

Section I

Notices of Development of Proposed Rules
and Negotiated Rulemaking**DEPARTMENT OF INSURANCE****Division of Workers' Compensation**

RULE TITLE:

RULE NO.:

Notice of Election to be Exempt and Revocation
of Election to be Exempt by Sole Proprietors,
Partners or Corporate Officers

4L-6.012

PURPOSE AND EFFECT: The rule is being amended to reflect amendments to Sections 440.02(15) and 440.05, Florida Statutes, contained in Chapter 2003-412, Laws of Florida. Amendments to Sections 440.02(15) and 440.05, F.S., delete authority for sole proprietors engaged in the construction industry, partners in partnerships engaged in the construction industry, and corporate officers who own less than 10% of the stock of a corporation engaged in the construction industry to elect to be exempt pursuant to Section 440.05, Florida Statutes. A purpose is also to interpret by rule the status of certificates of election to be exempt issued by the Department of Financial Services prior to January 1, 2004 to certain individuals engaged in the construction industry.

SUBJECT AREA TO BE ADDRESSED: Elections to be exempt, and the status of certain certificates of election to be exempt issued by the Department of Financial Services prior to January 1, 2004.

SPECIFIC AUTHORITY: 440.05(9), 440.591 FS.

LAW IMPLEMENTED: 440.02(15), 440.05 FS.

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

TIME AND DATE: 1:00 p.m., September 24, 2003

PLACE: Room 104J, Hartman Building, 2012 Capital Circle,
Southeast, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this 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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)488-2333

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

DEPARTMENT OF INSURANCE**Division of Worker's Compensation**

RULE TITLE:

RULE NO.:

Scope of Exemption

4L-6.021

PURPOSE AND EFFECT: The rule is being amended to reflect amendments to Sections 440.02(8) and 440.02(15), Florida Statutes, contained in Chapter 2003-412, Laws of Florida. The amendment to Section 440.02(8), Florida Statutes, authorizes the Division of Workers' Compensation to by rule establish standard industrial classification codes and definitions thereof which meet the criteria of the term "construction industry" as set forth in Section 440.02, Florida Statutes. Amendments to Section 440.02(15), Florida Statutes, delete provisions of law that made exemptions obtained by corporate officers of a corporation actively engaged in the construction industry, and sole proprietors or partners actively engaged in the construction industry, inapplicable to work performed at commercial building projects estimated to be valued at \$250,000 or greater.

SUBJECT AREA TO BE ADDRESSED: Applicability of exemptions to commercial building projects estimated to be valued at \$250,000 or greater, and the establishment of standard industrial classification codes and definitions thereof that meet the criteria of the term "construction industry".

SPECIFIC AUTHORITY: 440.02(8), 440.591 FS.

LAW IMPLEMENTED: 440.02(8), 440.02(15), 440.05 FS.

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

TIME AND DATE: 1:00 p.m., September 24, 2003

PLACE: Room 104J, Hartman Building, 2012 Capital Circle,
Southeast, Tallahassee, Florida

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THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Bruce Brown, Bureau Chief, Bureau of Compliance, Division of Workers' Compensation, Department of Financial Services, 200 East Gaines Street, Tallahassee, Florida 32399-4228, (850)488-2333

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

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Land Acquisition Procedures with
Florida Forever Program 9K-8

RULE TITLES: RULE NOS.:

Preparation and Acceptance of Project Plans 9K-8.011

Trust Governing Board Action 9K-8.013

PURPOSE, EFFECT AND SUBJECT AREA TO BE
ADDRESSED: Notice of Florida Communities Trust Project
Plans.

SPECIFIC AUTHORITY: 380.507(11) FS.

LAW IMPLEMENTED: 259.105, 380.501-.515, 380.507(11),
380.510 FS.

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

TIME AND DATE: 1:00 p.m., September 23, 2003

PLACE: Randall Kelley Training Center, Sadowski Building,
Department of Community Affairs, 2555 Shumard Oak
Boulevard, Tallahassee, Florida 32399-2100

Any person requiring special accommodation at the hearing
because of a disability or physical impairment should contact
Janice Browning, Executive Director, Florida Communities
Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida
32399-2100, (850)922-2207, SunCom 292-2207, at least seven
days before the date of the workshop. If you are hearing or
speech impaired, please contact the Department of Community
Affairs using the Florida Dual Party System which can be
reached at 1(800)955-8770 (Voice) or 1(800)955-9771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE
PROPOSED RULE DEVELOPMENT IS: Janice Browning,
Executive Director, Florida Communities Trust, 2555 Shumard
Oak Boulevard, Tallahassee, Florida 32399-2100,
(850)922-2207, SunCom 292-2207

THE PRELIMINARY TEXT OF THE PROPOSED RULE
DEVELOPMENT IS:

9K-8.011 Preparation and Acceptance of Project Plans.

(1) through (3) No change.

~~(4) The Trust shall publish a Notice of Approval for
Florida Forever Funds in the Florida Administrative Weekly
that shall list each approved Project Plan and the amount of
funding to be released. Any person with substantial interests
that are or may be determined by the decision of the Trust to
reject or approve the Project Plan may request an
administrative proceeding pursuant to Section 120.57, F.S.,
within 21 days from publication of the Notice of Approval for
Florida Forever Funds.~~

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.507(11),
380.508, 380.510 FS. History--New 5-27-01, Amended 5-20-02, _____.

9K-8.013 Trust Governing Board Action.

The Trust shall approve the terms under which the interest in
land is acquired. Such approval shall be evidenced by the Trust
execution of the Purchase Agreement. ~~Notice of approval shall
be published in the Florida Administrative Weekly, which
shall notify the public that any person with substantial interests
that are or may be determined by the approval or denial of
funds for projects by the Trust may request an administrative
proceeding pursuant to Section 120.57, F.S., within 21 days
from publication of the Notice of Approval for Florida Forever
Funds.~~

Specific Authority 380.507(11) FS. Law Implemented 259.105, 380.501-.515
FS. History--New 5-27-01, Amended _____.

BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND

Pursuant to Chapter 2003-145, Laws of Florida, all notices for
the Board of Trustees of the Internal Improvement Trust Fund
are published on the Internet at the Department of
Environmental Protection's home page at [http://www.dep.
state.fl.us/](http://www.dep.state.fl.us/) under the link or button titled "Official Notices."

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:

Correctional Probation Officers:

Appointment and Responsibility 33-302.103

PURPOSE AND EFFECT: The purpose and effect of the
proposed rule is to provide a cross-reference to rule provisions
governing use of correctional probation officer badges.

SUBJECT AREA TO BE ADDRESSED: Correctional
probation officer badges.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE
DEVELOPMENT IS:

33-302.103 Correctional Probation Officers: Appointment
and Responsibility.

(1) No change.

(2) The use of Department of Corrections issued
credentials and badges is only authorized when conducting
official duties. Provisions addressing correctional probation
officer badges are located in subsection 33-208.101(9), F.A.C.

(3) through (4) No change.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 5-28-86, Amended 2-15-98, 4-28-99, Formerly 33-24.011, Amended 11-12-01, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: RULE NO.:

Offender Classification System 33-302.107

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to provide for use of a model-based objective system for offender classification.

SUBJECT AREA TO BE ADDRESSED: Offender classification.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 948.015, 948.12 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.107 Offender Classification System.

(1) ~~Correctional probation officers shall utilize~~ The “Offender Classification System” is a model-based objective system. The supervision level is assigned using models based upon a formula derived to calculate the ~~to evaluate an offender placed on supervision. The system:~~

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

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

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

- (a) ~~Academic level;~~
- (b) ~~Vocational skills;~~
- (c) ~~Employment needs;~~
- (d) ~~Alcohol or drug usage;~~
- (e) ~~Mental illness;~~
- (f) ~~Mental ability;~~
- (g) ~~Sexual behavior; and,~~

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

~~(3) Criteria used to evaluate an offender’s risk of committing a new offense, risk of absconding from supervision, and risk of committing technical violations. The models use variables including re-offending or violating supervision include:~~

- (a) ~~Prior convictions;~~
- (b) ~~Prior incarceration;~~
- (c) ~~Age at admission first commitment;~~
- (d) ~~Commitment offense, number of counts, and sentencing guideline category;~~
- (e) ~~Any supervision revoked;~~
- (f) ~~Treatment ordered by the sentencing or releasing authority Drug or alcohol dependence; and,~~
- (g) ~~The Employment;~~
- (h) ~~Education;~~ and
- (i) ~~Residence supervision plan for the offender.~~

~~(2)(4) An initial assessment shall be system generated once offender identification information and sentence information is entered into the database. This information shall be obtained from the offender, criminal history records, and the sentencing or releasing authority and entered in the database conducted by the correctional probation officer within thirty days of the onset of supervision or acceptance of supervision from another state.~~

~~(a) There are programmed system overrides due to some unique supervision types or requirements for offenders with sex offenses, offenders on community control, offenders on administrative probation, offenders on administrative control release, offenders on administrative conditional release, offenders on mail-in status, and offenders reduced to quarterly, semi-annual, or annual reporting.~~

~~(b) Offenders who are not system overridden shall be assigned a supervision level by the modeling system. There are three supervision levels for probation and post-release offenders and two supervision levels for offenders placed on community control.~~

~~(3) As variables are entered or updated, the supervision level is subject to being impacted over the offender’s supervision period. The supervision level is also subject to being impacted by scheduled reassessments systematically programmed during each offender’s period of supervision. The correctional probation officer is responsible for supervising each offender at the supervision level determined by the offender classification system.~~

~~(4) Manual overrides used to reduce or increase an offender’s supervision require the approval of the circuit administrator or deputy circuit administrator.~~

(a) The correctional probation officer shall utilize the Case Assessment, Form DC3-265, and Classification Reassessment, Form DC3-266, to record the needs and risk information relating to each offender. Form DC3-265 and Form DC3-266 are hereby incorporated by reference. Copies of these forms are available from the Forms Control Administrator, Office of the General Counsel, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500. The effective date of these forms is August 28, 2001.

(b) Scores are then assessed to each area on the forms and are calculated to determine the offender's final supervision level.

(5) Reassessments will be conducted by the correctional probation officer six months after the initial assessment, and every six months thereafter. The reassessment is conducted to evaluate the offender's adjustment in each area since the previous assessment.

(a) The same criteria used to evaluate the offender's needs is utilized in the reassessment.

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

1. Employment;
2. Financial status;
3. Alcohol usage;
4. Other drug usage;
5. Interpersonal relationships;
6. Living arrangements;
7. Address change since last reassessment;
8. Officer's assessment; and
9. Use of community resources.

(6) The correctional probation officer shall make referrals to treatment and community resources available based on individual offender needs identified during the assessment and reassessment. The correctional probation officer cannot require or impose conditions or restrictions that are not included in the supervision order.

(7) The following offenders are not included in the Offender Classification System's minimum, medium, and maximum levels of supervision due to their unique supervision requirements:

- (a) Sex offenders and sexual predators;
- (b) Offenders on community control supervision;
- (c) Offenders on administrative probation;
- (d) Offenders on administrative control release;
- (e) Offenders on administrative conditional release; and
- (f) Offenders on "Mail in" status; and
- (g) Offenders reduced to quarterly, semi-annual, or annual reporting.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 948.015, 948.12 FS. History-New 8-28-01, Amended _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Monitoring Sex Offender Conditions of Supervision
RULE NO.: 33-302.108

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify responsibilities of staff supervising sex offenders.

SUBJECT AREA TO BE ADDRESSED: Sex offender conditions of supervision.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09, 947.1405, 948.03 FS.

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.108 Monitoring Sex Offender Conditions of Supervision.

(1) No change.

(2) Prohibition of Living wWithin 1000 ffeet of a school, day care center, park, playground, or other Place Where Children Regularly Congregate, as prescribed by the court or releasing authority – If the court or releasing authority imposes this condition of supervision, the supervisor shall ensure:

(a) through (b) No change.

(3) No change.

(4) ~~Sex Offender~~ Driving Log – If the court or releasing authority imposes a condition of supervision requiring maintenance of a driving log and a prohibition against driving a motor vehicle alone without the prior approval of the supervising officer, the officer shall:

(a) through (8) No change.

Specific Authority 944.09 FS. Law Implemented 944.09, 947.1405, 948.03 FS. History-New 12-18-01, Amended 6-18-02, _____.

DEPARTMENT OF CORRECTIONS

RULE TITLE: Offender Orientation
RULE NO.: 33-302.109

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures for notifying offenders of the restoration of civil rights review process.

SUBJECT AREA TO BE ADDRESSED: Review for restoration of civil rights.

SPECIFIC AUTHORITY: 944.09 FS., 45 CFR 164.520

LAW IMPLEMENTED: 20.315, 944.09 FS., 45 CFR Part 160

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

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

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-302.109 Offender Orientation.

(1) through (3) No change.

(4) Restoration of Civil Rights

(a) No change.

(b) If the offender was adjudicated guilty, the officer shall advise the offender that more information regarding the restoration of civil rights process shall be provided within 60 to 90 days of as the offender's scheduled termination date approaches. Within 60 to 90 days of the scheduled termination date, the officer shall utilize Form NII-027, Notification of Civil Rights Review Process, to review this process. Form NII-027 is incorporated by reference in Rule 33-302.111, F.A.C.

(c) through (7) No change.

Specific Authority 944.09 FS., 45 CFR 164.520 Law Implemented 20.315, 944.09 FS., 45 CFR Part 160, 164. History—New 7-19-01, Amended 9-15-02, 7-30-03, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Intermediate Care Facilities for the

Developmental Disabled

59A-26

PURPOSE AND EFFECT: The Agency proposes to establish a rule consistent with provisions of Section 400.967(2), Florida Statutes, which became effective May 7, 1999. The legislation provides for development of rules regarding specific criteria involving minimum standards of program quality and adequacy of care for Intermediate Care Facilities for the Developmentally Disabled.

SUBJECT AREA TO BE ADDRESSED: Specific criteria pertaining to minimum standards of program quality and adequacy of care for Intermediate Care Facilities for the Developmentally Disabled.

SPECIFIC AUTHORITY: 400.967(2) FS.

LAW IMPLEMENTED: 400.967 FS.

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

TIME AND DATE: 10:00 a.m., September 29, 2003

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room D, Tallahassee, FL 32303

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Jim White, Long-Term Care Unit, 2727 Mahan Drive, Tallahassee, Florida or (850)488-5861

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

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Silver Lifesaver Rx

59G-12

RULE TITLES:

RULE NOS.:

Purpose

59G-12.001

Definitions

59G-12.002

Eligibility/Enrollment

59G-12.003

Program Administration

59G-12.004

Program Forms

59G-12.005

PURPOSE AND EFFECT: The purpose of this rule is to provide a framework by which the Agency for Health Care Administration will administer Section 409.9065, Florida Statutes, the Silver Lifesaver Rx.

SUBJECT AREA TO BE ADDRESSED: Silver Lifesaver Rx.

SPECIFIC AUTHORITY: 409.9065 (4)(a) FS.

LAW IMPLEMENTED: 409.906(20), 409.9065(4)(a), 409.908, 409.912(38)(a) FS.

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

TIME AND DATE: 1:00 p.m., September 22, 2003

PLACE: Conference Room C, Bldg 3, 2727 Mahan Drive, Tallahassee, FL 32308

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michele Hudson or Matthew Dull, Medicaid Pharmacy Services, 2727 Mahan Drive, MS #38, Tallahassee, Florida 32308, (850)487-4441

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

SILVER LIFESAVER RX ROL-ON SILVER SENIOR DRUG PROGRAM

59G-12.001 Purpose.

The purpose of these rules is to implement the Silver Lifesaver Rx Rol-ON Silver Senior Drug Program (program) to be administered by the Agency for Health Care Administration as directed in Section 409.9065, Florida Statutes. The program will provide a pharmacy benefit through two separate components to low-income elderly residents of Florida to help address the need for prescription drug coverage.

Specific Authority 409.9065(4)(a)(b) FS. Law Implemented 409.906(20), 409.9065(4)(a)(b), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended _____.

59G-12.002 Definitions.

(1) The Agency for Health Care Administration (agency) is the single state Medicaid agency and the state agency designated to administer the Silver Lifesaver Rx Program.

(2) The Department of Children and Families Services, in accordance with section 409.902, Florida Statutes, will determine the eligibility of individuals applying for enrollment in the Silver Lifesaver Rx ~~Ron Silver Senior Drug Program~~.

(3) The Department of Elder Affairs will assist the Agency for Health Care Administration in designing and implementing outreach and education for the program through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other outreach and educational initiatives.

(4) Silver Lifesaver Rx ~~The Ron Silver Senior Drug Program~~ is a Medicaid program providing prescribed drug benefits to individuals aged 65 and older meeting certain other eligibility criteria and who do not otherwise receive a pharmacy benefit from Medicaid. ~~The program is being implemented under an approved Federal, Section 1115 waiver.~~ The program shall be known as the Silver Lifesaver Rx 'Silver Saver' program.

(5) Under the Silver Lifesaver Rx ~~Silver Saver~~ Program eligible and enrolled individuals may receive a pharmacy only benefit ~~of up to \$160 per month.~~ There will be two separate components of the program:

(a) A monetary benefit of up to \$160 per month (component 1);

(b) A discount of up to 50 percent per drug per month (component 2).

Specific Authority 409.9065(4)(a)(b) FS. Law Implemented 409.906(20), 409.9065(4)(a)(b), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended _____.

59G-12.003 Eligibility/Enrollment.

For state fiscal year 2003-04 ~~2002-03~~, enrollment in the Silver Lifesaver Rx ~~Silver Saver~~ Program will be limited to a monthly enrollment ceiling for each component ~~of 58,472~~.

(1) Component 1 will be limited to a monthly enrollment ceiling of 58,472.

(2) Component 2 will be limited to a monthly enrollment ceiling of 100,000.

An individual may be determined eligible for the program but not enrolled if there is no available enrollment space. Enrollment will occur each month comparing enrollment against the enrollment ceiling. If additional enrollment spaces are available because of terminations, eligibles will be added to the enrollment roster in the date order of eligibility determinations. An individual will not have access to the pharmacy benefits in this program until determined both

eligible and enrolled. Enrollment will begin in the month in which the individual is notified that he is enrolled ~~agency notifies an individual that he is enrolled.~~

(3) To be eligible for the Silver Lifesaver Rx ~~Silver Saver~~ Program an individual must meet the following criteria:

(a) Be a Florida resident and age 65 or older;

(b) Be eligible for Medicare;

(c) Have an income level at or below 200 percent of the federal poverty level; ~~between 88 and 120 percent of the federal poverty level;~~

1. Individuals with an income at or below 120 percent of the federal poverty level are eligible for component 1 and/or component 2;

2. Individuals with an income greater than 120 percent of the federal poverty level are eligible for component 2 only; and

(d) Be already enrolled in the Medicaid program under the Qualified Medicare Beneficiaries eligibility category, the Specified Low-Income Medicare Beneficiaries eligibility category, the Qualified Individuals 1 eligibility category, or meet the income and other qualifying criteria ~~for either category~~ but has not been subject to an assets test in determining eligibility. If eligibility was established without an assets test the individual is eligible for a drug only benefit and not the other benefits afforded to Qualified Medicare Beneficiaries, ~~or Specified Low-Income Medicare Beneficiaries,~~ or Qualified Individuals 1.

(4) To be enrolled in the Silver Lifesaver Rx ~~Silver Saver~~ Program an individual must be determined eligible for the program, notified ~~by the agency~~ of enrollment in the program and activation of the drug benefit, and provided with a Medicaid identification card if the enrollee does not already have one.

(5) Eligibility for the Silver Lifesaver Rx ~~Silver Saver~~ Program will be determined by the Department of Children and Families Services.

(6) Individuals who meet the eligibility requirements are not mandated to participate in the program.

Specific Authority 409.9065(4)(a)(b) FS. Law Implemented 409.906(20), 409.9065(4)(a)(b), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended _____.

59G-12.004 Program Administration.

(1) The agency shall administer the Silver Lifesaver Rx ~~Silver Saver~~ Program.

(2) The agency will implement the beneficiary cost-sharing requirement as follows:

(a) No premium, enrollment fee or annual deductible will be charged to the beneficiary; and

(b) Mandatory co-payments for each component:

1. Component 1: a mandatory three-tiered co-payment as follows: \$2.00 for generic drugs; \$5.00 for brand name drugs listed on the Medicaid Preferred Drug List (PDL); and \$15.00 for brand name drugs not listed on the Medicaid PDL.

2. Component 2: a mandatory co-insurance of the remaining balance per prescription after the allowed discount has been applied.

(3) Many All current Medicaid pharmacy benefit management programs will be used with this population, including, a limit of four brand name prescriptions per month with prior authorizations required for exceptions to the limit, clinical and PDL prior authorizations, drug utilization review (DUR), intensified benefits management and other cost control measures;

(4) All drugs must be purchased through Medicaid participating pharmacies.

(5) A Medicaid participating pharmacy is not required to dispense a Medicaid reimbursable drug until the beneficiary has met his cost-sharing requirement.

(6) All drugs will qualify for all federal and state supplemental rebate agreements.

(7) Medicaid will be considered the payer of last resort as any other insurance benefits must be used prior to payment by Medicaid.

(8) The agency, through the Medicaid fiscal agent, will maintain a waiting list for individuals determined to be eligible by the Department of Children and Families Services but who cannot be enrolled due to the enrollment ceilings.

(a) For individuals with an income at or below 120 percent of the federal poverty level: if the enrollment ceiling for component 1 has been reached, the eligible individual will be placed on the component 1 waiting list. If the enrollment ceiling for component 2 has not been reached, the individual will be enrolled in only component 2. If the enrollment ceiling for component 2 has been reached, the individual will be placed on the waiting list for component 2.

(b) For individuals with an income above 120 percent up to 200 percent of the federal poverty level: if the enrollment ceiling for component 2 has been reached, the eligible individual will be placed on the component 2 waiting list.

(9) The agency will review the status of eligibles each month and move eligible individuals into enrollment status as openings occur for each component.

(10) The Department of Children and Families Services, in accordance with section 409.902, Florida Statutes, shall:

(a) Determine eligibility;

(b) Develop and distribute applications for the program; and

(c) Receive and process applications to determine eligibility.

~~(11)~~(7) The Department of Elder Affairs will assist the agency in coordinating outreach to and education for potential eligibles through the SHINE (Serving Health Insurance Needs of Elders) toll-free hotline and other marketing and educational approaches.

Specific Authority 409.9065(4)(a)(b) FS. Law Implemented 409.906(20), 409.9065(4)(a)(b), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended _____.

59G-12.005 Program Forms.

The following forms shall be used by the Silver Lifesaver Rx ~~Silver-Saver~~ program, and are hereby incorporated by reference and available through either the agency or the Department of Children and Families Services:

(1) Silver Lifesaver Rx ~~Silver-Saver~~ Application form, Silver Lifesaver Rx CF-ES 2935, effective January 2004 ~~July 2002~~, may be obtained by calling (888)419-3456.

(2) Recipient notifications of eligibility, form CF-ES 2936, effective January 2004 ~~August 2002~~, is mailed to the applicant after eligibility is determined. Upon receiving eligibility status from DCF, recipient notifications of enrollment letter, form AHCA SSEAL 01, effective January 2004 ~~July 2002~~, notifies the applicant that he/she has been enrolled or placed on a waiting list.

Specific Authority 409.9065(4)(a)(b) FS. Law Implemented 409.906(20), 409.9065(4)(a)(b), 409.908, 409.912(38)(a) FS. History--New 1-9-03, Amended _____.

DEPARTMENT OF MANAGEMENT SERVICES

Division of Purchasing

RULE TITLES:	RULE NOS.:
Definitions and Incidental Policies	60A-1.001
Purchase of Commodities and	
Contractual Services	60A-1.002
Vendors and Contractors	60A-1.006
Standards and Specifications	60A-1.007
Term Contracts and Price Agreements	60A-1.008
Emergency Purchases of	
Commodities/Contractual Services	60A-1.009
Single Source Purchases of Commodities	
or Contractual Services	60A-1.010
Identical (Tie) Bids/Proposals,	
Commodities/Contractual Services	60A-1.011
Insurance	60A-1.015
Contract Requirements for Contractual Services	60A-1.016
Acquisition of Commodities through	
Construction Contracts or	
Contracts Which Include Services	60A-1.017
Delegation to State University System	60A-1.019
MyFloridaMarketPlace Vendor Registration	60A-1.030
MyFloridaMarketPlace Transaction Fee	60A-1.031
MyFloridaMarketPlace Transaction	
Fee Exceptions	60A-1.032

PURPOSE AND EFFECT: To update the rules identified above, including related forms, to incorporate recent legislative changes (e.g., chs. 2001-278 and 2002-207) and to implement best practices associated with MyFloridaMarketPlace, the statewide electronic procurement system. If necessary to achieve these ends, new rules may be adopted and added to this

chapter. Related changes may also be made to Chapters 60D-5 or 60D-13, F.A.C., which are being separately noticed simultaneously with this notice.

SUBJECT AREA TO BE ADDRESSED: General rules governing state purchasing.

SPECIFIC AUTHORITY: 282.102(2), 282.102(16), 287.017(2), 287.032(2), 287.042(13), 287.055(9), 287.057(23), 287.0572(2), 287.083(3), 287.0943(15), 287.09451(4) FS.

LAW IMPLEMENTED: 282.102, 287.001, 287.017, 287.032, 287.042, 287.055, 287.057, 287.0572, 287.058, 287.083, 287.0943, 287.09451, 287.133 FS.

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

TIME AND DATE: 4:30 p.m., September 24, 2003

PLACE: Tampa Convention Center, Room 23, 333 South Franklin Street, Tampa, Florida (Interested persons may attend via telephone, (850)921-6623, Suncom 291-6623)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of State Purchasing, 4050 Esplanade Way, Suite 335, Tallahassee, FL 32399-0950, (850)487-1898, Fred.Springer@MyFlorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE ACCESSIBLE AT www.myflorida.com, (under "Hot Topics" in the bottom center of your screen, click on "MyFloridaMarketPlace/e-Pro" and then click on "Proposed Rules"), **OR AT NOT CHARGE FROM THE CONTACT PERSON LISTED ABOVE.**

DEPARTMENT OF MANAGEMENT SERVICES

Division of Building Construction

RULE TITLES:	RULE NOS.:
Purpose	60D-5.001
Definitions	60D-5.002
Public Announcement	60D-5.003
Bidder's Qualification Requirements and Procedures	60D-5.004
Waiver of Bond Requirements	60D-5.0041
Contractor Evaluation and Disqualification Procedures	60D-5.006
Determination of Successful Bidder	60D-5.007
Rejection of Bid(s)	60D-5.0071
Contract Levels, Limits of Public Advertising, Negotiation and Bidding	60D-5.0073
Waiver of Competitive Bidding; Contractor Selection and Negotiation Procedures for Projects Within Level Four and Level Five Contracts	60D-5.008
Waiver of Competitive Bidding in Cases of Valid Emergencies; Selection and Negotiation Procedures for Projects Within Level Four and Level Five	60D-5.0081

Competitive Selection	60D-5.0082
Competitive Negotiation	60D-5.0091
Changes in the Contract	60D-5.0092

Notice and Protest Procedures for Projects

Bid by the Department of Management

Services Only

60D-5.010

PURPOSE AND EFFECT: To update the rules identified above, including related forms, as necessary or advisable in conjunction with changes to Chapter 60A-1, F.A.C., which are being separately noticed simultaneously with this notice.

SUBJECT AREA TO BE ADDRESSED: Procedures for construction contract bidding, award, negotiation, and changes.

SPECIFIC AUTHORITY: 255.05, 255.29, 255.30 FS.

LAW IMPLEMENTED: 255.05, 255.29, 255.30 FS.

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

TIME AND DATE: 4:30 p.m., September 24, 2003

PLACE: Tampa Convention Center, Room 23, 333 South Franklin Street, Tampa, Florida. Interested persons may attend via telephone at (850)921-6623 (SC 291-6623)

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of State Purchasing, 4050 Esplanade Way, Suite 335, Tallahassee, FL 32399-0950, (850)487-1898, Fred.Springer@MyFlorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE ACCESSIBLE AT www.myflorida.com, (under "Hot Topics" in the bottom center of your screen, click on "MyFloridaMarketPlace/e-Pro" and then click on "Proposed Rules"), **OR AT NOT CHARGE FROM THE CONTACT PERSON LISTED ABOVE.**

DEPARTMENT OF MANAGEMENT SERVICES

Division of Building Construction

RULE TITLES:	RULE NOS.:
Purpose	60D-13.001
Definitions	60D-13.002
Selection of the Design Criteria Professional	60D-13.003
Design Criteria Package Requirements	60D-13.004
Minimum Qualification Requirements for Firms Providing Design-Build Services	60D-13.005
Public Announcement Procedures	60D-13.006
Certification and Competitive Selection	60D-13.007
Competitive Proposals for Design-Build Services	60D-13.008
Competitive Negotiation for Design-Build Services	60D-13.009

PURPOSE AND EFFECT: To update the rules identified above, as necessary or advisable in conjunction with changes to Chapter 60A-1, F.A.C., which are being separately noticed simultaneously with this notice.

SUBJECT AREA TO BE ADDRESSED: Procedures for contracting for design-build services.

SPECIFIC AUTHORITY: 255.29, 287.055(9)(c) FS.

LAW IMPLEMENTED: 255.29, 287.055 FS.

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

TIME AND DATE: 4:30 p.m., September 24, 2003

PLACE: Tampa Convention Center, Room 23, 333 South Franklin Street, Tampa, Florida. Interested persons may attend via telephone at (850)921-6623, SC 291-6623

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Frederick J. Springer, Department of Management Services, Office of State Purchasing, 4050 Esplanade Way, Suite 335, Tallahassee, FL 32399-0950, (850)487-1898, Fred.Springer@MyFlorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE ACCESSIBLE AT www.myflorida.com, (under "Hot Topics" in the bottom center of your screen, click on "MyFloridaMarketPlace/e-Pro" and then click on "Proposed Rules"), OR AT NOT CHARGE FROM THE CONTACT PERSON LISTED ABOVE.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Alcoholic Beverages and Tobacco

RULE CHAPTER TITLE: RULE CHAPTER NO.:

Florida Clean Indoor Air Act and
Stand-Alone Bar Smoking

Designations 61A-7

RULE TITLES: RULE NOS.:

Definitions 61A-7.001

Criteria for Smoking Designation 61A-7.002

Licenses Not Eligible For Smoking Designation 61A-7.003

Annual Certification Requirements 61A-7.004

Triennial Renewal Requirements 61A-7.005

Records Required to Maintain the Designation 61A-7.006

Formula for Compliance With Required

Percentage of Gross Food Sales Revenues 61A-7.007

For Percentage of Gross Alcohol

Sales Revenue Formula 61A-7.008

Method Used to Determine Whether an

Establishment is Predominantly

Dedicated to the Serving

of Alcoholic Beverages 61A-7.009

Penalty Guidelines for Chapter 386, Florida

Statutes – Florida Clean Indoor Air Act 61A-7.010

Aggravating or Mitigating Circumstances for

Chapter 386, Florida Statutes – The

Florida Clean Indoor Air Act 61A-7.011

Investigation and Notification Procedures

for Florida Statute 386.207 61A-7.012

Penalty Guidelines for Florida Statute

561.695 – Stand-Alone Bar Enforcement 61A-7.013

Aggravating or Mitigating Circumstances for

561.695 – Stand-Alone Bar Violations 61A-7.014

Appeals 61A-7.015

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement statutory provisions relating to the Florida Clean Indoor Air Act and smoking in stand-alone bars.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are definitions of basic terms related to stand-alone bars, requirements for designation as a stand-alone bar, requirements to maintain designation as a stand-alone bar, licenses not eligible for smoking designation, annual certification and triennial renewal requirements, reporting requirements, record-keeping requirements, access to records by division employees, formula used to determine compliance, formula used to determine percentage of gross alcohol sales revenue, method used to determine whether an establishment is predominantly dedicated to the serving of alcoholic beverages, penalty guidelines, aggravating and mitigating circumstances, investigation and notification procedures, violations and appeals.

SPECIFIC AUTHORITY: 386.2125, 386.207 FS.

LAW IMPLEMENTED: 386.203, 386.206, 386.207, 561.695 FS.

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

TIME AND DATE: 10:00 a.m. – 1:00 p.m., Thursday, September 25, 2003

PLACE: Zora Neale Hurston Building, North Tower, Suite 901-N, 400 West Robinson Street, Orlando, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Michael Martinez, Chief Attorney, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

STAND-ALONE BAR SMOKING DESIGNATIONS

61A-7.001 Definitions.

The basic terms utilized in this rule are defined as follows:

(1) "Customary bar snack" means popcorn and any ready to eat food item, commercially prepared and packaged off the premises, served without additions or preparations, that is not a potentially hazardous food. The definition of potentially hazardous food, provided in subparagraph 1-201.10(B)(61), Food Code, 1999 Recommendations of the United States Public Health Service/Food and Drug Administration, incorporated herein by reference, shall apply to Chapter 61A-7, F.A.C.

(2) “Noncommercial activities” mean social gatherings, which encompass activities in compliance with s. 849.0935, Florida Statutes, meetings, dining, dances and the services performed in furtherance of these activities can only be conducted by members, whether compensated or not.

(3) “Nonperishable snack food items” means food items commercially packaged off the premises of the stand-alone bar and served without any additions or further preparations of any kind. Popcorn is the only exception to the requirement of being a nonperishable snack food item, and can be prepared on the premises, provided that the equipment used to pop the popcorn is not used to prepare any other food for patrons.

(4) “Predominantly bounded by physical barriers” means:

(a) More than fifty percent covered from above, to be calculated when fully extended, by a physical barrier, that excludes rain, and

(b) More than fifty percent on the sides with surfaces that block air flow. Railings are not to be considered in making side surface calculations.

(5) “Stand-alone bar” means those licensed premises defined in s. 386.203(11), Florida Statutes.

(6) “Stand-alone smoking (ss)” means those licensed premises that operate a business that meets the definition of a stand-alone bar in s. 386.203(11), Florida Statutes, if the only food provided is limited to nonperishable snack food items.

(7) “Stand-alone smoking with food (ssf)” means those licensed premises that operate a business that meets the definition of a stand-alone bar in s. 386.203(11), Florida Statutes, in which the serving of food is merely incidental and the licensed premises derive no more than ten percent of its gross revenue from the sale of food consumed on the licensed premises.

Specific Authority 386.2125, 561.695(3),(9) FS. Law Implemented 386.203(5),(11),(12), 561.695(3),(6) FS. History—New _____.

61A-7.002 Criteria for Smoking Designation.

Stand-alone bars with an alcoholic beverage consumption on premises license shall be issued a smoking designation of “ss” or “ssf” upon meeting the following criteria:

(1) The premises meet the definition of a stand-alone bar in s. 386.203(11), Florida Statutes.

(2) Licensee provides the division with a notice of election, using the division’s Internet site accessible at www.myflorida.com, Interactive Voice Response system at (850)487-1395, the Customer Call Center at (850)487-1395, or by delivering in person or through the mail form DBPR ABT 6039, incorporated herein by reference. Form DBPR ABT 6039, Notification of Election to Permit Tobacco Smoking in the Licensed Premises, effective July 1, 2003, may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, FL 32399-1021, or may be downloaded from the internet at <http://www.state.fl.us/dbpr/abt/forms/index.shtml>.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(1) FS. History—New _____.

61A-7.003 Premises Not Eligible For Smoking Designation.

Licensed premises shall not be designated as a stand-alone bar if the qualifications for licensure require the premises be devoted predominantly to activities other than the service of alcohol. The following licenses are not eligible for a stand-alone bar designation:

S – Special Hotel

SH – Special Hotel in counties with population of 50,000 or less

SR – Special Restaurant issued on or after January 1, 1958

SRX – Special Restaurant

SBX – Special Bowling

SAL – Special Airport

SCX – Special Civic Center

SCC – Special County Commission

SAX – Special Act Licenses (See Special Act for Specifics)

SPX – Pleasure, Excursion, Sightseeing, or Charter boats

X – Airplanes, Buses, and Steamships

IX – Railroad Cars

XL – Passenger Waiting Lounge operated by an airline

PVP – Passenger Vessels engaged in foreign commerce

FEX – Special Public Fairs/Expositions

HBX – Special Horse Breeders

11AL – American Legion Post permitted to sell to general public

11C – Social, Tennis, Racquetball, Beach, or Cabana Club

11CE – Licensed vendors exempt from payment of surcharge tax

11CS – Special Act Club License

11CT – John and Mable Ringling Museum

11GC – Golf Club

11PA – Symphony, Live Performance Theatre, Performing Arts Center

12RT – Dog or Horse Track or Jai Alai Fronton

13CT – Catering

14BC – Bottle Club

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11) FS. History—New _____.

61A-7.004 Annual Certification Requirements.

A qualifying stand-alone bar receiving an “ssf” designation shall file an annual affidavit certifying that, on or before the licensee’s annual beverage license renewal, for the preceding twelve months, no more than ten percent of total gross revenue was derived from retail sales of food consumed on the licensed premises. The percentage of food sales shall be computed by dividing gross revenues from the sale of food the licensee sells for consumption on premises by the gross revenue of the licensed premises.

Specific Authority 561.695(9) FS. Law Implemented 561.695(5) FS. History—New _____.

61A-7.005 Triennial Renewal Requirements.

Every third year after the initial designation, on or before the licensee's annual beverage license renewal, in order to renew the designation, a licensed vendor holding an "ssf" designation shall provide to the division a Procedures Report, prepared by a Florida certified public accountant, on DBPR Form ABT 4000A-400 and containing the license name, license number, physical location address, the owner of the license and the period of the report, along with the CPA company name, accountant name and signature and the accountant's license number with date of expiration, DBPR Form ABT 4000A-400, herein incorporated by this reference, effective _____, may be obtained by writing the division at 1940 North Monroe Street, Tallahassee, FL 32399-1022 or may be downloaded from the internet at <http://state.fl.us.dbpr/abt/contact/index.shtml>. The report must:

(1) Provide the actual percentage of food sales calculated pursuant to section (3) of this rule; and

(2) Provide information for the preceding 36-month period from the renewal date; and

(3) Provide the total gross sales revenue for each year, with a total for the 3-year period, as well as the total gross sales revenue from food for each year and a total for the 3-year period, and the percentage of food to total revenue for each year and for the 3-year period.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History—New _____.

61A-7.006 Records Required to Maintain the Designation.

Stand-alone bars holding an "ssf" designation shall maintain records to substantiate reports, affidavits and designation qualifications. Records of all purchases of food, gross retail sales of food consumed on premises and gross retail sales of alcohol shall be separately documented.

(1) Each business licensed for consumption on premises and electing to allow smoking on those premises shall maintain complete and accurate records of all sales. Records shall include, but are not limited to, purchase invoices, sales tickets, inventory records, receiving records, cash register journal tapes, on premises food sales records, computer records generated from automatic dispensing devices, and any other record documenting sales. Department of Revenue Sales Tax Returns are acceptable as a record of total monthly sales revenues.

(2) The records required in Rules 61A-7, F.A.C., shall be maintained on the premises in the same county where the alcoholic beverage license is issued, or other designated place approved in writing by the division for a period of 3 years and shall, upon demand, be made available to an officer of the division, for inspection within fourteen days. The division shall approve written requests to maintain the aforementioned

records off the premises when the place to be designated is the business office, open eight business hours per work day, of a corporate officer, attorney, or accountant; the place to be designated is located in the State of Florida; and the place to be designated is identified by complete mailing address. The burden is on the holder of the smoking designation to demonstrate compliance with the requirements for the permit, and the records required shall be legible, clear, and in the English language.

(3) The Licensee shall provide employees of the division access to examine the accounting records, invoices, or any other source documents used to determine compliance with this rule during business hours or at any other time the licensee or other persons occupy such premises. Each licensee is required to give the division the means, facilities, and opportunity to review the records required by Rules 61A-7, F.A.C.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History—New _____.

61A-7.007 Formula For Compliance With Required Percentage of Gross Food Sales Revenues.

In order to determine compliance, the division shall use the formula of gross food sales revenue divided by gross total sales revenue, in any consecutive six-month period. The results of the formula will represent the percentage of food sales revenues as defined herein and in s. 561.695, Florida Statutes.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(6) FS. History—New _____.

61A-7.008 For Percentage of Gross Alcohol Sales Revenue Formula.

In order to determine compliance, the division shall use the formula of gross alcohol sales revenue divided by gross total sales revenue, in any consecutive six-month period.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 561.695(6), 386.203(11) FS. History—New _____.

61A-7.009 Method Used to Determine Whether an Establishment is Predominantly Dedicated to the Serving of Alcoholic Beverages.

In order to determine whether an establishment, other than one holding a specialty license designated in Rule 61A-7.003, F.A.C., is predominantly dedicated to the serving of alcoholic beverages, the division shall compare the percentage of gross food sales revenue with the percentage of gross alcohol sales revenue. If the percentage of gross alcohol sales revenue is greater than that of the gross food sales revenue, an establishment is deemed predominantly dedicated to the serving of alcoholic beverages.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.203(11), 561.695(9) FS. History—New _____.

61A-7.010 Penalty Guidelines for Chapter 386, Florida Statutes – Florida Clean Indoor Air Act.

(1) This rule sets forth the penalties which shall be routinely imposed upon licensees who are supervised by the Division Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation. Enforcement supervisors and bureau chiefs are authorized to accept settlement offers that do not deviate from the penalty guidelines. The penalties below shall be assessed for violations occurring thirty days after a notice to comply is issued. If a

person refuses to comply with this part after having been assessed such penalty the department may file a complaint in the circuit court of the county in which the enclosed indoor workplace is located to require compliance.

(2) The penalty guidelines set forth in the table that follows shall serve to provide field offices and licensees or permittees with penalties that the division will routinely impose for violations.

<u>STATUTE</u>	<u>VIOLATION</u>	<u>FIRST OCCURRENCE</u>	<u>SECOND OCCURRENCE</u>	<u>THIRD OCCURRENCE</u>	<u>FOURTH OCCURRENCE</u>
<u>386</u>	<u>Failure to comply with Florida Clean Indoor Air Act within Florida Statute 386.</u>	<u>\$250</u>	<u>\$500</u>	<u>\$750</u>	<u>\$1,750</u>

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.205, 386.206, 386.207(3) FS. History–New _____.

61A-7.011 Aggravating or Mitigating Circumstances for Chapter 386, Florida Statutes – The Florida Clean Indoor Air Act.

When either the petitioner or respondent is able to demonstrate aggravating or mitigating circumstances to the division by clear and convincing evidence, the division shall be entitled to impose adjusted penalties within the guidelines. Based upon the following factors, the division may impose a disciplinary action within the statutory guidelines:

- (1) The number of counts in the administrative complaint;
- (2) The disciplinary history of the applicant or licensee;
- (3) The applicant or licensee has corrected the violation and implemented written corrective policies and procedures;
- (4) The degree of financial hardship incurred by a licensee as a result of the imposition of suspension or a fine.

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 386.206(2), 386.207(3) FS. History–New _____.

61A-7.012 Investigation and Notification Procedures for Florida Statute 386.207.

The following procedures shall be followed by division personnel when investigating complaints and notifying alleged violators.

- (1) Upon recite of a complaint of a violation of 386 the division shall determine if the premises is designated as a standalone bar. If the premises are designated as a stand alone bar the complaint shall be closed.

(2) If the premises are not designated as a standalone bar a notice to comply shall be issued.

(3) If the initial complaint is based on an observed violation then the premise shall be rechecked for compliance.

(4) A notice to show cause shall be issued for violations occurring at least thirty days after a notice to comply has been issued.

Specific Authority 386.207(1), 386.2125, 561.695(9) FS. Law Implemented 386.206(2), 386.207(3) FS. History–New _____.

61A-7.013 Penalty Guidelines for Florida Statute 561.695 – Stand-Alone Bar Enforcement.

(1) This rule sets forth the penalties which shall be imposed upon licensees who are supervised by the Division of Alcoholic Beverages and Tobacco, Department of Business and Professional Regulation. Enforcement supervisors and bureau chiefs are authorized to accept settlement offers that do not deviate from the penalty guidelines. The penalties provided below are for violations one through three, within a two-year period, and a fourth violation occurring anytime within the aforementioned time period or thereafter.

(2) The penalty guidelines set forth in the table that follows shall serve to provide field offices and licensees or permittees with penalties that the division will routinely impose for violations.

<u>STATUTE</u>	<u>VIOLATION</u>	<u>FIRST OCCURRENCE</u>	<u>SECOND OCCURRENCE</u>	<u>THIRD OCCURRENCE</u>	<u>FOURTH OCCURRENCE</u>
561.695	Failure to comply with stand-alone bar designation requirements within Florida statute 561.695	Warning	\$500	Suspension of designation for 14 days and \$1000	60 days suspension of designation and \$2000

<u>STATUTE</u>	<u>VIOLATION</u>	<u>FIRST OCCURRENCE</u>	<u>EACH SUBSEQUENT OCCURRENCE</u>
561.695(5)	Failure to file annual affidavit upon renewal	Loss of smoking designation	Loss of smoking designation

Specific Authority 561.695(9) FS. Law Implemented 561.695(5),(8) FS. History-New _____.

61A-7.014 Aggravating or Mitigating Circumstances for 561.695 – Stand-Alone Bar Violations.

When either the petitioner or respondent demonstrates aggravating or mitigating circumstances by clear and convincing evidence, the division may adjust penalties within statutory guidelines. Aggravating or mitigating circumstances may include, but are not limited to, the following:

- (1) The number of counts in the administrative complaint;
- (2) The disciplinary history of the applicant or licensee;
- (3) The applicant or licensee has corrected the violation and implemented written corrective policies and procedures;
- (4) The degree of financial hardship incurred by a licensee as a result of the imposition of suspension or a fine.

Specific Authority 561.695(9) FS. Law Implemented 561.695(8) FS. History-New _____.

61A-7.015 Appeals.

The procedure for appeal under Rule 61A-7, F.A.C., shall be as provided in s. 120.68, Florida Statutes.

Specific Authority 386.207(1), 386.2125, 561.695(9) FS. Law Implemented 561.695 FS. History-New _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Barbers' Board

RULE TITLES: RULE NOS.:
Biennial Barbershop Licensure Renewal Fee 61G3-20.010
Barbershop Delinquent Renewal Fee 61G3-20.0105

PURPOSE AND EFFECT: The Board proposes the development of rules to increase the cost of the biennial licensure and delinquent renewal fees for barber shops.

SUBJECT AREA TO BE ADDRESSED: The cost of the biennial licensure and delinquent renewal fees for barber shops.

SPECIFIC AUTHORITY: 476.064(4), 476.192, 476.184 FS.

LAW IMPLEMENTED: 476.192, 476.184 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Julie Malone, Executive Director, Barbers' Board, 1940 North Monroe Street, Tallahassee, FL 32399-0783

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

61G3-20.010 Biennial Barbershop Licensure Renewal Fee.

The biennial barbershop licensure renewal fee shall be one hundred fifty ~~seventy-five~~ dollars (\$150.00 ~~75.00~~).

Specific Authority 476.064(4), 476.192 FS. Law Implemented 476.192 FS. History-New 7-16-80, Amended 10-17-85, Formerly 21C-20.10, Amended 12-15-87, 5-11-88, Formerly 21C-20.010, Amended _____.

61G3-20.0105 Barbershop Delinquent Renewal Fee.

The delinquent renewal fee for barbershops shall be one hundred ~~seventy-five~~ dollars (\$100.00 ~~75.00~~) and shall be paid simultaneously with and in addition to those fees referred to in Rule 61G3-20.010, F.A.C., which were not paid in accordance with Rule 61G3-19.003, F.A.C.

Specific Authority 476.064(4), 476.184, 476.192 FS. Law Implemented 476.184, 476.192 FS. History-New 10-17-85, Formerly 21C-20.105, Amended 12-15-87, 5-11-88, Formerly 21C-20.0105, Amended _____.

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Construction Industry Licensing Board

RULE TITLE: RULE NO.:
Qualification for Certification 61G4-15.001
PURPOSE AND EFFECT: The Board proposes the development of rules to address changes for certification.
SUBJECT AREA TO BE ADDRESSED: Qualifications for certification.

SPECIFIC AUTHORITY: 489.111 FS.

LAW IMPLEMENTED: 489.111 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Timothy Vaccaro, Executive Director, Construction Industry Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-1039

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE: License Fees and Examination Fees

RULE NO.: 61J2-1.011

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to bring the rule into compliance with statutory changes and an increase in the processing fee of fingerprint cards from \$39 to \$47 as charged by outside vendor.

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to fees and licensure designation.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 455.217, 475.2281, 475.04, 475.125, 475.15, 475.182, 475.24, 475.451, 68.065(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

TIME AND DATE: 8:30 a.m. or as soon thereafter as possible, September 17, 2003

PLACE: Division of Real Estate, Commission Meeting Room, N901, North Tower, 400 West Robinson Street, Orlando, Florida 32801

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Lori Crawford, Deputy Clerk, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES: Examination Areas of Competency

RULE NOS.: 61J2-2.029

Informal Hearings

61J2-2.032

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 455.217(1)(b), 475.17, 475.25 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES: Continuing Education for School Instructors

RULE NOS.: 61J2-3.011

Equivalency for Prelicensing Education

61J2-3.012

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to instructor continuing education requirements and prelicensing education equivalency.

SPECIFIC AUTHORITY: 455.2123, 475.05 FS.

LAW IMPLEMENTED: 455.2123, 475.04, 475.17, 475.182, 475.183, 475.451 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES:	RULE NOS.:
Registration Requirements	61J2-4.007
Successor Partnerships	61J2-4.010

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to registration requirements and successor partnerships.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.01, 475.05, 475.15 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES:	RULE NOS.:
Vacancies of Office	61J2-5.018
Responsibility for Registration Status	61J2-5.019
Execution of Papers by Corporation	61J2-5.020

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.01, 475.15, 475.42 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE:	RULE NO.:
Employment by More Than One Entity	61J2-6.006

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation and licensure status with employer.

SPECIFIC AUTHORITY: 455.2123, 475.05 FS.

LAW IMPLEMENTED: 475.01(1)(d) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES:	RULE NOS.:
Office	61J2-10.022

Advance Fee Accounting and Reporting Procedures	61J2-10.029
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PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to bring the rule into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.22, 475.452(1),(2) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES:	RULE NOS.:
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Real Estate Salesperson	61J2-14.009
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Real Estate Broker	61J2-14.010
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Rights of Broker in Deposits	61J2-14.011
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Broker's Records	61J2-14.012
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PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to bring the rules into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation, escrow accounts and deposits.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.25(1)(d)1.,(k) FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLE:	RULE NO.:
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Minimum Standard for Prelicense	61J2-17.009
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PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to bring the rule title into compliance with statutory changes.

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects the rule title.

SPECIFIC AUTHORITY: 475.04, 475.05 FS.

LAW IMPLEMENTED: 475.451 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Commission

RULE TITLES:	RULE NOS.:
Disciplinary Guidelines	61J2-24.001
Citation Authority	61J2-24.002
Revocation	61J2-24.005

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

SUBJECT AREA TO BE ADDRESSED: The proposed rule change affects rule provisions relating to licensure designation, disciplinary guidelines and issuance of citations.

SPECIFIC AUTHORITY: 475.05 FS.

LAW IMPLEMENTED: 475.01, 475.15, 475.42 FS.

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW (IF REQUESTED, AN ADDITIONAL WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY):

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are 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."

DEPARTMENT OF HEALTH

Board of Psychology

RULE TITLE:	RULE NO.:
Examination	64B19-11.001

PURPOSE AND EFFECT: The Board proposes to review the existing rule to determine if changes are necessary.

SUBJECT AREA TO BE ADDRESSED: Examination.

SPECIFIC AUTHORITY: 456.017(1)(b),(c), 490.004(4) FS.

LAW IMPLEMENTED: 456.017(1)(b),(c),(d), 490.005 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Kaye Howerton, Executive Director, Board of Psychology/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3253

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

Section II Proposed Rules

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Group Conversion Premium	4-149.203
Outline of Coverage	4-149.204
Health Maintenance Organization	
Standard Risk Rates	4-149.207

PURPOSE, EFFECT AND SUMMARY: Rule Chapter 4-149 Part X governs group conversion rates. Section 627.6675, F.S., requires that the Office annually survey the market and publish the standard risk rates representing the average of 80 percent of the market. The rates are published for a particular benefit design. This design is the state mandated "standard" plan. With the adoption of the new standard plans this year, the rule is being amended to provide maximum group conversion rates for that plan design.

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: 624.308, 627.410(6)(b), 627.6675(3)(c) FS.

LAW IMPLEMENTED: 624.307(1), 627.410(6)(a), 627.6498(4), 627.6675(3), 641.3922(3) FS.