

Section I

Notices of Development of Proposed Rules and Negotiated Rulemaking

DEPARTMENT OF INSURANCE

RULE TITLES:	RULE NOS.:
Definitions	4-143.045
Registration of Insurers	4-143.046
Standards	4-143.047
Incorporation by Reference	4-143.048
Investments	4-143.049
Voting of Securities	4-143.050
Insurer Holding Company Systems	4-143.051

PURPOSE AND EFFECT: To amend the rules that apply to insurer holding company systems to incorporate provisions of the NAIC Model Act and Regulations applicable to insurance holding companies.

SUBJECT AREA TO BE ADDRESSED: Regulation of insurance holding companies.

SPECIFIC AUTHORITY: 624.308, 624.308(1), 628.801 FS.

LAW IMPLEMENTED: 624.307(1), 624.317, 624.318, 624.424(6), 625.251, 625.352(2), 628.371, 628.381, 628.461, 628.801, 628.802, 628.803 FS.

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

TIME AND DATE: 9:00 a.m., October 29, 2003

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 DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Alan Irvin, Bureau of Life and Helath Insurer Solvency, Office of Insurance Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0327, e-mail: irvina@dfs.state.fl.us

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT WILL BE AVAILABLE AT THE WORKSHOP.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Plant Industry

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Florida Nursery Stock and Certification Fees	5B-2

RULE TITLES:	RULE NOS.:
Definitions	5B-2.001
Registering with the Division	5B-2.002

PURPOSE AND EFFECT: The purpose of this rule revision is to provide a definition for stock dealer garden center. The effect will provide the ability to charge a registration fee that is based on the different levels of inspection workloads associated with a stock dealer such as a florist shop with a minimum number of plants as opposed to a stock dealer garden center that has several times the number of plants to be inspected. In addition, this proposed rule revision will require each stock dealer, stock dealer garden center, plant broker, and agent to obtain a certificate of registration for each outlet and pay an appropriate fee for each outlet.

SUBJECT AREA TO BE ADDRESSED: To provide a different fee schedule for stock dealers that have garden centers which require more inspection time than a small stock dealer such as a florist shop and to require a certificate of registration along with the appropriate fee for each outlet.

SPECIFIC AUTHORITY: 570.07(13),(23), 581.031(1) FS.

LAW IMPLEMENTED: 581.031(1),(4),(5),(6),(7), 581.083, 581.101, 581.131, 581.141 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., Thursday, October 23, 2003

PLACE: Doyle Conner Building, 1911 Southwest 34th Street, Gainesville, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Connie Riherd, Assistant Director, Division of Plant Industry, Department of Agriculture and Consumer Services, P. O. Box 147100, Gainesville, FL 32614-7100

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

5B-2.001 Definitions.

For the purpose of this chapter, the definitions in Section 581.011, F.S., and the following definitions shall apply:

(1) Balled and burlapped. A term used to describe a horticultural practice whereby plants are extracted from the soil with a portion of the roots and the growing medium intact forming the ball. The ball is wrapped with burlap or other materials appropriate for supporting the ball during handling.

(2) Bare-root. Plants with roots from which the growing medium in which it was grown has been removed.

(3) Certified turfgrass. Turfgrass produced for purposes of ornamental ground cover by an individual who has requested certification in order to comply with plant quarantine restrictions or phytosanitary requirements. Pasture or forage grasses are specifically excluded from this definition.

(4) Container nursery stock. Plants established in growing media contained in containers such as clay pots, plastic pots, cans, etc.

(5) Exposed. Subject to infestation because of proximity to or contact with a plant pest.

(6) Outlet. A nursery, stock dealer, stock dealer garden center, plant broker or agent offering nursery stock for sale or distribution under the control of a parent organization, corporation, partnership, personal business, cooperative, or other legal business entity.

(7) Propagating material. Unrooted scions and cuttings in the process of developing root systems; seedlings and asexually produced plants which are being developed to a saleable size.

(8) Psorosis complex of viruses. A combination of viruses (psorosis-A, psorosis-B, and ringspot) that induce bark-scaling, internal wood staining, ringspots or irregular chlorotic patterns in the foliage, or eventual tree decline. The disease is spread primarily by propagation using infected budwood.

(9) Stock Dealer Garden Center. A stock dealer who maintains nursery stock as part of a home improvement store or other store selling garden supplies.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.031 FS. History—Repromulgated 12-31-74, Amended 6-15-81, 10-28-85, Formerly 5B-2.01, Amended 6-7-95, 8-26-03, _____.

5B-2.002 Registering with the Division.

Every nurseryman, stock dealer, plant broker, and agent shall register with the division before moving, distributing or offering nursery stock for sale. All aquatic plants offered for sale or distribution at the retail level, seeds, cut flowers, cut fern, cut foliage (greens) not for propagation, and lawn and pasture grasses not produced as certified turfgrass are specifically exempted from nursery stock classification for registration purposes, when apparently free from injurious plant pests.

(1) NURSERY REGISTRATION REQUIREMENTS.

(a) Application for registration of nurseries shall be made upon a form, DACS-08004, revised 6/03, incorporated herein by reference, to be furnished by the division, which shall contain provisions with which the applicant must comply, and must be signed by the applicant or applicant's representative. Application form DACS-08004, revised 6/03, is supplied by the division for this purpose and is incorporated herein by reference. Copies of DACS-08004, Application For Certificate of Registration, may be obtained from the Division of Plant Industry, Bureau of Plant and Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100.

(b) Nurserymen desiring to move, sell, distribute, or offer nursery stock for sale and obtain a certificate of registration shall request an inspection by the division at least thirty (30) days in advance of the date upon which they desire to move or offer nursery stock for sale. Nurserymen requesting immediate inspection may be charged an additional fee sufficient to defray the cost of inspection.

(c) The nursery stock must be inspected by an authorized representative of the division and found to be apparently free from plant pests of quarantine significance and to be reasonably free from common plant pests.

(d) The nursery must be in such condition, in regard to spacing, growth, and weed control, as to permit an efficient inspection for plant pests.

(e) The nurseryman must agree to comply with all rules of the division.

(f) Nurserymen, unless exempted under paragraph 5B-2.002(1)(g), F.A.C., must pay an annual certificate of registration fee. Such fee shall be determined by the amount of nursery stock inventoried in the nursery by an authorized representative during the first inspection after July 1; or for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers, the certificate of registration fee shall be based on the amount of planted acreage provided that the total fee does not exceed four hundred and sixty dollars (\$460). Upon meeting registration requirements, a certificate of registration may be issued by the division which shall expire twelve (12) months following date of issue. For fee purposes nursery stock shall be grouped into two categories, except for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers which shall be determined by planted acreage. The two categories for nursery stock shall include standard stock and propagating material. Standard stock shall include all nursery stock inventoried by unit for sale or distribution; i.e., pot, balled and burlapped, or tray (for seedlings and liners). Propagating material shall include breeding stock, stock plants, rooting beds or other growing units, production beds for seeds and aquatic plants. The fee for nurseries having both standard stock and propagating material shall be determined by converting propagative material to standard stock at a ratio of 10 to 1. The figure so determined will be added to the standard stock inventory and the fee shall be determined on the combined total. Nurseries having standard stock, propagating material and field-produced vegetable transplants, field-produced bulbs, and field-produced corms or tubers shall have the planted acreage fee added to the fee determined for standard stock and propagating material. The combined fees shall not exceed four hundred and sixty dollars (\$460).

1. Schedule of fees determined by nursery stock inventory shall be as follows:

Number of Plant	Amount of Fee
1 – 1,000	\$25.00
1,001 – 2,500	35.00
2,501 – 5,000	46.00
5,001 – 10,000	69.00
10,001 – 25,000	92.00
25,001 – 50,000	115.00
50,001 – 100,000	173.00
100,001 – 150,000	219.00
150,001 – 200,000	265.00
200,001 – 250,000	311.00
250,001 – 300,000	357.00
300,001 – 350,000	403.00
350,001 – 400,000	449.00
Over 400,000	460.00

2. Schedule of fees determined by planted acreage for field-produced vegetable transplants, field-produced bulbs, and field-produced corms and tubers shall be as follows:

Number of Acres	Amount of Fee
1 – 5	\$25.00
6 – 10	35.00
11 – 15	46.00
16 – 20	69.00
21 – 25	92.00
26 – 30	115.00
31 – 35	172.00
36 – 40	218.00
41 – 45	265.00
46 – 50	311.00
51 – 60	357.00
61 – 70	403.00
71 – 80	449.00
Over 81	460.00

3. Schedule of fees determined by planted acreage for certified turfgrass shall be as follows:

Number of Acres	Amount of Fee
1 – 50	25.00
51 – 100	35.00
101 – 200	46.00
201 – 300	69.00
301 – 400	92.00
401 – 500	115.00
501 – 600	172.00
601 – 700	218.00
701 – 800	265.00
801 – 900	311.00
901 – 1000	357.00
1001 – 2000	403.00
2001 – 3000	449.00
Over 3000	460.00

(g) Governmental agency nurseries whose nursery stock is used exclusively for planting on government property are exempt from payment of a certificate of registration fee.

(h) All annual renewal documents for certificate of registration shall be returned not later than the anniversary date of the certificate being renewed, and accompanied by the appropriate fee.

(2) STOCK DEALERS, STOCK DEALER GARDEN CENTERS, PLANT BROKERS, AND AGENTS. Stock dealers, stock dealer garden centers, plant brokers, and agents shall comply with the following stipulations to meet certification requirements:

(a) Those persons who desire to apply for certification and registration as a stock dealer, stock dealer garden center, plant broker, or agent may make application by completing division form DACS-08004, revised 6/03. This application form should be filed with the division thirty (30) days prior to the date the stock dealer, stock dealer garden center, plant broker, or agent desires to begin operation. The completed application shall be accompanied by payment of the fee as designated in paragraph 5B-2.002(2)(e), F.A.C.;

(b) All annual renewal documents for certificate of registration shall be returned not later than the anniversary date of the certificate being renewed, and accompanied by the appropriate fee;

~~(c) Stock dealers with more than one outlet supplied with nursery stock from a central location may register outlets by listing or attaching a list of outlets, with complete mailing address and geographical location, to the application or document for renewal form (DACs-08004, revised 6/03 or DACs-08022, revised 6/03) and remitting of the total fee payment for all outlets to be registered. Application for Renewal of Nursery Stock Dealer’s Certificate of Registration form, DACs-08022, revised 6/03, is supplied by the division for this purpose and are incorporated herein by reference. Copies of DACs-08022, may be obtained from the Division of Plant Industry, Bureau of Plant & Apiary Inspection, P. O. Box 147100, Gainesville, Florida 32614-7100;~~

~~(d) Stock dealers with an independent source of nursery stock supply, regardless of their affiliation with a parent person, shall apply for a certificate of registration as a separate unit and shall remit the designated fee payment;~~

~~(d)(e) The certificate of registration fee for stock dealer, plant broker, and agent establishments shall be \$25.00 per outlet with a \$460 maximum charge; The certificate of registration fee for a stock dealer garden center shall be \$69.00 per outlet.~~

~~(e)(f) A stock dealer, stock dealer garden center, plant broker, or agent shall comply with all the provisions of Chapter 581, Florida Statutes, and the rules of the department and shall obtain nursery stock only from certified nurseries;~~

~~(f)(g)~~ Stock dealer, stock dealer garden center, plant broker, and agent certificate of registration shall expire twelve (12) months from after the original registration or annual renewal date ~~date of issuance~~.

Specific Authority 570.07(23), 581.031(1) FS. Law Implemented 581.131, 581.141 FS. History--Amended 12-31-74, 6-24-75, 3-25-79, 6-15-81, 10-28-85, Formerly 5B-2.02, Amended 5-17-92, 6-7-95, 11-29-95, 6-12-00, 8-26-03,_____.

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/> under the link or button titled “Official Notices.”

DEPARTMENT OF CORRECTIONS

RULE TITLE: Use of Force
 RULE NO.: 33-602.210

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to clarify procedures for videotaping uses of force, and post use of force practices.

SUBJECT AREA TO BE ADDRESSED: Use of force.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 20.315, 944.09, 944.35 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:

33-602.210 Use of Force.

(1) No change.

(2) Physical force shall be employed only as a last resort when it reasonably appears that other alternatives are not feasible to control the situation and will not be used solely in response to verbal abuse that does not rise to a level of a disturbance. When the use of force is justified, only that amount and type of force that reasonably appears necessary to accomplish the authorized objective shall be used. All authorized use of force incidents will be videotaped in their entirety, ~~except that videotaping the administration of chemical agents is not required for use on an inmate creating a disturbance in his or her cell when the officer is attempting to resolve the situation without extracting the inmate from the cell. Videotaping will be initiated after the final exposure to~~

~~chemical agents if cell extraction or other uses of force are necessary.~~ All spontaneous use of force incidents will be videotaped from the point the video camera operator arrives at the scene. Videotaping shall continue uninterrupted until the incident is under control, the involved inmate is escorted to medical, and the inmate is subsequently returned to secure housing. Videotaping of post use of force medical exams shall be done in such a manner as to provide the privacy needed for the exam. If it is necessary to transport the inmate to an outside facility for treatment or to another department facility for secure housing purposes, videotaping shall continue until the inmate is loaded and secured in the transport vehicle.

(3) through (4) No change.

(5) The warden or, in his absence, the duty warden will be consulted and give her or his permission prior to use of physical force. In spontaneous use of force incidents when circumstances do not permit prior approval, the warden or duty warden will be notified immediately following any use of force incident. Whenever force is authorized, the employee who was responsible for making the decision to use force pursuant to subsection (1) shall prepare, date and sign the Authorization For Use of Force Report, Form DC6-232 either during, or immediately after, the tour of duty when force was used. If the authorization for force is given after normal working hours, the person authorizing the force shall complete and sign Form DC6-232 within one working day (Monday through Friday) following the incident. Form DC6-232 is incorporated by reference in subsection (20) of this rule.

(6) through (13) No change.

(14) Use of Chemical Agents.

(a) through (b) No change.

(c) In controlled situations when time constraints are not an issue, chemical agents can only be used if authorized by the warden or, in his absence, the duty warden. Additionally, in accordance with paragraph (k) below, certified correctional staff will be designated by the warden to carry chemical agents and will be pre-authorized to administer chemical agents in instances where chemical agents must be used for intervention in self-defense, i.e., when the officer believes that he or she is in imminent threat of bodily harm or that the use of chemical agents will prevent injury to other staff, visitors, volunteers or inmates.

(d) through (l) No change.

(m) Procedure for the use of chemical agents on disruptive inmates under controlled conditions:

1. No change.

2. If the confinement or close management lieutenant or shift supervisor’s efforts to control the disorderly inmate have failed and the use of chemical agents is the least level of force that can be expected to successfully gain control of the disruptive inmate while minimizing the risk of injuries to all involved, the shift supervisor shall:

a. No change.

b. Contact the warden or, in his or her absence, the duty warden and request authorization to utilize chemical agents.

3. Prior to using chemical agents, the inmate again shall be counseled with by the OIC concerning his behavior.

a. If this attempt to counsel with the inmate is unsuccessful, the inmate will be given a final order by the OIC staff to cease his actions. The inmate will also be informed at this time that chemical agents will be administered if he continues his disruptive behavior.

b. through e. No change.

f. Except in cases of extreme emergency as determined by the warden or duty warden, the confinement or close management lieutenant or the shift supervisor shall counsel with, issue the final order, and be present during the administering of chemical agents. If the OIC is unavailable, the OIC shall provide a written explanation as to why he was not available to supervise the administration of chemical agents.

(n) Medical Requirements. Inmates shall be showered no later than 20 minutes after application of chemical agents and examined by medical staff immediately after showering. All inmates shall be examined by medical staff as soon as possible after the chemical agent has been used but not more than one hour after the first exposure, except in cases of emergency where this may not be possible. In each instance a DC4-701C, Emergency Room Record, shall be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. If an injury is claimed or found to exist, Form DC4-708, Diagram of Injury, shall also be completed in its entirety with applicable data, or the letters N/A used to indicate not applicable. In each case, the examination shall be complete and result in a clear statement by the medical provider that there is or is not an injury, and the record shall provide sufficient documentation to support that conclusion. In those cases where an injury is claimed but not substantiated by medical examination, the statement shall indicate that, and the documentation shall be sufficient to support that no injury was found upon examination. Medical staff shall, upon completing the medical examination, make a mental health referral for each inmate who is classified S-2 or S-3 on the health profile. The referral shall be made by completing Form DC4-529, Staff Request/Referral, and sending it to mental health staff. Form DC4-529 is incorporated by reference in subsection (20) of this rule. Mental health staff shall evaluate the inmate not later than the next working day, to determine whether a higher level of mental health care (isolation management, transitional or crisis stabilization) is indicated.

(o) No change.

(p) Inmates exposed to chemical agents shall be ordered by the OIC ~~allowed and encouraged~~ to shower and change both inner and outer wear within 20 minutes after exposure for decontamination purposes.

1. If an inmate refuses to shower or change, the refusal shall result in a disciplinary report and be documented:

a. On Form DC6-210, Incident Report, by the shift supervisor; ~~if the inmate is in general population;~~

b. through c. No change.

2. In the event the inmate refuses to shower or change, staff shall advise the medical staff member who is responsible for examining the inmate following the use of force of this refusal and medical staff shall immediately report to the area to conduct a cell-front examination and to explain the importance of showering after exposure to chemical agents, except in case of emergency which shall be documented.

3. The OIC shall again order the inmate to shower. If the inmate refuses again, this refusal shall also be documented in writing and witnessed by the OIC and medical staff.

4. If medical staff determine that there is no immediate medical need for the inmate to shower, then for the next 2 hours the inmate shall be checked every 30 minutes and given the opportunity to shower. These checks shall be documented on Form DC6-229, Daily Record of Segregation.

5. If health services staff determine that a medical need requires the inmate to be showered, the provisions of subsection 33-602.210(10), F.A.C., shall be followed to shower the inmate and move him to a decontaminated cell.

(15) through (20) No change.

Specific Authority 944.09 FS. Law Implemented 20.315, 944.09, 944.35 FS. History—New 4-8-81, Amended 10-10-83, 9-28-85, Formerly 33-3.066, Amended 3-26-86, 11-21-86, 4-21-93, 7-26-93, 11-2-94, 2-12-97, 11-8-98, Formerly 33-3.0066, Amended 10-6-99, 2-7-00, 7-25-02, 8-25-03, _____.

AGENCY FOR HEALTH CARE ADMINISTRATION

Division of Managed Care and Health Quality

RULE CHAPTER TITLE: Health Care Clinics

RULE CHAPTER NO.: 59A-33

PURPOSE AND EFFECT: The Agency proposes to promulgate a new Rule 59A-33, Florida Administrative Code, consistent with provisions of s. 400.9925, F.S., effective October 1, 2003. The legislation provides for development of rules necessary to administer the clinic administration, regulation, and licensure program.

SUBJECT AREA TO BE ADDRESSED: The proposed Rule 59A-33, Florida Administrative Code, involves administration and regulation of the health care clinic licensure program, including rules establishing the specific licensure requirements, procedures, forms, fees, procedures for biennial licensure, specify expiration dates for licenses, and the process of tracking compliance with financial responsibility requirements and other conditions of renewal of licenses.

SPECIFIC AUTHORITY: 400.9925 FS.

LAW IMPLEMENTED: 400.990-995 FS.

IF REQUESTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, WORKSHOPS WILL BE HELD AT THE TIMES, DATES AND PLACES SHOWN BELOW (IF NOT REQUESTED, THESE WORKSHOPS WILL NOT BE HELD):

TIME AND DATE: 10:00 a.m., October 24, 2003
 PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room A, Tallahassee, FL 32303

TIME AND DATE: 9:00 a.m. – 1:00 p.m., October 30, 2003
 PLACE: Agency for Health Care Administration, Medicaid Conference Room, 8355 N. W. 53rd Street, Manchester Building, 2nd Floor, Miami, Florida 33166

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT IS: Roger Bell, Bureau of Health Facility Regulation, 2727 Mahan Drive, Tallahassee, Florida or call (850)922-7755

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

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Operation of the Association
 RULE NO.: 61B-23.002

PURPOSE AND EFFECT: To develop a procedure and form for condominium associations to report fire safety retrofitting information to the Division of Florida Land Sales, Condominiums and Mobile Homes and establish a date for reporting this information to the Division of State Fire Marshal of the Department of Financial Services, pursuant to Chapter 2003-14, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Fire safety retrofitting for condominium associations.

SPECIFIC AUTHORITY: 718.501(1)(f) FS.

LAW IMPLEMENTED: 718.112(2)(l) FS.

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

TIME AND DATE: 9:00 a.m., October 27, 2003

PLACE: Conference Room B03, Fuller Warren Building, 202 Blount Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop is asked to advise the agency at least 48 hours before the workshop by contacting: Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sharon A. Elzie, Senior Management Analyst II, Assistant General Counsel, Department of Business and Professional Regulation, 1940

North Monroe Street, Tallahassee, Florida 32399-1030 (The rule text is also available on-line at <http://www.state.fl.us/dbpr/lsc/condominiums/index.shtml>)

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

Division of Florida Land Sales, Condominiums and Mobile Homes

RULE TITLE: Association Fee; Mailing Address
 RULE NO.: 61B-78.001

PURPOSE AND EFFECT: To develop a procedure and form for cooperative associations to report fire safety retrofitting information to the Division of Florida Land Sales, Condominiums and Mobile Homes and establish a date for reporting this information to the Division of State Fire Marshal of the Department of Financial Services, pursuant to Chapter 2003-14, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Fire safety retrofitting for cooperative associations.

SPECIFIC AUTHORITY: 719.501(1)(f) FS.

LAW IMPLEMENTED: 719.1055(5) FS.

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

TIME AND DATE: 9:00 a.m., October 27, 2003

PLACE: Conference Room B03, Fuller Warren Building, 202 Blount Street, Tallahassee, Florida

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop is asked to advise the agency at least 48 hours before the workshop by contacting Sharon A. Elzie, Senior Management Analyst II, (850)488-1631. If you are hearing or speech impaired, please contact the agency by calling 1(800)955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Sharon A. Elzie, Senior Management Analyst II, Assistant General Counsel, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-1030. The rule text is also available on-line at <http://www.state.fl.us/dbpr/lsc/condominiums/index.shtml>.

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

Electrical Contractors Licensing Board

RULE TITLES:	RULE NOS.:
Application for Examination for Certification	61G6-5.003
Requirement for Certified Qualifying Agent Applicant	61G6-5.004

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

SUBJECT AREA TO BE ADDRESSED: Application for examination for certification and requirement for certified qualifying agent applicant.

SPECIFIC AUTHORITY: 489.507(3), 489.515(1), 489.521 FS.

LAW IMPLEMENTED: 489.505(12),(21),(22), 489.511(2), 489.515(1), 489.521, 489.522 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: Anthony Spivey, Executive Director, Board of Electrical Contractors Licensing, 1940 North Monroe Street, Tallahassee, Florida 32399-0783

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

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

Division of Medical Quality Assurance

RULE CHAPTER TITLE:	RULE CHAPTER NO.:
Continuing Education	64B-5

PURPOSE AND EFFECT: The Department of Health, Division of Medical Quality Assurance, proposes a new rule chapter pertaining to issues related to continuing education and the development of a continuing education tracking system.

SUBJECT AREA TO BE ADDRESSED: Continuing education.

SPECIFIC AUTHORITY: 456.025 FS.

LAW IMPLEMENTED: 456.004 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: Jim Knepton, Department of Health, 4052 Bald Cypress Way, Bin C00, Tallahassee, Florida 32399

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

DEPARTMENT OF HEALTH

Board of Chiropractic Medicine

RULE TITLE:	RULE NO.:
Inactive Status License	64B2-13.0049

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

SUBJECT AREA TO BE ADDRESSED: Licensure Examination.

SPECIFIC AUTHORITY: 456.036 FS.

LAW IMPLEMENTED: 456.036 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: Joe Baker, Jr., Board Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin #C07, Tallahassee, Florida 32399-3259

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64B2-13.0049 Inactive Status License.

(1) No change.

(2) An inactive status licensee may change to active status at any time provided the licensee meets the continuing education requirements of Rule 64B2-13.004, F.A.C., pays the active status fees for each biennium during which the license was inactive, pays the reactivation fee, and if the request to change licensure status is made at any time other than at the beginning of a licensure cycle, pays the additional processing fee. However, a licensee whose license has been in inactive status for more than two consecutive biennial licensure cycles, and who has not practiced chiropractic medicine in any jurisdiction during the period of inactive status, shall be required to appear before the board before the license can be placed into active status. The board at the time of the

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE TITLES:	RULE NOS.:
Registration	69I-20.001
Fee Caps	69I-20.002
Procedures for Filing Claim	69I-20.0021
Proof of Ownership and Entitlement to Unclaimed Property	69I-20.0022
Database Submissions	69I-20.0023
Reporting Safe Deposit Box Contents	69I-20.003
Remitting of Safe Deposit Box Contents and Reimbursement of Expenses	69I-20.036
Voluntary Disclosure Agreements	69I-20.050

PURPOSE AND EFFECT: 69I-20.001: Section 717.117(8), Florida Statutes (2002), requires that a private investigator, accountant or attorney must be registered with the Department in order to obtain social security numbers for the limited purpose of locating owners of unclaimed property. The purpose and effect of the proposed rule is to specify what must be filed with the Department in order to be registered pursuant to Section 717.117(8), Florida Statutes (2002).

69I-20.002: The purpose and effect of the proposed rule is to clarify how the fee caps contained in Section 717.135, Florida Statutes, are to be applied. The fee caps are to be applied on a per contract basis rather than a per account basis.

69I-20.0021(1)(d): The purpose and effect of the proposed rule amendment is to incorporate by reference into the Department’s rules the notices that are sent to claimants whose claims require additional information. The notices assist the Department in its efforts to obtain information which may result in the approval of the claim.

69I-20.0021(4)(b)1. and (6)(b)3.: The purpose and effect of the proposed rule amendment is to clarify that other forms of personal identification may be used when a current drivers license is not available.

69I-20.0021(11)(a)3.: The purpose and effect of the proposed rule amendment is to clarify how the contents of safe deposit boxes are to be shipped to owners or to the owner’s representative. As an alternative to picking up the contents of a safe deposit box valued at ten thousand dollars (\$10,000) or more, the owner or owner’s representative (if authorized by the owner to receive the contents of a safe deposit box) must provide the Department with a cashier’s check to cover the shipping charges or common carrier account information so that the Department may arrange for the shipping of the contents of the safe deposit box at the expense of the owner or owner’s representative. The a cashier’s check to cover the shipping charges or common carrier account information will not be needed if the value of the contents of the safe deposit box is less than ten thousand dollars (\$10,000) and a common carrier will accept delivery.

69I-20.0022(3): The purpose and effect of the proposed rule amendment is to clarify what is required to be filed if the owner of the unclaimed property is deceased. For aggregate unclaimed property amounts of over \$5,000.00, the decedent’s estate must be probated unless the decedent’s estate has been previously administered. If the estate has been previously administered, the claim must include a certified copy of a court order which identifies the recipients of the decedent’s property and their percentage interest in the estate. If such an order is not available, the claimant must submit a copy of documents from the probate court file from which the identity and proportional entitlement of each can be determined. For aggregate unclaimed property amounts of \$5,000.00 or less, Form DFS-UP-1243, Estate Affidavit, may be used regardless of whether the decedent’s estate has been probated in the past.

69I-20.0022(3)(a)3.a., Form DFS-UP-1243, Estate Affidavit: The purpose and effect of the proposed rule amendment is to modify the Estate Affidavit so that the claimant will specify on what basis the claimant is a recipient under the intestacy statutes. The claimant will also be required to state that all persons who are listed before the claimant, as being entitled to the decedent’s estate under the applicable intestacy statute recipients, are deceased.

69I-20.0022(5)(c): The purpose and effect of the proposed rule amendment is first to clarify that the claimant must prove a connection to the dissolved corporation and, second, to specify what must be filed with the Department when filing a claim for unclaimed property owned by a dissolved corporation. As an alternative to filing a certified copy of the last corporate filing reflecting the officers and directors of the corporation, the claimant must provide the Department with the state of incorporation’s web site address if the same information is available on the Internet site. As an alternative to a bankruptcy search, the claimant must provide the Department with the results of a Case Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search, in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. The claim must provide the results of a CM/ECF or a PACER search by both the corporate name and by tax identification number. The rule amendments also require bankruptcy information to be provided if the dissolved corporation has been a debtor in bankruptcy. If the bankruptcy estate is open or if the bankruptcy estate is reopened, the unclaimed property will be remitted to the bankruptcy estate.

69I-20.0023: The purpose and effect of the proposed rule is to provide that a claimant, or a claimant’s representative, may submit the results of a database search with the claim for unclaimed property.

69I-20.003: The purpose and effect of the proposed rule is to provide a form for the reporting of safe deposit box contents.

69I-20.036: The purpose and effect of the proposed rule is to require holders to notify the Department in writing within 120 days of the filing of the report that the safe deposit box contents have either been claimed by the owner or have no commercial value and will not be remitted to the Department by the holder.

69I-20.050: The purpose and effect of the proposed rule is to establish a voluntary disclosure agreement procedure and form. SUBJECT AREA TO BE ADDRESSED: 69I-20.001: Registration of private investigators, accountants and attorneys pursuant to Section 717.117(8), Florida Statutes (2002). 69I-20.002: Unclaimed property fee limitations. 69I-20.0021(1)(d): Unclaimed property claims processing. 69I-20.0021(4)(b)1. and (6)(b)3.: personal identification. 69I-20.0021(11)(a)3.: Shipping of contents of safe deposit boxes to owners or to the owner's representative. 69I-20.0022(3): Filing claims for unclaimed property owned by decedents. 69I-20.0022(3)(a)3.a.: Form DFS-UP-1243, Estate Affidavit. 69I-20.0022(5)(c): Filing claims for unclaimed property owned by dissolved corporations. 69I-20.0023: Filing database search results with claims for unclaimed property. 69I-20.003: Safe deposit box contents reporting. 69I-20.036: remitting of safe deposit box contents. 69I-20.050: Voluntary Disclosure Agreements.

SPECIFIC AUTHORITY: 717.117(1), 717.138 FS.

LAW IMPLEMENTED: 717.117, 717.1201, 717.124, 717.125, 717.126, 717.135 FS.

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

TIME AND DATE: 9:00 a.m., Wednesday, October 29, 2003

PLACE: Suite 547, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE IS: Paul C. Stadler, Jr., Assistant General Counsel, Department of Financial Services, Suite 464, The Fletcher Building, 101 E. Gaines St., Tallahassee, Florida 32399-0350, (850)410-9461

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69I-20.001 Registration.

Section 717.117(8), Florida Statutes, requires that a private investigator, accountant or attorney must be registered with the Bureau of Unclaimed Property in order to obtain social security numbers for the limited purpose of locating owners of unclaimed property.

(1) To register with the Bureau of Unclaimed Property:

(a) A private investigator must provide:

1. A legible copy of his or her Florida Class "A" business license or that of his or her employer;

2. A legible copy of his or her Florida Class "C" individual license;

3. A legible copy of his or her current drivers license showing the full name and current address of such person. In the event that a current drivers license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the Department;

4. His or her business address and telephone number; and

5. The names of employees, if any, who are authorized to act on behalf of the private investigator.

(b) A certified public accountant must provide:

1. His or her Florida Board of Accountancy number;

2. A legible copy of his or her current drivers license showing the full name and current address of such person. In the event that a current drivers license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the Department;

3. His or her business address and telephone number; and

4. The names of employees, if any, who are authorized to act on behalf of the certified public accountant.

(c) An attorney must provide:

1. His or her Florida Bar number. If the attorney is not admitted to the Florida Bar, the attorney must provide the address and telephone number of each bar for each jurisdiction where he or she is admitted to practice along with the bar number for each jurisdiction;

2. A legible copy of his or her current drivers license showing the full name and current address of such person. In the event that a current drivers license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the Department;

3. His or her business address and telephone number; and

4. The names of employees, if any, who are authorized to act on behalf of the attorney.

(2) A private investigator, accountant or attorney who desires his or her fees sent directly to him or her by the Bureau of Unclaimed Property must also provide his or her tax identification number.

(3) Information and documents already on file with the Bureau of Unclaimed Property prior to the effective date of this rule need not be resubmitted in order to complete the registration.

(4) If a material change in the status of a registration occurs, a registrant must within 15 days provide the Bureau of Unclaimed Property with the updated documentation and information in writing. Material changes include, but are not limited to the following:

(a) If an authorized employee of a registrant ceases to be employed by the registrant, the registrant must within 15 days inform the Bureau of Unclaimed Property in writing of the termination of employment.

(b) If a registrant surrenders his or her license or the license is suspended or revoked, the registrant must within 15 days inform the Bureau of Unclaimed Property in writing of the surrender, suspension, or revocation. Upon the suspension, or revocation of the registrant's license, the registrant shall no longer be registered with the Bureau of Unclaimed Property.

(c) If a Florida Class "C" individual license of a private investigator, or if a Florida Class "A" business license of a private investigator's employer, is renewed, the private investigator must provide a copy of the renewed license to the Bureau within 30 days of the receipt of the renewed license by the private investigator or the private investigator's employer.

Specific Authority 717.138 FS. Law Implemented 717.117, 717.124, 717.135 FS. History—New _____.

69I-20.002 Fee Caps.

(1) Pursuant to Section 717.135, F.S., an Owner's Representative may elect to either have fee caps apply to a contract to recover unclaimed property or make the Section 717.135(1)(b), F.S., disclosures to the owner. If the Owner's Representative elects to have the fee caps apply, the fee caps will be applied on a per contract basis rather than on a per account basis. The per contract application requires that all accounts be aggregated in order to determine whether the value of the contract is \$250.00 or greater. If the aggregate value of the accounts is less than \$250.00, the fees must be limited to the lesser of the aggregate value of the unclaimed property or \$25.00. If the aggregate value of the accounts is \$250.00 or more, the fees must be limited to 15 percent on property held by the Department for 24 months or less and to 25 percent on property held by the Department for more than 24 months.

(2)(a) Example One. The Department has held unclaimed property of a value of \$200.00 more than 24 months in an unclaimed property account for an owner. The Department has also held unclaimed property of a value of \$1,000.00 for more than 24 months in a second account for the same owner. The Owner's Representative has entered into a contract for the recovery of unclaimed property with the owner. The two accounts must be aggregated in order to determine whether the value of the contract is \$250.00 or greater. The aggregate value of both accounts is \$1,200.00. The fees of the Owner's Representative must be limited to 25 percent on property held by the Department in both accounts. This amount is \$300.00.

(b) Example Two. The Department has held unclaimed property of a value of \$200.00 for 24 months or less in an unclaimed property account for an owner. The Department has also held unclaimed property of a value of \$100.00 for 24 months or less in a second account for the same owner. The Owner's Representative has entered into a contract for the recovery of unclaimed property with the owner. The two

accounts must be aggregated in order to determine whether the value of the contract is \$250.00 or greater. The aggregate value of both accounts is \$300.00. The fees of the Owner's Representative must be limited to 15 percent on property held by the Department in both accounts. This amount is \$45.00.

(c) Example Three. The Department has held unclaimed property of a value of \$120.00 for 24 months or less in an unclaimed property account for an owner. The Department has also held unclaimed property of a value of \$100.00 for more than 24 months in a second account for the same owner. The Owner's Representative has entered into a contract for the recovery of unclaimed property with the owner. The two accounts must be aggregated in order to determine whether the value of the contract is \$250.00 or greater. The aggregate value of both accounts is \$220.00. The total amount of fees due to the Owner's Representative must be limited to \$25.00.

(d) Example Four. The Department has held unclaimed property of a value of \$220.00 for 24 months or less in an unclaimed property account for an owner. The Department has also held unclaimed property of a value of \$40.00 for more than 24 months in a second account for the same owner. The Owner's Representative has entered into a contract for the recovery of unclaimed property with the owner. The two accounts must be aggregated in order to determine whether the value of the contract is \$250.00 or greater. The aggregate value of both accounts is \$260.00. The fees of the Owner's Representative must be limited to 15 percent on property held by the Department 24 months or less in the first account. This amount is \$33.00. The fees of the Owner's Representative must be limited to 25 percent on property held by the Department for more than 24 months in the second account. This amount is \$10.00. The total amount of fees due to the Owner's Representative must be limited to \$43.00.

(3) This rule does not apply to unclaimed property that is owned by a decedent's estate or a person who is subject to a guardianship.

Specific Authority 717.138 FS. Law Implemented 717.135 FS. History—New _____.

69I-20.0021 Procedures for Filing Claim.

(1) Claims Submission. Claims for unclaimed property in the custody of the Department pursuant to Chapter 717, F.S., shall be submitted to the Department on the form(s) prescribed and supplied by the Department, together with documentation supporting the claim. All forms referenced in this rule are available from and shall be submitted to: The Department of Financial Services ~~Banking and Finance~~, Bureau of Unclaimed Property, Tallahassee, Florida.

(a) The Department will only accept and review claims that are complete.

(b) A complete claim shall include the correct claim form identified in this rule, fully completed with all blanks filled in and manually signed by all claimants, and all supporting documentation as described and required by this rule, and Rule ~~69I-20.0022 3D-20.0022~~, F.A.C.

(c) Claims meeting the requirements of paragraph (b) above shall be deemed complete.

(d) Incomplete claims delivered to the Department will be returned to the claimant with a ~~notice letter~~ describing the additional documentation that must be submitted to make the claim complete. The notices are Form DFS-UP-106a, Unclaimed Property Request for Further Information (Original Owner), Form DFS-UP-106b, Unclaimed Property Request for Further Information (Business), Form DFS-UP-107a, Unclaimed Property Request for Further Information (Other Than Apparent Owner), and Form DFS-UP-108a, Unclaimed Property Request for Further Information (Owner's Representative), which are hereby incorporated by reference, effective _____.

(e) The claim may be refiled at any time.

(2) through (3) No change.

(4) Claims Filed by Apparent Owner, (including Corporations).

(a) Claims by apparent owners for unclaimed property shall be submitted on Form ~~DFS-UP-106 DBF-UP-106~~, entitled Claim by Apparent Owner, which is hereby incorporated by reference, revised 10-1-01.

(b) Form ~~DFS-UP-106 DBF-UP-106~~ shall be manually signed by the claimant and accompanied by the following:

1. Personal identification of the claimant as provided in subsection 69I-20.0022(2), F.A.C.

2. through (5) No change.

(6) Claims Filed by Owner's Representative.

(a) All claims for unclaimed property filed by an Owner's Representative shall be submitted on Form ~~DFS-UP-108 DBF-UP-108~~, entitled Claim by Owner's Representative, which is hereby incorporated by reference, revised 10-1-01.

(b) Form ~~DFS-UP-108 DBF-UP-108~~ shall be manually signed by the person(s) filing the claim and accompanied by the following:

1. Original Agreement establishing the Owner's Representative's right to act on behalf of the owner.

2. The name, address, taxpayer identification number (if available), and telephone number (if available), of the person or entity for whom payment is sought.

3. Personal identification of the person(s) or entity for whom payment is sought as provided in subsection 69I-20.0022(2), F.A.C. When ownership is claimed by an entity, personal identification of the entity representative is also required as provided in subsection 69I-20.0022(2), F.A.C., unless the entity is an active Florida corporation, the corporate

representative is listed as an officer of the corporation on the Secretary of State's website, and the property is to be mailed to the corporate address listed on the website.

4. through (11)(a)2. No change.

3. Tangible Personal Property.

a. If the property ~~is valued at has a value of~~ less than ten thousand dollars (\$10,000); and ~~can if it will~~ be accepted for delivery by a common carrier, the property will be shipped ~~mailed~~ to the owner at the address listed on the claim.

b. If the property ~~is valued at has a value of~~ ten thousand dollars (\$10,000) or ~~more greater~~, or ~~the property cannot it will~~ ~~not~~ be accepted for delivery by a common carrier, the Department will advise the owner of the award by letter, and make the property available for pickup during normal business hours at the Department's offices in Tallahassee, Florida.

i. The owner must produce the award letter and a personal picture identification in order to claim the property at the Department's Tallahassee address.

ii. Anyone other than the owner must produce the award letter, written authorization to receive the property signed by the owner and notarized, and personal picture identification in order to receive the property at the Department's Tallahassee address.

iii. Receipt of the property must be acknowledged in writing by the person receiving the property ~~by a signed receipt~~.

iv. If the property is not collected at the Department's Tallahassee office within ninety (90) days of the date on the award letter, it may be offered for sale at the next auction and the proceeds delivered the same as cash in paragraph (11)(a) above.

c. As an alternative to paragraph (11)(a)3.b. above, the owner must either arrange with a common carrier to pick up the property during normal business hours at the Department's offices in Tallahassee, Florida, or request that the property be shipped by the Department to the address listed on the claim form by common carrier at the owner's expense. All owner's communications with the Department regarding how the property is to be delivered to the owner must be in writing. If the property is to be shipped by the Department, the owner must provide the Department with:

i. A cashier's check in the amount of the shipping charges and any cost for the insurance coverage payable to the Department of Financial Services, and

ii. A statement identifying the amount of insurance coverage authorized to be purchased for the property or a statement that the owner does not desire the property to be insured.

d. Upon the receipt of cashier's check payable to the Department of Financial Services in the appropriate amount, the safe deposit box contents will be shipped to the address on

the claim form. The Department will not accept liability for the contents of the safe deposit box if insurance covering the value of the safe deposit box contents is not purchased.

(b) Payment and Delivery of Claims filed by Owner's Representative.

1. Cash – Payment of cash will be made to owners by warrant, net of the Owner's Representative's fees, and mailed to the owner. Payment of fees to Owner's Representatives will be made electronically at least twice a month provided a completed Form ~~DFS-AA-26E~~ ~~DBF-AA-26E~~, incorporated by reference in Rule ~~69~~~~3A~~-22.002, F.A.C., is provided.

2. Securities – The Department will liquidate all securities issues that can be sold as soon as practicable, unless the security cannot be sold due to market liquidity, current valuation or ongoing corporate activity. Payment will be provided as follows:

a. If the securities have been liquidated, payment of the cash proceeds will be made as set forth in subparagraph (11)(b)1. above.

b. Certificated securities that cannot be sold due to market liquidity, current valuation or ongoing corporate activity will be registered in the name of the owner and mailed to the Owner's Representative with notice to the owner.

c. If the security can be certificated and delivery of the certificate is requested, in writing, by the owner and the Owner's Representative, the security will be registered in the owner's name and the certificate will be mailed to the Owner's Representative with notice to the owner.

d. Non-certification securities that cannot be sold due to market liquidity, current valuation, or ongoing corporate activity will be registered in the name of the owner and transferred electronically to an owner's brokerage or mutual fund account, if the information required by the securities industry is provided at the time the claim is filed. Such information could include the broker or agent's DTC number (Depository Trust Corporation), ABA number (American Banker Association), the owner's account number and account registration. If such information is not available at the time the claim is to be paid, written notice will be provided to the Owner's Representative, who must provide the information. The security for which such information is required will not be paid until the information is provided. When the security is paid, the owner and the Owner's Representative will receive written notice of the transfer.

e. Securities that cannot be electronically transferred to a brokerage or mutual fund account, but can be certificated, will be registered in the name of the owner. The certificate will be mailed to the Owner's Representative, with written notification to the owner.

f. Securities that cannot be sold, electronically transferred, or certificated, will not be paid. Written notice will be provided to the owner and the Owner's Representative.

g. All securities will be registered according to industry standards.

3. Tangible Personal Property.

a. If the owner has not authorized the owner's representative to receive the property, the property shall be delivered to the owner in accordance with subparagraph (11)(a)3. above. If the owner has authorized the owner's representative to receive property valued at less than ten thousand dollars (\$10,000) that can be accepted for delivery by a common carrier, the property will be shipped to the owner's representative at the address listed on the claim.

b. If the owner has authorized the owner's representative to receive property valued at ten thousand dollars (\$10,000) or more, or the property cannot be accepted for delivery by a common carrier, the Department will advise the owner's representative of the award by letter, and make the property available for pickup during normal business hours at the Department's offices in Tallahassee, Florida.

i. Anyone authorized to act on behalf of the owner's representative must produce personal picture identification in order to receive the property at the Department's Tallahassee address.

ii. Receipt of the property must be acknowledged in writing by the person receiving the property.

iii. If the property is not collected at the Department's Tallahassee office within ninety (90) days of the date on the award letter, it may be offered for sale at the next auction and the proceeds delivered the same as cash in paragraph (11)(b) above.

c. As an alternative to sub-subparagraph (11)(b)3.b. above, the owner's representative must either arrange with a common carrier to pick up the property during normal business hours at the Department's offices in Tallahassee, Florida, or request that the property be shipped by the Department to the address listed on the claim by common carrier at the expense of the owner's representative. All communications by the owner's representative with the Department regarding how the property is to be delivered to the owner's representative must be in writing. If the property is to be shipped by the Department, the owner's representative must provide the Department with:

i. A cashier's check in the amount of the shipping charges and any cost for the insurance coverage payable to the Department of Financial Services, and

ii. A statement identifying the amount of insurance coverage authorized to be purchased for the property or a statement that the owner does not desire the property to be insured.

d. Upon the receipt of cashier's check payable to the Department of Financial Services in the appropriate amount, the safe deposit box contents will be shipped to the address on the claim form. The Department will not accept liability for the contents of the safe deposit box if insurance covering the value of the safe deposit box contents is not purchased.

Specific Authority 717.138 FS. Law Implemented 92.525,717.1201, 717.124, 717.125, 717.126, 717.135 FS. History—New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, 4-16-02, Formerly 3D-20.0021, Amended

691-20.0022 Proof of Ownership and Entitlement to Unclaimed Property.

(1) No change.

(2) ~~Claims by Apparent Owner.~~ Any and all persons claiming an interest in unclaimed property in the possession of the Department shall file with the Department a copy of a current drivers license showing the full name and current address of such person or persons. In the event that a current drivers license is not available, another form of identification showing full name and current address of such person or persons shall be filed with the Department. This subsection shall not apply to any person who is acting as an Owner's Representative.

(3) Claims by Beneficiaries or Estates.

(a) If the apparent owner is deceased, the claim must include a certified copy of the decedent's death certificate, as well as the following:

1. Open Estates – Records, certified by the clerk of court within one (1) year of the date of filing the claim with the Department, reflecting the personal representative's right to act for the estate of the apparent owner.

2. Closed Estates – ~~A certified copy of a Attach~~ a probate court order, certified by the clerk of court ~~within one (1) year of the date of filing of the claim with the Department,~~ identifying the beneficiaries and the proportional entitlement of each to the estate. If a court order, identifying the beneficiaries and the proportional entitlement of each to the property of the estate is not available, the claimant must submit those documents from the probate court file from which this information may be determined. Typically, this information may be obtained from the decedent's will, if one exists, and the Order admitting the will to probate; the Petition for Probate; or the Petition for Discharge with exhibits. If any such combination of documents is submitted, they must be accompanied by a copy of the Order of Discharge and the docket sheet. In no event is the will standing alone, sufficient.

3. Unclaimed Property with Aggregate value of \$5,000.00 or Less. If all Will Never Probated ~~If an owner died with a will, but the will was not probated, and~~

~~a. All of the unclaimed property held by the Department on behalf of a deceased the owner has an aggregate value of \$5,000 or less, as an alternative to subparagraph (3)(a)2., the claimant may file a A copy of the will, if the decedent had a will, and an affidavit signed by all the beneficiaries stating that all the beneficiaries have amicably agreed upon a division of the estate, that no probate proceedings are pending for the estate, and that all funeral expenses, expenses of the last illness and other lawful claims have been paid. The affidavit shall be submitted on Form DFS-UP-1243 DBF-UP-1243, Estate Affidavit, effective _____ revised 10/1/01, which is hereby~~

incorporated by reference and available from the Department of Financial Services Banking and Finance, Bureau of Unclaimed Property, Tallahassee, Florida. No partial payments shall be made.

~~b. If the aggregate value of the unclaimed property held by the Department is more than \$5,000, a probate estate administration must be opened and a current certified copy of a court order identifying either the personal representative, or, in the case of a summary administration, the beneficiaries and the proportional share of each to the estate, must be submitted to the Department.~~

4. No Will and No Administration

~~a. All of the unclaimed property held by the Department on behalf of the owner has an aggregate value of \$5,000 or less and the estate was never probated, a beneficiary may file an affidavit signed by all the beneficiaries, stating that all the beneficiaries have amicably agreed among themselves upon a division of the estate, that no probate proceedings have been instituted upon the estate, and that all funeral expenses, expenses of the last illness, and any other lawful claims have been paid. The affidavit shall be submitted on Form DBF-UP-1243. No partial payments shall be made.~~

~~b. If the aggregate value of the unclaimed property held by the Department is \$5,000 or more, a probate administration must be opened and a certified copy of a court order identifying either the personal representative or, in the case of a summary administration, the beneficiaries and their proportional interests in the estate must be submitted to the Department.~~

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

(c)1. If the unclaimed business account is that of a dissolved corporation, the claimant must specify the corporation's state of incorporation and its last principal business address. The claimant must provide a certified copy of the last corporate filing identifying the officers and directors of the corporation. This document must be obtained If the unclaimed business account is for a dissolved corporation, then certification from an appropriate authorized state official of the state of incorporation, certified within one (1) year of the filing of the claim, shall be provided to the Department to reflect the last corporate filing. A certified copy of the last corporate filing shall not be required if:

a. The officers and directors of the dissolved corporation are identified in the last corporate filing on the Internet site for the Florida Department of State; or

b. The claimant furnishes to the Department a uniform resource locator (U.R.L.) for the address of a free Internet site operated by the state of incorporation of the dissolved corporation that provides access to the last corporate filing identifying the officers and directors of the dissolved corporation.

c. The claimant must furnish the Department with a printout from the relevant Internet site identifying the officers and directors of the dissolved corporation.

2. The appropriate evidence shall be provided must demonstrate to reflect that the dissolved corporation is the same corporation as shown on the Department's records. The and appropriate evidence must demonstrate that shall be provided to reflect the claimant is entitled to all or a proportional share of the dissolved corporation or that the claimant is an officer or director of the corporation. It is not sufficient that the claimant has the same name as that of an officer or director of the dissolved corporation. The claimant must demonstrate a connection to the dissolved corporation. subparagraph (5)(b)4. herein provides examples of documents which may establish a connection between the claimant and the dissolved corporation.

3. A claim for an unclaimed business account of a dissolved corporation must state whether the dissolved corporation has ever been a debtor in bankruptcy. If the dissolved corporation has ever been a debtor in bankruptcy, the claimant must identify the bankruptcy chapter under which the bankruptcy case proceeded. The claimant must also identify the location of the bankruptcy court, the case number, and the address and telephone number of the Office of the U.S. Trustee in that jurisdiction. If no bankruptcy proceedings of the dissolved corporation are known, the claimant must so state and must either provide the results of a bankruptcy court web site Case Management/Electronic Case Files (CM/ECF) search, if available, or a Public Access to Court Electronic Records (PACER) search. The CM/ECF or PACER search must be conducted in the bankruptcy court of the state and district of incorporation and where the main office is located, if different. The claim must provide the results of both a search by corporate name and a search by tax identification number, if available, for the state and district of incorporation and the location of the main office, if different. As an alternative to the CM/ECF or PACER search, the claimant must provide a completed United States Bankruptcy Court Application for Search of Bankruptcy Records shall be provided to the Department from the state and district of incorporation, and from the district where the main office is located, if different.

4. The Office of the U.S. Trustee will be contacted by the Department if the dissolved corporation was a debtor in a closed Chapter 7 bankruptcy case and the aggregate value of the unclaimed property is greater than \$2,500.00. If the bankruptcy case is reopened, the unclaimed property will be remitted to the bankruptcy trustee.

5. Any unclaimed property will be remitted to the bankruptcy trustee for a corporation in a pending bankruptcy case unless the debtor is in possession of the bankruptcy estate. If the debtor is in possession of the bankruptcy estate, the unclaimed property will be remitted to the debtor corporation.

6. Personal identification shall be provided as specified in subsection (2) of this rule.

Specific Authority 717.138 FS. Law Implemented 92.525, 717.124, 717.126 FS. History—New 3-20-91, Amended 3-13-96, 8-18-96, 1-28-97, 1-18-99, 4-16-02, Formerly 3D-20.0022, Amended _____, Cf. 11 U.S.C. s. 542

69I-20.0023 Database Submissions.

(1) A claimant, or a claimant's representative, may submit the results of a database search with the claim for unclaimed property.

(2) In the event that the claim is denied, and a hearing is requested by the claimant or the claimant's representative, the evidentiary requirements of Sections 120.569 and 120.57, Florida Statutes, shall apply to the results of a database search.

(3) Unless otherwise provided by Florida law, the results of a database search shall be public record in accordance with Section 119.07, Florida Statutes.

Specific Authority 717.138 FS. Law Implemented 717.124, 717.126 FS. History—New _____.

69I-20.003 Reporting Safe Deposit Box Contents.

Safe deposit box contents shall be reported by submitting a completed Form DFS-UP-155, Safe Deposit Box Inventory Form of Property Presumed Unclaimed, effective _____, hereby incorporated by reference and available from the Department of Financial Services, Bureau of Unclaimed Property, Suite 330, Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333.

Specific Authority 717.117(1), 717.138 FS. Law Implemented 717.117 FS. History—New _____.

69I-20.036 Remitting of Safe Deposit Box Contents and Reimbursement of Expenses.

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

(c) Within 120 days of the filing of the report, the department may will review reports submitted and notify the holder if the department declines to accept certain items as having insufficient value to warrant the expense of notice and sale.

(d) Within 120 days of the filing of the report, the holder must notify the Department in writing within 120 days of the filing of the report that the safe deposit box contents have either been claimed by the owner or have no commercial value and will not be remitted to the Department by the holder.

(5) No change.

Specific Authority 717.138 FS. Law Implemented 717.117, 717.119, 717.1201(7), 717.127 FS. History—New 6-23-91, Amended 8-24-98, 4-16-02, Formerly 3D-20.036, Amended _____.

69I-20.050 Voluntary Disclosure Agreements.

(1) The Department's goal is to collect and return unclaimed property to its rightful owners in accordance with the Florida Disposition of Unclaimed Property Act, Chapter 717, Florida Statutes. To achieve these results, the Department is encouraging businesses ("Holders") inside and outside the

State of Florida who are in possession of unclaimed property to comply with Florida's Unclaimed Property Law. This compliance can be achieved using a program called voluntary disclosure. This program provides the following benefits to a holder:

- (a) It relieves the Holder of associated expense and liability holding unclaimed property;
- (b) Penalties and fines are not assessed by the Department;
- (c) The reach back period for the review of the Holder's records is five years instead of ten years; and
- (d) The audit period for verification of the disclosure is two years from the date that the report and remittance is accepted by the Department.

(2) To participate in this program, the Holder must not:

- (a) Be subject to an examination;
- (b) Have received notice of an examination by the Department or any of its agents;
- (c) Have been contacted as a result of the Department's outreach program; or
- (d) Have filed an annual report of unclaimed property with the Department.

(3) The property to be disclosed must be unreported and unremitted unclaimed property due to the State of Florida. No property will be accepted on behalf of another state.

(4) Upon notification by the Holder or its agent that the Holder desires to participate in the program, the Bureau of Unclaimed Property ("Bureau") will mail a voluntary disclosure agreement to the Holder or its agent. Form DFS-UP-200, Voluntary Disclosure Agreement, effective _____, hereby incorporated by reference and available from the Department of Financial Services, Bureau of Unclaimed Property, Suite 330, Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399-0333. The voluntary disclosure agreement will contain the terms and conditions of the voluntary disclosure. If the Holder is in agreement with the terms and conditions of the voluntary disclosure agreement, the Holder must complete, execute and return the voluntary disclosure agreement to the Bureau with the following information:

- (a) The information requested in Section (4)(a)1. of the agreement;
- (b) The Holder's state of incorporation;
- (c) The Holder's principal place of business (city and state);
- (d) If the Holder's state of incorporation and principal place of business is outside of Florida, the Holder must provide a list detailing the cities in Florida where the Holder conducts business with the number of locations in each city, and;
- (e) If the Holder has no locations within Florida, the Holder must so state.

(5) If the executed voluntary disclosure agreement is adopted and incorporated by reference into a final order of the Department, within the nine-month period from the entry of the final order, the Holder is obligated to submit a detail plan outlining the disclosure process to be completed by the Holder, the estimation calculations used by the Holder, and a report identifying the unclaimed property due to the Department. The unclaimed property remittance must accompany the report.

(6) Once the report and remittance have been reviewed and accepted by the Department, the Department will notify the Holder of the commencement of the two-year audit period.

Specific Authority 717.117(1), 717.138 FS. Law Implemented 717.117, 717.119, 717.129 FS. History--New _____.

Section II Proposed Rules

DEPARTMENT OF STATE

Division of Elections

RULE TITLES: RULE NOS.:

- Constitutional Amendment Initiative
- Petition Submission Deadline; 1S-2.0091
- Verifying Elector's Signatures 1S-2.010
- Advisory Opinions

PURPOSE AND EFFECT: Amend the rules regarding the procedure for constitutional amendment initiative petition submissions and for the verification of elector's signatures.

SUMMARY: Clarifies the procedure for constitutional amendment initiative petition submissions, and for the verification of elector's signature by supervisors of elections.

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: 100.371(7), 106.22(9) FS.

LAW IMPLEMENTED: 100.371, 106.23(2) FS.

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

TIME AND DATE: 2:00 p.m., October 31, 2003

PLACE: Collins Building Room 102, 107 West Gaines Street, Tallahassee, Florida 32399-0250, (850)245-6200

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this hearing should advise the Department at least 5 calendar days before the hearing by contacting Sarah Jane Bradshaw or Marielba Torres, (850)245-6200.