration fee shall be in the form of a money order or cashier's check made payable to the Statewide Public Guardianship Office.

(3) The Statewide Public Guardianship Office will respond in writing within 30 days of receiving a completed Guardian Registration Form, any supporting documentation and the registration fee. The Statewide Public Guardianship Office may request additional information and/or documentation prior to registering a professional guardian. The Statewide Public Guardianship Office will issue a certificate of registration to the professional guardian within 30 days of the receipt of the Statewide Public Guardianship Office Guardian Registration Form, registration fee, and all registration materials.

Specific Authority 744.1083(2),(4) FS. Law Implemented 744.1083(2),(4) FS. History--New

NAME OF PERSON ORIGINATING PROPOSED RULE:
Karen P. Campbell, Public Guardian, Office of Public Guardian

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John Petrila, Interim Director, Statewide Public Guardianship Office

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 9, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE TITLE: Completed Application
RULE NO.: 61A-5.010

PURPOSE AND EFFECT: The Department proposes to amend the rule to clarify the applications, forms and accompanying instructions, if any, which are to be used in its dealings with the public. The Department proposes to clarify the requirements for licensure.

SUMMARY: This rule lists the applications, forms and accompanying instructions, if any, utilized by the Department.

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: 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.01(11), 561.11, 561.15, 561.17, 561.18, 561.181, 561.19, 561.20, 561.22, 561.24, 561.25, 561.32, 561.331, 561.37, 561.371, 561.42, 565.02(3)(a) 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: Michael A. Martinez, Chief Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-5.010 Completed Application.

The term "completed application" as used herein is defined to describe the requirements by which the division will accept any application for a temporary or permanent alcoholic beverage license. The division will only accept applications for filing which are complete. Incomplete applications delivered to the division will be returned to the applicant with a letter advising the reason the application is being returned.

(1) A completed application shall include the following:

(a) The ~~DBR form 700L, APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE-DBPR ABT - 6001, ALCOHOLIC BEVERAGE LICENSE AND RETAIL TOBACCO PRODUCTS DEALER PERMIT APPLICATION,~~ incorporated hereby by ~~reference and effective 2-16-89~~ must be complete and requirements furnished in accordance with the ~~DBR form 761L, LIST OF LICENSE APPLICATION REQUIREMENTS AND INSTRUCTIONS FOR COMPLETING THIS APPLICATION~~ incorporated herein by reference ~~and effective 2-16-89~~. Any agreements or financial documentation which are required as attachments as a result of the completion of Section 9 and Section 12 ~~III~~ of the ~~DBPR ABT - 6001 form 700L, APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE~~ must also be furnished.

(b) ~~A DBR form 710L, PERSONAL QUESTIONNAIRE, incorporated herein by reference and effective 2-16-89~~ ~~A Partner, Officer, Stockholder Personal Information sheet~~ must be completed by all applicants and persons directly connected with the business sought to be licensed.

(c) A set of fingerprints on regular United States Department of Justice forms for each applicant and for any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought.

(d) The processing fee for each set of fingerprints submitted with the application.

(2) Applicants for the following types of licenses will be required to provide or complete the following additional documents:

(a) ~~An~~ applicants for a ~~new issuance of a quota liquor~~ license shall provide a right of occupancy to the specified location in the application. Right of occupancy includes, but is not limited to, a lease agreement, a rental contract, a sublease, a warranty deed or any documentation that in a court of law would establish an applicant's right to occupy the premise sought to be licensed.

(b) An applicant for a transfer of a quota liquor license shall provide records of gross sales for the past 3 years or for the period of time current licensee has held license in order that the division may compute the transfer fee. An applicant may, in lieu of providing these records, elect to pay the applicable transfer fee as provided by general law.

(c) An applicant for a club license shall provide:

1. The club by-laws;
2. The club charter; and
3. The articles of incorporation.

(d) An applicant for a special pleasure or excursion boat license shall provide a Certificate of Documentation and a Certificate of Inspection from the Coast Guard showing the boat has a capacity for at least 125 passengers.

(e) An applicant for a new or transfer license to be issued at a location where a current license exists shall provide:

1. A ~~DBR form 7081, LICENSE CANCELLATION REQUEST DBPR ABT - 6007, REQUEST FOR CANCELLATION OF PERMANENT LICENSE or DBPR ABT 6030, ADMINISTIVE ESCROW REQUEST,~~ incorporated herein by reference ~~and effective 2-16-89,~~ or

2. A cancellation request in writing for the current license executed by the licensee of record.

(f) An applicant for a distributors or manufacturers license shall provide a surety bond as required by general law.

(3) Once an application is accepted by the division nothing herein shall be construed to prohibit the agency from requiring additional information or documentation that becomes necessary as a result of processing or investigation of the application by the division.

Specific Authority 561.11 FS. Law Implemented 561.08, 561.01(11), 561.11, 561.15, 561.17, 561.18, 561.181, 561.19, 561.20, 561.22, 561.24, 561.25, 561.32, 561.331, 561.42, 565.02(3)(a) FS. History--New 2-16-89, Formerly 7A-5.010, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael A. Martinez, Chief Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Martinez, Chief Attorney

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE TITLE: Beverage Licenses, New Quota Issue

RULE NO.: 61A-5.0105

PURPOSE AND EFFECT: The Department proposes to amend the rule to clarify the process by which a new license is issued after the revocation of a license under 565.02(1)(a)-(f), inclusive, issued by Special Act prior to 1981.

SUMMARY: The rule clarifies that the issuance of a revoked license under 565.02(1)(a)-(f), inclusive, issued by Special Act prior to 1981 shall be conducted pursuant to 561.19, and 561.20, F.S.

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

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

SPECIFIC AUTHORITY: 561.11 FS.

LAW IMPLEMENTED: 120.57, 561.14, 561.15, 561.17, 561.18, 561.19, 561.20 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: Michael A. Martinez, Chief Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-5.0105 Beverage Licenses, New Quota Issue.

The division will follow the below listed procedures when entry forms are accepted for issuance of new state liquor licenses authorized by Florida Law, when they become available by reason of an increase in the population of a county ~~or city, or a county~~ voting to permit the sale of intoxicating beverages when such sale had previously been prohibited, or by revocation of a license under 565.02(1)(a)-(f), inclusive, issued by Special Act prior to 1981 ~~quota~~:

(1) The application period for each quota alcoholic beverage drawing shall begin on the third Monday in August of each year issuance of quota alcoholic beverage licenses has been authorized, and last 90 days. The division shall publish legal notices in newspapers of general circulation within the counties in which licenses become available and the Florida Administrative Weekly. In the event there is no newspaper of general circulation in the county where a new quota liquor license is authorized, the alternative posting procedure, found in Section 49.11, F.S., shall be used. Each legal notice

published will include the deadline for filing applications, the number of licenses available for issuance in each county ~~or city~~, and the location of the division's office where applications may be obtained and filed.

(2) All persons seeking to apply for a new license shall file DBPR ~~form~~ ABT-6033 4000-0331, QUOTA LICENSE ENTRY FORM, incorporated herein, together with the non-refundable filing fee stated on the form. The entry form shall be delivered to the division or postmarked on or before the final date, set forth in the legal notice, ~~and shall be date stamped by the division on the date the form is received~~. Forms not complete, not signed, or not accompanied by the required non-refundable filing fee shall be returned to the applicant's mailing address by regular mail. Applicants shall not be granted extensions for filing applications except by petition showing good cause and no negligence by the applicant.

(3) A list of all applicants selected may be obtained from any of the division's offices.

(4) The division shall notify those applicants who are selected as a result of the double random selection drawing by certified mail. Such notification will be sent to the mailing address listed on the entry form or subsequently filed with the division. It shall be the applicant's responsibility to maintain a correct mailing address with the division.

(5) All applicants selected for licenses shall file a completed application, referenced in Rule 61A-5.010, F.A.C. Failure to file a completed application package within 45 days of the date of the selection notice, shall result in the denial of the application filed.

(6) When any application has been disapproved and all hearings and appeals, pursuant to Sections 120.57 and 561.19(5), F.S., have been completed, the division shall notify the next person in order of priority from the random drawing by certified mail of their opportunity to obtain an available license in accordance with the procedures for notifying the originally selected parties. The division shall follow such procedure until all available licenses have been awarded.

(7) Any person or persons who have been selected for licenses shall not be prohibited from having the license issued in the name of a corporation, or other legal entity, if 100% of the business is owned by the person or persons listed on the winning entry form for inclusion in the drawing.

(8) For the purposes of this section, "more than one applicant" shall mean that an applicant may have a direct or indirect interest in only one application in each county ~~or city~~ for which a license is available, but may file separate entry forms for licenses in different counties ~~or cities~~ for an opportunity to obtain an available license.

(9) For the purposes of this section, "method of double random selection by public drawing" shall mean a computer program which determines the order of selection for the director as prescribed in Section 561.19(2)(a), F.S.

~~(10) Notwithstanding subsection (2) above, persons applying for the application period beginning April 1, 1998 through June 29, 1998, shall use Form ABT 4000-999L, Quota License Entry Form, effective 10/16/97 and incorporated herein.~~

Specific Authority 561.11 FS. Law Implemented 120.57, 561.14, 561.15, 561.17, 561.18, 561.19, 561.20 FS. History—New 1-20-97, Amended 1-8-98.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael A. Martinez, Chief Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Martinez, Chief Attorney

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE TITLE: Completed Application for the Issuance of a New Quota License

RULE NO.: 61A-5.011

PURPOSE AND EFFECT: The Department proposes to amend the rule to clarify the applications, forms and accompanying instructions, if any, which are to be used in its dealings with the public. The Department proposes to clarify the requirements for licensure.

SUMMARY: This rule lists the applications, forms and accompanying instructions, if any, utilized by the Department.

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: 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.11, 561.18, 561.19, 561.20 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: Michael A. Martinez, Chief Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-5.011 Completed Application for the Issuance Grant of a New Quota ~~Liquor~~ License.

The term "completed application" as used herein is defined to describe the requirements by which the division will accept an application for the issuance grant of a New Quota ~~Liquor~~ License. The division will only accept applications for filing which are complete. Incomplete applications delivered to the division will be returned to the applicant with a letter advising the reason the application is being returned.

(1) A completed application shall include the following:

(a) ~~The DBPR ABT – 6001 form 701L, ALCOHOLIC BEVERAGE LICENSE AND RETAIL TOBACCO PRODUCTS DEALER PERMIT APPLICATION FOR THE GRANT OF A NEW QUOTA LIQUOR LICENSE, incorporated herein by reference and effective 2-16-89 pages (1) and (2);~~

~~(b) The DBR form 710L, APPLICATION FOR THE GRANT OF A NEW QUOTA LIQUOR LICENSE, pages (3) and (4) for each individual listed on pages (1) and (2) of the application;~~

~~(b)(e)~~ A set of fingerprints on regular United States Department of Justice forms for each applicant and for any person or persons interested directly or indirectly with the applicant in the business for which the license is being sought; and,

~~(c)(d)~~ The processing fee for each set of fingerprints submitted with the application.

(2) Once an application is accepted by the division nothing herein shall be construed to prohibit the agency from requiring additional information or documentation that becomes necessary as a result of processing or investigation of the application by the division.

Specific Authority 561.11 FS. Law Implemented 561.08, 561.11, 561.18, 561.19, 561.20 FS. History—New 2-16-89, Formerly 7A-5.011, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael A. Martinez, Chief Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Martinez, Chief Attorney

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE TITLE: Application for Alcoholic Beverage License RULE NO.: 61A-5.700

PURPOSE AND EFFECT: The Department proposes to amend the rule to clarify the applications, forms and accompanying instructions, if any, which are to be used in its dealings with the public.

SUMMARY: This rule lists the applications, forms and accompanying instructions, if any, utilized by the Department.

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: 561.08, 561.11 FS.

LAW IMPLEMENTED: 561.08, 561.11, 561.17, 561.181, 561.19, 561.32, 561.33, 561.331 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: Michael A. Martinez, Chief Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-5.700 Application for Alcoholic Beverage License.

(1) Any applicant for the issuance of an alcoholic beverage license must use ~~DBR form 700L~~ DBPR ABT – 6001, APPLICATION FOR ALCOHOLIC BEVERAGE LICENSE AND RETAIL TOBACCO PRODUCTS DEALER PERMIT, referenced in Rule 61A-5.010, F.A.C. The application form is used for the following types of beverage license applications:

- (a) New;
- (b) New –Temporary;

(2) Any applicant for the transfer of an alcoholic beverage license must use DBPR ABT – 6035, APPLICATION FOR TRANSFER OF OWNERSHIP OF AN ALCOHOLIC BEVERAGE LICENSE. The application form is used for the following types of beverage license applications:

- (a) Transfer;
- (b) Transfer Temporary.

(3) Any application requesting a change of location or increase in series for an alcoholic beverage license must use DBPR ABT – 6014, CHANGE OF LOCATION/INCREASE IN SERIES APPLICATION.

(4) Any applicant requesting a change of the business name or mailing address for an alcoholic beverage license must use DBPR ABT – 6009, CHANGE OF BUSINESS NAME OR CHANGE OF MAILING ADDRESS APPLICATION.

(5) Any applicant requesting a change of the officers or stockholders of an entity possessing an alcoholic beverage license must use DBPR ABT – 6-04, CHANGE OF OFFICERS/STOCKHOLDER.

- ~~(c) Transfer;~~
- ~~(d) Transfer Temporary;~~
- ~~(e) Increase in Series;~~
- ~~(f) Decrease in Series;~~
- ~~(g) Change in Series;~~
- ~~(h) Change of Location;~~
- ~~(i) Change of Location Temporary;~~
- ~~(j) Change of Business Name;~~
- ~~(k) Change of Officer;~~
- ~~(l) Correction of Information; and,~~
- ~~(m) Other Miscellaneous Changes~~

~~(6)(2)~~ The information as requested on the application by the division may not be deleted or changed by an applicant. Answers to the questions on the application that are changed in any manner must be initialed and dated by the applicant.

Specific Authority 561.08, 561.11 FS. Law Implemented 561.08, 561.11, 561.17, 561.181, 561.19, 561.32, 561.33, 561.331 FS. History—New 2-16-89, Formerly 7A-5.700, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael A. Martinez, Chief Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Martinez, Chief Attorney

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 9, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE TITLE: Preliminary Application for a New Quota Alcoholic Beverage License

RULE NO.: 61A-5.747

PURPOSE AND EFFECT: The Department proposes to amend the rule to clarify the applications, forms and accompanying instructions, if any, which are to be used in its dealings with the public. The Department proposes to clarify the requirements for licensure.

SUMMARY: This rule lists the applications, forms and accompanying instructions, if any, utilized by the Department.
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: 561.08, 561.11 FS.
LAW IMPLEMENTED: 561.08, 561.11, 561.17, 561.19, 561.20 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: Michael A. Martinez, Chief Attorney, Department of Business and Professional Regulation, Northwood Centre, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULE IS:

61A-5.747 Preliminary Application for a New Quota Alcoholic Beverage License.

(1) ~~DBPR ABT – 6033 form 42-033, PRELIMINARY APPLICATION FOR A NEW QUOTA ALCOHOLIC LICENSE QUOTA LICENSE ENTRY FORM,~~ incorporated herein by reference and effective 5-24-92, must be used by an applicant to gain entry into a quota license drawing.

(2) The information contained in the form must be sworn to and must be completed by all parties listed on the application.

(3) The division will only accept applications for filing which are complete. A complete application includes the payment required to enter the drawing. Incomplete applications delivered to the division will be returned with the application fee to the applicant with a letter advising the reason the application is being returned.

Specific Authority 561.08, 561.11 FS. Law Implemented 561.08, 561.11, 561.17, 561.19, 561.20 FS. History—New 3-6-90, Amended 6-28-90, 5-24-92, Formerly 7A-5.747, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Michael A. Martinez, Chief Attorney

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Michael A. Martinez, Chief Attorney

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 20, 2002

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Inactive Registration

RULE NO.: 61J1-2.005

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to inactive registration.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614, 475.619 FS.

LAW IMPLEMENTED: 475.613(2), 475.618, 475.619 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-2.005 Inactive Registration.

(1) An applicant for registration as an appraiser, who has otherwise met the registration requirements, may obtain the registration without the necessity of having designated a licensed or certified appraiser as a primary supervisor. The registration shall automatically be designated inactive upon being issued.

(2) At any time after obtaining registration as an appraiser, the registrant may request inactive status whenever the registrant has no primary supervising licensed or certified appraiser. ~~The request may be made on Form 501.5, Request for Appraiser Status Change, effective July 1991 and incorporated herein by reference.~~ The form may be obtained through the Department of Business and Professional Regulation at 400 W. Robinson St., Orlando, FL 32801.

(3) At any time after obtaining registration as an appraiser the registrant does not have on record with the Department of Business and Professional Regulation the name of a licensed or certified appraiser as a primary supervisor, the registration shall automatically be designated inactive.

(4) Pursuant to s. 475.618(3), F.S., any registration not renewed at the end of the registration period shall automatically be designated inactive.

(5) A registered appraiser, whose registration is designated inactive pursuant to paragraphs 1, 2 or 3, may request an active registration on Form 501.5. If the inactive duration is less than 2 years and does not extend beyond 1 biennial renewal cycle (registration period), no additional education or fee is required.

(6) A registered appraiser, whose registration is designated inactive pursuant to Paragraph 4, or whose inactive status extends beyond the biennial renewal cycle, shall comply with the education and fee requirements of Rule 61J1-4.007 in order to request an active registration.

(7) Any registration which exceeds 4 years in the inactive status shall automatically expire, and the person must meet all the requirements for initial registration.

Specific Authority 475.614, 475.619 FS. Law Implemented 475.613(2), 475.618, 475.619 FS. History—New 9-22-93, Amended 7-5-94, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Application by Individuals
RULE NO.: 61J1-3.001

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to application submissions for licensure.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617, 475.624 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-3.001 Application by Individuals.

(1) An applicant for registration, licensure or certification as an appraiser shall submit an application in such manner as provided by the Department, ~~on form numbers 501.1 or 501.1A, Real Estate Appraiser Application, effective July, 1991, incorporated herein by reference,~~ which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.

(2) The applicant must show that the applicant has the necessary qualifications as follows:

- (a) That the applicant is 18 years of age or older.
- (b) That the applicant holds a high school diploma or its equivalent.

(3) The applicant shall indicate whether the applicant is seeking registration, licensure or certification.

(4) At the time of application, the applicant must furnish evidence of successful completion of the required education and experience, if any, pursuant to Rules 61J1-4.001 or 61J1-4.002, Florida Administrative Code and evidence of the required experience, if any.

(5) At the time of filing the application for registration, licensure or certification, the applicant must sign a pledge to comply with the Uniform Standards of Professional Appraisal Practice as defined in s. 475.611(1)(m), Florida Statutes, and must indicate in writing that the applicant understands the types of misconduct for which disciplinary proceedings may be initiated.

(6) The applicant must make it possible for the board to begin the inquiry as to whether the applicant is competent and qualified to make real estate appraisals with safety to those with whom the applicant may undertake a relationship of trust and confidence and the general public:

(a) By disclosing whether the applicant has ever been convicted or found guilty, or entered a plea of guilty or nolo contendere (no contest) to, regardless of adjudication, of a crime in any jurisdiction which directly relates to the activities of an appraiser, or which involves moral turpitude or fraudulent or dishonest conduct; and

(b) By disclosing any civil proceedings pending against the applicant or if any civil judgment has been rendered against the applicant in a case wherein the pleadings charged the applicant with fraudulent or dishonest dealings; and

~~(c) By disclosing if the applicant is now a patient of a mental health facility or similar institution for the treatment of mental disabilities; and~~

~~(c)(d)~~ By disclosing if the applicant has had a registration, license, or certification to practice any regulated profession, business, or vocation revoked, suspended, disbarred or otherwise acted against by this or any other state, any nation, or any possession or district of the United States, or has had an application for such registration, licensure or certification to practice or conduct any regulated profession, business or vocation denied by this or any other state, any nation, or any possession or district of the United States.

(7) If the applicant fails to take the examination or fails to successfully complete the examination within 1 year of the department receiving the application, the application shall expire and a new application must be filed.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617, 475.624 FS. History—New 10-15-91, Formerly 21VV-3.001, Amended 10-29-98, 1-7-99, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Where to Apply RULE NO.: 61J1-3.002

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to the application process for licensure.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.615 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-3.002 Where to Apply.
Completed applications for registration, licensure or certification shall be submitted in such a manner as provided by the Department, to the Division of Real Estate, 400 West Robinson Street, Orlando, Florida 32801.

Specific Authority 475.614 FS. Law Implemented 475.615 FS. History—New 10-15-91, Formerly 21VV-3.002, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE TITLE: Notice of Satisfactory Course Completion
 RULE NO.: 61J1-4.005

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to record keeping affecting course completion.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.613, 475.615, 475.617, 475.618 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.005 Notice of Satisfactory Course Completion.

(1) Applicants must submit, with the application for registration, licensure or certification a grade report as proof to the Department that they have satisfactorily completed the applicable course(s) prescribed in Rule 61J1-4.001 or 4.002, Florida Administrative Code.

(2) An application for renewal of an existing designation shall contain an affirmation by the individual of having satisfactorily completed the applicable Florida Real Estate Appraisal Board prescribed, conducted or board approved course(s). The Department shall perform random audits of at least 10% of the registrants, licensees, certificate holders and instructors to verify compliance with continuing education requirements. Each registrant, licensee, certificate holder and instructor shall retain the grade report as proof of successful completion of continuing education requirements for at least two years following the end of the renewal period for which the education is claimed. Failing to provide evidence of compliance with continuing education requirements as prescribed in Rules 61J1-4.003, 61J1-4.007 and 61J1-4.008, Florida Administrative Code, or the furnishing of false or

misleading information regarding compliance with said requirements shall be grounds for disciplinary action against the registrant, licensee, certificate holder or instructor.

(3) The grade report must be typed or printed in ink and must be completely filled out by the institution, school or entity certifying successful course completion. The grade report must also include the authorized signature of the school permit holder, chief administrative person or entity.

(4) The grade reports shall contain the following information for the type of course being completed:

(a) Preregistration, Prelicensing or Precertification Course For Appraiser

- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Exam Date
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

(b) Appraisers Continuing Education

- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Registration, License or Certificate Number
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

(c) Instructor Continuing Education

- Name of School, Institution or Entity
- Address of School, Institution or Entity
- Course Title
- Course Hours
- Start Date
- Finish Date
- Permit Number
- Student's Name
- Student's Address
- Authorized Signature for the School, Institution or Entity

(5) Each grade report shall state:

The student named in this report has completed the referenced course in accordance with the requirements of the Florida Real Estate Appraisal Board.

(6) The original grade report is to be given to the student and a copy retained by the school.

Specific Authority 475.614 FS. Law Implemented 475.613, 475.615, 475.617, 475.618 FS. History—New 10-15-91, Formerly 21VV-4.005, Amended 7-19-95, 4-6-98, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Appraisal Board
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Florida Real Estate Appraisal Board
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: August 6, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: July 19, 2002, Section IV

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
 REGULATION**

Florida Real Estate Appraisal Board

RULE TITLE: Office
 RULE NO.: 61J1-7.004

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule amendment affects rule provisions relating to obtaining application form for submission for changes relating to licensure.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.623 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-7.004 Office.

(1) All appraisers who have an active registration, license or certification pursuant to Part II, Chapter 475, Florida Statutes, shall furnish in writing to the Department of Business and Professional Regulation each business address from which he operates in the performance of appraisal services.

(2) Each such appraiser must notify the department of any change of address within 10 days of the change of address in such a manner as provided by the Department, on form 501.5, Request For Appraiser Status Change, effective July, 1991, and

~~incorporated herein by reference~~, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.

Specific Authority 475.614 FS. Law Implemented 475.623 FS. History—New 10-15-91, Formerly 21VV-7.004, Amended _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
 Florida Real Estate Appraisal Board
 NAME OF SUPERVISOR OR PERSON WHO APPROVED
 THE PROPOSED RULE: Florida Real Estate Appraisal Board
 DATE PROPOSED RULE APPROVED BY AGENCY
 HEAD: August 6, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT
 PUBLISHED IN FAW: July 19, 2002, Section VI

**DEPARTMENT OF BUSINESS AND PROFESSIONAL
 REGULATION**

Florida Real Estate Appraisal Board

RULE TITLE: Temporary Practice
 RULE NO.: 61J1-7.005

PURPOSE AND EFFECT: The purpose of the proposed rule is to bring the rule into compliance with statutory changes.

SUMMARY: The proposed rule change affects rule provisions relating to obtaining application forms for submission for temporary licensure.

SUMMARY OF STATEMENT OF ESTIMATE OF REGULATORY COSTS: No Statement of Estimated Regulatory Costs was 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: 475.614 FS.

LAW IMPLEMENTED: 475.630 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: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N809, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-7.005 Temporary Practice.

(1) Pursuant to the provisions of Section 475.630, Florida Statutes, the Board shall recognize, on a temporary basis, the license or certification of an appraiser issued by another state, if:

(a) The property to be appraised is part of a federally related transaction, as that term is defined in Section 475.611(1)(j), Florida Statutes.

(b) The appraiser’s business is of a temporary nature. Temporary nature shall be defined to mean a single appraisal assignment for the time necessary to perform the appraisal assignment.

(c) The appraiser registers with the Board. Registration shall in such manner as provided by the Department, be on form 501.6, Application For Non-Resident Temporary Practice Permit, effective August, 1991, and incorporated by reference, which may be obtained through the department at 400 West Robinson Street, Orlando, Florida 32801.

(d) The person requesting recognition of a license or certification as an appraiser issued by another state is a nonresident of Florida.

(2) In order to register with the Board, the appraiser must:

(a) Pay the fee as established in Rule 61J1-2.001, Florida Administrative Code.

(b) Provide certified copies of proof of licensure or certification in another state and certified copies of the records of any disciplinary action taken against the appraiser’s license or certification in that or any other jurisdiction. If no disciplinary action has taken place, then a certification of no action must be provided.

(c) Agree in writing to cooperate with any investigation initiated under Part II, Chapter 475, Florida Statutes, as provided in Section 475.630(2)(c), Florida Statutes.

(d) Sign a notarized statement that the appraiser has read Part II, Chapter 475, Florida Statutes and Rules 61J1, Florida Administrative Code, and agrees to abide by these provisions in all appraisal activities.

(3) The Department shall issue a numbered temporary permit and the number shall be used in the appraisal report performed under the permit.

Specific Authority 475.614 FS. Law Implemented 475.630 FS. History—New 10-15-91, Formerly 21VV-7.005, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 19, 2002, Section VI

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 02-45R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Underground Injection Control 62-528

RULE TITLES: RULE NOS.:

Underground Injection Control: Scope 62-528.120

Underground Injection Control: Definitions 62-528.200

Underground Injection Control: General Provisions 62-528.300

General Criteria for Class V Wells 62-528.600

Federal Regulations Applicable to Class V Wells 62-528.601

Monitoring Requirements for Class V Wells 62-528.615

Reporting Requirements for Class V Wells 62-528.620

General Permitting Requirements for Class V Wells 62-528.630

Construction/Clearance Permit for Class V Wells 62-528.635

PURPOSE, EFFECT AND SUMMARY: The proposed amendments adopt by reference the federal regulations for Class V injection wells at 40 C.F.R. 144.88 (2000). The full text of this notice is published on the Internet at the Department of Environmental Protection’s home page at <http://www.dep.state.fl.us/> under the link or button titled “Official Notices.” Or for more information, contact Donnie McLaugherty, Department of Environmental Protection, Bureau of Water Facilities Regulation, MS #3580, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; telephone (850)245-8645

DEPARTMENT OF ENVIRONMENTAL PROTECTION

DOCKET NO.: 01-48R

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Water Well Contractors 62-531

RULE TITLE: RULE NO.:

Unlawful Acts, Grounds for Disciplinary

Actions, and Penalties 62-531.450

PURPOSE AND EFFECT: The purpose of the proposed amendments is to strengthen the disciplinary actions that may be taken against licensed water well contractors who violate water well permitting and construction rules by modifying the Water Well Contractors Disciplinary Guidelines and Procedures Manual, as referenced in subsection 62-531.450(6), F.A.C. The rule amendment will also revise the chapter title.

SUMMARY: The proposed amendments to the Water Well Contractors Disciplinary Guidelines and Procedures Manual will modify the points and monetary penalties matrix to provide more effective disciplinary action for violations of water well construction, repair, or abandonment rules; require points assessed against a contractor’s license to remain in affect for a period of 3 years; modify the points and penalty adjustment factor for good faith effort and history of non-compliance; require point reduction workshops to be rated at 1 point per classroom hour; allow no more than 18 classroom hours of point reduction workshops to reduce license points in any biennial licensing period; and allow no more than 27 class room hours of point reduction workshops to reduce license points in any two consecutive licensing periods. The chapter title will be changed to Water Well Contractor Licensing Requirements.

The full text of this notice is published on the Internet at the Department of Environmental Protection's home page at http://www.dep.state.fl.us/ under the link or button titled "Official Notices." Or for more information, contact David C. James, Department of Environmental Protection, Bureau of Water Facilities Regulation, MS #3580, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400; telephone (850)245-8644.

DEPARTMENT OF HEALTH

Board of Nursing Home Administrators

RULE TITLE: Criteria for Approved Continuing Education RULE NO.: 64B10-15.002

PURPOSE AND EFFECT: The least credit hour(s) acceptable for continuing education programs is reduced from 3 to 1 in Rule 64B10-15.002.

SUMMARY: The proposed amendment in Rule 64B15.002 reduces the minimum credit hours per program course from 3 to 1.

SPECIFIC AUTHORITY: 468.1685(1), 468.1715(3) FS.

LAW IMPLEMENTED: 456.013, 468.1715, 468.1725 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: John Taylor, Executive Director, Board of Nursing Home Administrators, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-1753

THE FULL TEXT OF THE PROPOSED RULE IS:

64B10-15.002 Criteria for Approved Continuing Education.

(1) through (9) No change.

(10) The Board shall not accept credit for continuing education programs of less than 1 ~~3~~ contact hours. Attendance credit in fractions of an hour shall not be granted.

Specific Authority 468.1685(1), 468.1715(3) FS. Law Implemented 456.013, 468.1715, 468.1725 FS. History--New 12-11-80, Amended 2-20-83, Formerly 21Z-15.02, Amended 6-22-87, 2-26-89, 12-6-89, 11-11-92, Formerly 21Z-15.002, 61G12-15.002, 59T-15.002, Amended 10-12-97,_____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Nursing Home Administrators

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Nursing Home Administrators

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 3, 2002 and August 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 27, 2002

DEPARTMENT OF HEALTH

Board of Osteopathic Medicine

RULE TITLE: Standard of Care for Office Surgery RULE NO.: 64B15-14.007

PURPOSE AND EFFECT: The Board proposes to update the rule to conform with amendments recently adopted by the Board of Medicine.

SUMMARY: The Board is amending the rule to address the standards of care for surgery performed in physicians' offices.

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 regulatory cost alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 459.005(1), 459.015(1)(z), 459.026 FS.

LAW IMPLEMENTED: 459.015(1)(g),(x),(z),(aa), 459.026 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AT THE BOARD'S NEXT MEETING TO BE HELD ON DECEMBER 7, 2002 IN ORLANDO, FLORIDA.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam King, Executive Director, Board of Osteopathic Medicine/MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3256

THE FULL TEXT OF THE PROPOSED RULE IS:

64B15-14.007 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

(1) No change.

(2) General Requirements for Office Surgery.

(a) The surgeon must examine the patient immediately before the surgery to evaluate the risk of anesthesia and of the surgical procedure to be performed. The surgeon must maintain complete records of each surgical procedure, as set forth in Rule 64B15-15.004, Florida Administrative Code, F.A.C., including anesthesia records, when applicable and the records shall contain written informed consent from the patient reflecting the patient's knowledge of identified risks, consent to the procedure, type of anesthesia and anesthesia provider, and that a choice of anesthesia provider exists, i.e., anesthesiologist, another appropriately trained physician as provided in this rule, certified registered nurse anesthetist, or physician assistant qualified as set forth in Rule 64B15-6.010(2)(b)6., Florida Administrative Code, F.A.C.

(b) through (g) No change.

(h) The surgeon must assure that the post-operative care arrangements made for the patient are adequate to the procedure being performed as set forth in Rule 64B15-14.006,

Florida Administrative Code, F.A.C. Management of post-surgical care is the responsibility of the operating surgeon and may be delegated only as set forth in Rule 64B15-14.006(3), Florida Administrative Code, F.A.C. If there is an overnight stay at the office in relation to any surgical procedure:

1. through 2. No change.

(i) through (k) No change.

(l) A sign must be prominently posted in the office which states that the office is a doctor's office regulated pursuant to the rules of the Board of Osteopathic Medicine as set forth in Rule Chapter 64B15, Florida Administrative Code, F.A.C. This notice must also appear prominently within the required patient informed consent.

(3) No change.

(4) Level II Office Surgery.

(a) No change.

(b) Standards for Level II Office Surgery.

1. Transfer Agreement Required. The physician must have a transfer agreement with a licensed hospital within reasonable proximity if the physician does not have staff privileges to perform the same procedure as that being performed in the out-patient setting at a licensed hospital within reasonable proximity. "Reasonable proximity" is defined as not to exceed thirty (30) minutes transport time to the hospital.

~~2.1. Training Required. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or~~ The surgeon must be able to document satisfactory completion of training such as Board certification or Board eligibility by a Board approved by the American Osteopathic Association, the American Board of Medical Specialties, the Accreditation Council on Graduate Medical Education or any other board approved by the Board of Osteopathic Medicine or must be able to establish comparable background, training, and experience. The surgeon and one assistant must be currently certified in Basic Life Support and the surgeon or at least one assistant must be currently certified in Advanced Cardiac Life Support or have a qualified anesthesia provider practicing within the scope of the provider's license manage the anesthesia.

~~3.2. Equipment and Supplies Required.~~

a. through j. No change.

~~4.3. No change.~~

(5) No change.

(6) Level III Office Surgery.

(a) No change.

(b) Standards for Level III Office Surgery. In addition to the standards for Level II Office Surgery, the surgeon must comply with the following:

1. Training Required.

a. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board qualification by a Board approved by the American Osteopathic Association, the American Board of Medical Specialties, the Accreditation Council on Graduate Medical Education or any other board approved by the Board of Osteopathic Medicine or must be able to demonstrate to the accrediting organization or to the Department comparable background, training and experience. In addition, the surgeon must have knowledge of the principles of general anesthesia.

b. No change.

2. through 4. No change.

Specific Authority 459.005(1), 459.015(1)(z), 459.026 FS. Law Implemented 459.015(1)(g),(x),(z),(aa), 459.026 FS. History--New 11-29-01, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:
Board of Osteopathic Medicine
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Osteopathic Medicine
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 10, 2002

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Body Piercing	64E-19
RULE TITLES:	RULE NOS.:
Forms	64E-19.003
Requirements for Sterilizing Jewelry and Instruments	64E-19.005
Piercing Procedures	64E-19.006
Other Operations	64E-19.007

PURPOSE AND EFFECT: The purposes of amending subsection 64E-19.003(1), F.A.C., and paragraph 64E-19.003(1)(b), F.A.C., are to comply with the requirements of s. 120.55(1)(a)4., F.S., that the reference used to incorporate a form into a rule shall specifically state both the effective date of the form and an explanation of how the form may be obtained. The effects are to allow identification of the effective date of DH Form 4122, Body Piercing Salon Injury Report, and to indicate how the form may be obtained.

The purpose of amending subsection 64E-19.005(1), F.A.C., is to describe liquids to be used to sterilize jewelry that will be inserted into piercings. The effect is to allow inspectors to identify such liquids in body piercing establishments.

The purposes of amending paragraph 64E-19.006(8)(a), F.A.C., are to describe antiseptic solutions that can be used for preparation of the site to be pierced, to remove the need for shaving of the site to be done with a surgical scrub, and to

describe the razor used for necessary shaving of the site. The effects are to allow identification of antiseptic solutions used as site preps, to remove the need to identify surgical scrubs, and to make razor properties consistent with those of other items required for use by body piercers.

The purpose of amending subsection 64E-19.007(2), F.A.C., is to describe the form that shall be used to comply with the subsection. The effect is to allow identification of the form.

The purpose of amending paragraph 64E-19.007(6)(e), F.A.C., is to describe parameters that relate to knowledge, experience, and credentials that must be possessed by persons who would present required training to body piercers and establishment operators. The effect is to be able to identify such persons.

SUMMARY: Instructional verbiage for completing DH Form 4122, Body Piercing Salon Injury Report, has been changed to comply with the requirements of s. 381.0075(11)(a)8., F.S., and subsection 64E-19.007(2), F.A.C. Amending subsection 64E-19.003(1), F.A.C., presents the correct address for obtaining the form. Amendments to paragraph 64E-19.003(1)(b), F.A.C., and subsection 64E-19.007(2), F.A.C., change the effective date of the form.

Subsection 64E-19.005(1), F.A.C., currently allows jewelry that is to be inserted into a piercing to be sterilized with a liquid that is approved by the FDA. As the FDA does not approve liquid sterilants but instead clears them for use, the amendment will identify liquid sterilants that fall into this latter category.

Paragraph 64E-19.006(8)(a), F.A.C., currently requires that sites to be pierced be shaved, if necessary, and then cleansed with an FDA-approved pre-surgical scrub. No parameters are set forth for the razor used to shave the site. As the FDA does not approve pre-surgical scrubs, the amendment proposes use of specific FDA labeling to limit the products that can be used as site preps. Also, as an antiseptic solution will be applied to the site subsequent to any shaving, the requirement that shaving be done with a pre-surgical scrub is removed. For consistency with requirements for other body piercing items, the amendment requires that the razor used for shaving a piercing site be single-use, disposable.

The amendment to paragraph 64E-19.007(6)(e), F.A.C., sets forth parameters for the knowledge, experience, and credentials required of persons who would present training for body piercers and establishment operators. Where presently no parameters exist, the amendment attempts to ensure that the requirements of this rule are met.

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 alternative must do so in writing within 21 days of this notice.

SPECIFIC AUTHORITY: 381.0075(10) FS.

LAW IMPLEMENTED: 381.0075(10),(11) FS.

IF REQUESTED WITHIN 21 DAYS 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., Friday, November 1, 2002

PLACE: Division of Environmental Health, Bureau of Facility Programs, 4042 Bald Cypress Way, Conference Room 240P, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Edward J. Golding, Bureau of Facility Programs, 4052 Bald Cypress Way, BIN #A08, Tallahassee, Florida 32399-1710, (850)245-4277

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-19.003 Forms.

(1) All forms listed in this section are incorporated by reference. Forms used by the public may be obtained from the county health department in the county of their location or the Department of Health, 4052 Bald Cypress Way, 2020 Capital Circle, S. E., BIN A08, Tallahassee, Florida 32399-1710.

(a) No change.

(b) DH Form 4122, 9/02, ~~10/99~~, Body Piercing Salon Injury Report.

(c) through (2) No change.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(5)(b), (9),(10) FS. History--New 1-21-00, Amended.

64E-19.005 Requirements for Sterilizing Jewelry and Instruments.

(1) All non-disposable instruments used for body piercing shall be cleansed and sterilized after each use in the manner prescribed in subsection 381.0075(11), F.S. including the temperature requirements. Autoclave sterilization shall be conducted for the cycle of time and corresponding operating pressure recommended by the manufacturer of the autoclave. Sanitizers used in the cleaning process must have demonstrated tuberculocidal activity, as indicated by the product label, and be registered with the U.S. Environmental Protection Agency. Jewelry may be sterilized with a liquid chemical sterilant that is cleared for use ~~approved~~ by the U.S. Food and Drug Administration (~~FDA~~) as long as the jewelry is sterilized according to the procedures on the product label.

(2) through (6) No change.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10),(11) FS. History--New 1-21-00, Amended.

64E-19.006 Piercing Procedures.

(1) through (7) No change.

(8) Preparation and Care of the Pierced Area.

(a) If shaving is necessary prior to a body-piercing procedure, a single-use disposable razor shall be used. In accordance with subparagraph 381.0075(11)(a)4., F.S., before performing a body piercing procedure, the skin and

surrounding area where the piercing is to be done shall be thoroughly cleansed with a solution labeled as an antiseptic for preparation of the skin 1) prior to surgery, or 2) prior to an injection. The antiseptic solution shall be used an FDA-approved pre-surgical scrub in accordance with the manufacturer's ~~instructions~~ directions. A single use sterile gauze pad or other suitable sterile product ~~shall~~ may be used for applying washing the antiseptic solution skin. If shaving is necessary, the skin shall be gently scrubbed with an FDA-approved pre-surgical scrub in accordance with the manufacturer's directions, using a sterile gauze pad, before and after the shaving.

Before an oral piercing procedure, customers must rinse their mouths with an antiseptic mouthwash.

(b) through (c) No change.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(10),(11) FS. History—New 1-21-00, Amended.

64E-19.007 Other Operations.

(1) No change.

(2) Reporting Complaints of Injuries. As specified in subparagraph 381.0075(11)(a)8., F.S., any injury or complaint of injury, suspected infections that required treatment by a licensed practitioner, or any notifiable diseases resulting from the body-piercing procedure that become known to the operator shall be reported to the local county health department by the operator within 72 hours of the operator becoming aware of the complaint or condition. The report shall be submitted on DH Form 4122, 9/02, 10/99, Body Piercing Salon Injury Report.

(3) through (6)(d)2. No change.

(e) Training courses required by this chapter must be presented by a person or persons who possess the knowledge, experience and credentials to teach the required subjects as cited in "Knowledge, Experience, and Credentials for Trainers per Chapter 64E-19, Florida Administrative Code", May 16, 2002, herein incorporated by reference. Any individual or organization requesting the department to review their training courses for compliance with the requirements of this chapter shall submit copies of their training materials to the Bureau of Facility Programs, 4052 Bald Cypress Way 2020 Capital Circle, S. E., BIN A08, Tallahassee, Florida 32399-1710. The materials submitted must include credentials of trainers and persons compiling the training materials, a copy of the classroom or correspondence course curriculum, and copies of written materials to be received by trainees. The bureau shall review the materials and inform the applicant of its findings within 30 days from receipt of the last training materials received from the applicant. When changes are made to a training course that has been reviewed and accepted by the department, those changes shall also be submitted to the bureau for review prior to implementing the changes.

Specific Authority 381.0075(10) FS. Law Implemented 381.0075(7),(10),(11) FS. History—New 1-21-00, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Edward J. Golding, Environmental Specialist III, Bureau of Facility Programs

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edith Coulter, Environmental Health Program Consultant, Bureau of Facility Programs

DATES PROPOSED RULE APPROVED BY AGENCY HEAD: March 12, 2002; April 19, 2002

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 19, 2001; November 21, 2001

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE TITLES:	RULE NOS.:
Application	64E-23.001
Renewal	64E-23.002
Payment	64E-23.003

PURPOSE AND EFFECT: To implement 2002 statutory amendments requiring rules and forms to administer the Nursing Student Loan Forgiveness Program.

SUMMARY: The rule establishes: a process for nurses to initially apply for enrollment into the Nursing Student Loan Forgiveness Program; a renewal application process to continue participation in the program; criteria for transmitting funds to lenders; and, procedures to administer the Nursing Student Loan Forgiveness Program.

STATEMENT OF ESTIMATED REGULATORY COSTS: None 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: 1009.66 FS.

LAW IMPLEMENTED: 1009.66 FS.

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

TIME AND DATE: 10:00 a.m., November 5, 2002

PLACE: Division of Emergency Medical Services and Community Health Resources, 4025 Esplanade Way, Room 320N, Tallahassee, Florida 32311-7829

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Caroline Roth, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin #C15, Tallahassee, Florida 32399-1735, (850)245-4444, Ext. 2711 or Fax (850)922-6296

THE FULL TEXT OF THE PROPOSED RULES IS:

64E-23.001 Application.

(1) In accordance with Nursing Student Loan Forgiveness Program Application Package, June 2002, October 2001, in order to apply for enrollment into the Nursing Student Loan

Forgiveness Program, applicants must submit: a completed Application, DH 1932, 06/02 10/01; a completed Employment Verification, DH 1935, 06/02 10/01; a completed Loan Principal Certification, DH 1936, 06/02 10/01; a photocopy of the applicant's current nursing license; and a photocopy of the applicant's nursing school diploma. The Nursing Student Loan Forgiveness Program Application Package and forms are incorporated by reference and available from the Department of Health, Division of Emergency Medical Services and Community Health Resources, 4052 Bald Cypress Way, Bin C-15, Tallahassee, Florida 32399-1735.

(2) No change.

Specific Authority 1009.66 240.4075 FS. Law Implemented 1009.66 240.4075 FS. History--New 3-2-02, Amended.

64E-23.002 Renewal.

(1) In order to continue in the Nursing Student Loan Forgiveness Program, program participants must renew. The Renewal Application, DH 1933, 06/02 10/01, which is incorporated by reference and available from the department, will be mailed to program participants, by the department, within 30 days before the ending date, each year, of the program participant's employment years.

(2) No change.

Specific Authority 1009.66 240.4075 FS. Law Implemented 1009.66 240.4075 History--New 3-2-02, Amended.

64E-23.003 Payment.

(1) The department will provide for the delivery of funds directly to the federal or state program, or commercial lending institution, or holder of the program participant's loan principal, on behalf of the program participant, by use of the Loan Principal Repayment Invoice, DH 1934, 06/02 10/01, which is incorporated by reference and available from the department, requesting the State Comptroller to issue warrants made payable to the federal or state program, or commercial lending institution, or holder of the program participant's loan principal and forwarded to the federal or state program, commercial lending institution, or holder of the program participant's loan principal.

(a) The Loan Principal Repayment Invoice will be mailed to program participants, by the department, within 30 days before the ending date, each year, of the program participant's employment years.

(b) The program participant's Loan Principal Repayment Invoice must be received by the department, each year, no later than 30 days after the start of the program participant's next employment year, in order for payment to be made.

(2) No change.

Specific Authority 1009.66 240.4075 FS. Law Implemented 1009.66 240.4075 FS. History--New 3-2-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Caroline Roth, Program Administrator
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Phil Williams, Division Director
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2002
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: JUNE 28, 2002
 P.O. B00829

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Economic Self-Sufficiency Program

RULE TITLES:	RULE NOS.:
Definitions	65A-1.701
Family-Related Medicaid Eligibility Determination Process	65A-1.704
Family-Related Medicaid General Eligibility Criteria	65A-1.705
SSI-Related Medicaid Coverage Groups	65A-1.710
SSI-Related Medicaid Non-Financial Eligibility Criteria	65A-1.711
SSI-Related Medicaid Resource Eligibility Criteria	65A-1.712
SSI-Related Medicaid Income Eligibility Criteria	65A-1.713
Income and Resource Criteria	65A-1.716

PURPOSE AND EFFECT: Rules 65A-1.701, 65A-1.713 and 65A-1.716, F.A.C., are amended to revise the percentage of the monthly poverty income guidelines that is used in the MEDS-AD Medicaid program as the maximum income for applicants. The 2001 legislature, in special session, amended Section 409.904(1), F.S., to reduce the percentage of the federal poverty guidelines used to determine maximum income applicable in the MEDS-AD program from 90% to 88%. This legislative action is effective July 1, 2002.

Rules 65A-1.710, 65A-1.711, 65A-1.712 and 65A-1.713, F.A.C., are amended to implement the Ron Silver Senior (Silver Saver) Drug Program that was created by the 2002 legislature's amendment, in special session, of Section 409.9065, F.S. This program provides certain senior Florida residents who are eligible for Medicare Part A with limited prescription drug coverage. This legislative action is effective August 1, 2002.

Rules 65A-1.701, 65A-1.710, 65A-1.711, 65A-1.712 and 65A-1.713, F.A.C., are amended to specify criteria for Traumatic Brain Injury and Spinal Cord Injury Waiver eligibility. This coverage group has not previously been specified in rule.

Additionally, these proposed rule amendments implement optional Medicaid breast and cervical cancer treatment coverage; clarify statements about Home and Community Based Services coverage, specify income limits for Q11 and Q12 coverage; and, incorporate forms by reference.

SUMMARY: The forms CF-ES 2293, CIC Request for Medicaid (by) Department of Juvenile Justice, and the revised Pregnant Women’s application for Medicaid are incorporated by reference in Rule 65A-1.704, F.A.C. The revised KidCare form CF-ES 2092, Ineligibility for Medicaid, is incorporated by reference in Rule 65A-1.705, F.A.C.

Amendments to Rules 65A-1.701, 65A-1.713 and 65A-1.716, F.A.C., reduce the percentage of the federal poverty level used in the MEDS-AD Program from 90% to 88% as required by the 2001 Legislature. Amendments to Rules 65A-1.710, 65A-1.711, 65A-1.712 and 65A-1.713, F.A.C., implement the Ron Silver Senior Drug Program created by the 2002 Legislature. Amendments to Rules 65A-1.701, 65A-1.710, 65A-1.711, 65A-1.712 and 65A-1.713, F.A.C., specify criteria for Traumatic Brain Injury and Spinal Cord Injury Waiver eligibility.

Rule 65A-1.711, F.A.C., is amended additionally to implement the breast and cervical cancer treatment program and clarify Home and Community Based Services coverage statements. Criteria for breast and cervical cancer treatment coverage are implemented as provided for in Sections. 1902(aa) and 1920B of the Social Security Act. The Medicaid application for breast and cervical cancer treatment and a verification letter are incorporated by reference. Home and Community Based Services coverage statements are changed to clarify federal citations and waiver criteria that must be met for an individual to be eligible for Home and Community Based Services.

Rule 65A-1.713, F.A.C., is amended additionally to establish income limits for QI1 and QI2 coverage respectively.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: An estimate of the regulatory cost was not prepared for these 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: 409.918, 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.9065, 409.918, 409.919 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: 2:00 p.m., November 4, 2002

PLACE: Building 3, Room 100, 1317 Winewood Boulevard, Tallahassee, FL 32399-0700

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Audrey Mitchell, Program Administrator, 1317 Winewood Boulevard, Building 3, Room 421, Tallahassee, FL 32399-0700, (850)488-3090

THE FULL TEXT OF THE PROPOSED RULES IS:

65A-1.701 Definitions.

(1) through (19) No change.

(20) MEDS-AD: An optional categorical Medicaid coverage group for aged or disabled individuals who meet all SSI-related Medicaid non-financial eligibility criteria, whose resources do not exceed the limit in the Medically Needy Program, and whose income is at or below ~~88~~ 90 percent of the federal poverty level.

(21) through (35) No change.

(36) Traumatic Brain Injury and Spinal Cord Injury/ Home and Community-Based Services: A Home and Community-Based Services (HCBS) waiver program for individuals age 18 and older who have a traumatic brain or spinal cord injury and are not enrolled or eligible for the Medically Needy Program.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.919 FS. History–New 10-8-97, Amended 2-15-01, _____

65A-1.704 Family-Related Medicaid Eligibility Determination Process.

(1) Public assistance staff determine eligibility for Family-related Medicaid at application, when a change in conditions of eligibility is reported, or, on not greater than a 12 month cycle. The individual or the designated representative is required to assist the department in completing the determination or redetermination of Medicaid eligibility. Qualified designated Medicaid providers determine presumptive eligibility for pregnant women. Requests for Medicaid coverage on behalf of children in care of the Department of Juvenile Justice are made on form CF-ES 2293, Child In Care Request for Medicaid Department of Juvenile Justice, March 2000 (incorporated by reference).

(2) Simplified Eligibility for Pregnant Women.

(a) The application form for a pregnant woman applying only for Medicaid for herself based on pregnancy is CF-ES Form 2700, June 2002 July 2004 (incorporated by reference). This form and attached information/rights and responsibilities (pages 3 & 4) may be used as a mail-in application form or it may be provided directly to a local Children and Family Services office, health department or other Qualified Designated Provider (QDP). Copies of the mail-in application forms may be made available to pregnant women in health departments and other QDP sites as well as selected doctors’ offices designated by each district/regional Economic Self-Sufficiency Program Office. ~~Copies of this form may be obtained by the public from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.~~

(b) through (3) No change.

(4) Assistance groups receiving transitional Medicaid are required to provide periodic reports at three month intervals. The recipient must provide complete information about gross income and work related child care expenses for the period of ~~the covered on these~~ reports. The recipient's statement of the amounts will be accepted.

(5) Copies of forms incorporated by reference in this rule may be obtained by the public from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.919, FS. History--New 10-8-97, Amended 2-7-01, Amended 10-22-01, _____.

65A-1.705 Family-Related Medicaid General Eligibility Criteria.

(1) through (8)(f) No change.

(g) When an applicant applies for Medicaid, ~~and~~ is determined eligible, ~~and but~~ is subsequently found to have been approved in error, the notice, Ineligibility for ~~to Receive~~ Medicaid, CF-ES 20923, March 01 July 99 (incorporated by reference), will be submitted to the applicant along with ~~another~~ KidCare Application. The applicant will be instructed to mail the notice and application to Florida KidCare. When the children are eligible, then have a change in circumstance and are no longer eligible for Medicaid, the same notice, Loss of Eligibility to Receive Medicaid, CF-ES 2092, July 99 (incorporated by reference), will be mailed to the recipient along with another KidCare Application. In addition to form CF-ES 2092 ~~or CF-ES 2093~~, the family will receive an automated notice of case action form CF-ES 2601, Notice of Case Action (incorporated by reference in Rule 65A-1.400), F.A.C.

(h) No change.

(i) Copies of the forms CF-ES 1055, CF-ES 1056, CF-ES 1057, CF-ES 1058, CF-ES 2083, CF-ES 2084, CF-ES 2092, CF-ES 2093, CF-ES 2277 and CF-ES 2284 as incorporated by reference in this rule paragraph 65A-1.705(5), F.A.C., may be obtained from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Specific Authority 409.818, 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.818, 409.919 FS. History--New 10-8-97, Amended 9-28-98, 4-5-99, 11-23-99, 2-18-01, 9-24-01, _____.

65A-1.710 SSI-Related Medicaid Coverage Groups.

The department covers all mandatory coverage groups and the following optional coverage groups:

(1) through (5) No change.

(6) Ron Silver Senior Drug Program. A coverage group as defined in subsection 59G-12.002(4), F.A.C. AHCA sets an enrollment ceiling for this program as specified in Rule 59G-12.003, F.A.C. Two forms specific to the program are used in the eligibility determination process for this program.

The application form is CF-ES Form 2935, Sep 02 (incorporated by reference), and the eligibility notices are CF-ES Form 2936, Sep 02, and CF-ES Form 2936A, Sep 02 (both incorporated by reference).

(7) Traumatic Brain Injury and Spinal Cord Injury Waiver Program. Individuals must be eligible for SSI, MEDS-AD or Home and Community Based Services; must be age 18 or older; must not be enrolled in or eligible for the Medically Needy Program and, must have a traumatic brain or spinal cord injury.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.9065, 409.919 FS. History--New 10-8-97, Amended 1-27-99, _____.

65A-1.711 SSI-Related Medicaid Non-Financial Eligibility Criteria.

To qualify for Medicaid an individual must meet the general and categorical requirements in 42 C.F.R. Part 435, subparts E and F, with the exception that individuals who are neither aged nor disabled may qualify for breast and cervical cancer treatment, and the following program specific requirements as appropriate:

(1) through (3) No change.

(4) To be eligible for a Home and Community Based Services Waiver program HCBS, an individual must meet the requirements of Rule 59G-8.200, F.A.C. An individual cannot receive waiver coverage and institutional care program coverage at the same time. An individual residing in a nursing home may apply for the waiver, but the individual's approval must be subject to their discharge and move into a community living arrangement. AHCA, in coordination with the program responsible for the daily operations of the waiver, requests the number of individuals to be served by the waiver as part of each waiver submission. The Centers for Medicare and Medicaid Services approves the request based on information provided by the state. Additionally, an individual must meet the criteria for one of the following waivers:

(a) Be at least 65 years of age and meet the requirements of ~~rule~~ subsection 65A-1.701(5)(6), F.A.C., to participate in the Channeling waiver; or,

(b) Be determined disabled in accordance with SSI disability criteria set forth in 42 C.F.R. §§ 435.540 and 435.541, F.S., (both incorporated by reference) and meet the requirements of subsection 65A-1.701(24)(22), F.A.C., to participate in the Project AIDS Care waiver; or,

(c) Be age 65 or older, or be 18 years of age through 64 years of age and disabled in accordance with SSI disability criteria set forth in 42 C.F.R. §§ 435.540 and 435.541, F.S., (both incorporated by reference), and meet the requirements of subsection 65A-1.701(1), F.A.C., to participate in the ADA/Home and Community Based Services HCBS waiver program or ~~subsection 65A-1.701(10), F.A.C., to participate in the Developmental Services waiver program; or,~~

(d) Be disabled in accordance with SSI disability criteria set forth in 42 C.F.R. §§ 435.540 and 435.541, F.S., (both incorporated by reference) and meet the requirements of subsection 65A-1.701(10), F.A.C., to participate in the Developmental Services waiver program; or,

(e)(~~d~~) Be age 60 or older and meet the requirements in ~~rule~~ subsection 65A-1.701(3), F.A.C., to participate in the Assisted Living waiver; or,

(e) Be determined to be in medical need in accordance with paragraph 59G-8.200(4)(b), F.A.C.;

(f) Be age 18 or older and disabled in accordance with SSI disability criteria set forth in 42 CFR §§ 435.540 and 435.541, F.S., (both incorporated by reference) with a medical condition of traumatic brain injury or spinal cord injury in accordance with the Centers for Medicare and Medicaid Services approved Medicaid waiver. Be receiving HCBS as certified by a case manager in accordance with the provisions of the waiver.

(5) through (6) No change.

(7) In addition, optional coverage is provided in accordance with Sections 1920B and 1902(aa) of the Social Security Act as it pertains to breast and cervical cancer treatment. This coverage is provided only for the duration of the individual's treatment. Applicants are referred by the Department of Health. A face to face interview is not required as a result of this referral. The application form for this coverage is CF-ES 2099, Medicaid Application for Breast and Cervical Cancer Treatment, July 2002 (incorporated by reference). Additional rights and responsibilities are explained to applicants on form CF-ES 2064, Your Rights and Responsibilities (incorporated by reference in Rule 65A-1.204, F.A.C.); this form is provided to each applicant. A form requesting verification of the length of treatment, CF-ES 2701, Dec. 2001 (incorporated by reference), along with a return envelope are given to the applicant to obtain the required verification from the provider. Alternatively, this information may be obtained by the department through telephone contact with the provider, when known.

(8) For the Ron Silver Senior Drug Program the individual must meet the requirements of subsection 59G-12.003(1), F.A.C. A face to face interview is not required for this program.

(9) Copies of the forms incorporated by reference in this rule may be obtained from the Department of Children and Family Services, Economic Self-Sufficiency Program Office, 1317 Winewood Boulevard, Tallahassee, Florida 32399-0700.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.9065, 409.919 FS. History—New 10-8-97, Amended _____.

65A-1.712 SSI-Related Medicaid Resource Eligibility Criteria.

(1) Resource Limits. If an individual's total resources are equal to or below the prescribed resource limits at any time during the month the individual is eligible on the factor of

resources for that month. The resource limit is the SSI limit specified in Rule 65A-1.716, F.A.C., with the following exceptions:

(a) through (e) No change.

(f) For the Ron Silver Senior Drug Program, there is no resource limit.

(g) For the Traumatic Brain Injury and Spinal Cord Injury Waiver Program an individual cannot have countable resources that exceed \$2,000. If the individual's income falls within the MEDS-AD limit, the individual can have resources up to \$5,000. No penalties apply to transfers of assets or resources made to spouses. But penalties may apply to transfers to others. Spousal impoverishment policies do not apply.

(2) through (4) No change.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.9065, 409.919 FS. History—New 10-8-97, Amended 1-17-99, _____.

65A-1.713 SSI-Related Medicaid Income Eligibility Criteria.

(1) Income limits. An individual's income must be within limits established by federal or state law and the Medicaid State Plan. The income limits are as follows:

(a) For MEDS-AD, income cannot exceed ~~88~~ 90 percent of the federal poverty level after application of exclusions specified in subsection 65A-1.713(2), F.A.C.

(b) through (i) No change.

(j) For a Qualified Individual 1 (QI1), income must be greater than 120 percent of the federal poverty level, but equal to or less than 135 percent of the federal poverty level. QI1 is eligible only for payment of the Part B Medicare premium through Medicaid.

(k) For a Qualified Individual 2 (QI2), income must be greater than 135 percent of the federal poverty level, but equal to or less than 175 percent of the federal poverty level. QI2 is eligible only for one-time annual reimbursement of a portion of the Medicare premium by Medicaid.

(l) For the Ron Silver Senior Drug Program, the individual must meet the eligibility criteria specified in subsection 59G-12.003(1), F.A.C.

(m) For the Traumatic Brain Injury and Spinal Cord Injury Waiver Program an individual cannot have income that exceeds 300% of the federal benefit rate as defined in subsection 65A-1.701(13), F.A.C. An income trust may be established to qualify for this assistance.

(2) through (4) No change.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.9065, 409.919 FS. History—New 10-8-97, Amended 1-27-99, _____.

65A-1.716 Income and Resource Criteria.

(1) The monthly federal poverty level figures based on the size of the filing unit are as follows:

Filing Unit Size	88 99 % of Poverty Guideline	100% of Poverty Guideline	120% of Poverty Guideline	133% of Poverty Guideline
1	\$ 651 665	\$ 739	\$ 886	\$ 982
2	876 896	995	1194	1324
3		1252		1665
4		1509		2007
5		1765		2348
6		2022		2689
7		2279		3031
8		2535		3372
9		2792		3713
10		3049		4055
11		3305		4396
12		3562		4738
Add each add. person		\$ 257		\$ 342

Filing Unit Size	135% of Poverty Guideline	175% of Poverty Guideline	185% of Poverty Guideline	200% of Poverty Guideline
1	\$ 997	\$ 1293	\$ 1366	\$ 1477
2	1344	1742	1841	1990
3			2316	2504
4			2791	3017
5			3266	3530
6			3741	4044
7			4215	4557
8			4690	5070
9			5165	5584
10			5640	6097
11			6115	6610
12			6590	7124
Add each add. person			\$ 475	\$ 514

- (2) through (5)(c)3. No change.
- 4. Food Stamp Standard Utility Allowance: \$1984
- 5. through (e) No change.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.919 FS. History--New 10-8-97, Amended 12-9-99, 2-15-01, 11-26-01, _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Rodney McInnis, Operations Review Specialist
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Audrey Mitchell, Program Administrator, Public Assistance Policy Bureau – Policy Support Unit
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2002
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2001 and July 19, 2002

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF BANKING AND FINANCE

Board of Funeral and Cemetery Services

RULE NO.: 3F-5.007
RULE TITLE: Conversion Procedures
NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 28, No. 35, August 30, 2002, Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF INSURANCE

RULE NO.: 4-211.043
RULE TITLE: Effective Date
NOTICE OF WITHDRAWAL

Notice is hereby given that the above proposed rule as noticed in Vol. 28, No. 16, April 19, 2002, of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF REVENUE

Sales and Use Tax

RULE NO.: 12A-1.094
RULE TITLE: Public Works Contracts
NOTICE OF CHANGE

Notice is hereby given that the following changes have been made in accordance with subparagraph 120.54(3)(d)1., F.S., to the proposed amendments to Rule 12A-1.094, F.A.C., published in Vol. 28, No. 27, pp. 2879-2883, July 5, 2002, issue of the Florida Administrative Weekly.

In response to public comments received at a hearing held on July 31, 2002, and written comments received subsequent to the hearing, the proposed amendments to subsections (1), (2), and (3) of Rule 12A-1.094, F.A.C., have changed, so that, when adopted, those subsections will read as follows:

(1) This rule shall govern the taxability of transactions in which contractors manufacture or purchase supplies and materials for use in public works contracts, as that term is referred to in Section 212.08(6), F.S. This rule shall not apply to non-public works contracts for the repair, alteration, improvement, or construction of real property, as those contracts are governed under the provisions of Rule 12A-1.051, F.A.C. ~~This rule shall also not apply to contractors who entered into road construction contracts during the period from January 1, 1988, through February 11, 1988, and who chose to remit the tax based on 50 percent of the contract price. See Emergency Rule 12AER88-16 for provisions governing such contracts.~~ In applying this rule, the following definitions are used.