

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.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sarah Jane Bradshaw, 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250, (850)245-6200

THE FULL TEXT OF THE PROPOSED RULES IS:

1S-2.0091 Constitutional Amendment Initiative Petition Submission Deadline; Verifying Electors' Signatures.

(1) Initiative petitions containing signatures proposing constitutional amendments to the Florida Constitution shall be submitted by the sponsor to the Supervisor of Elections in the county in which they were circulated to be verified. If an initiative petition is filed with a Supervisor of Elections of a county other than the county in which the signee is a registered elector, it shall be the responsibility of the circulator or sponsor to forward such petition to the proper county. In the case of such misfiled petition, the filing date of the petition is the date such petition is filed with the proper county. ~~Any petition not timely filed in the proper county on the date it is required by law to be filed is invalid.~~

(2) Upon receipt of initiative petitions, the Supervisor shall verify the signatures on each petition to insure that each person signing said petition is a registered elector in that county and that the date the elector signed the petition was not more than four years prior to the date the Supervisor verified the petition. Initiative petitions must contain, all of the following or they will be deemed invalid and the Supervisor shall not verify the signature:

- (a) The signee's name,
- (b) The signee's street address (including city and county),
- (c) The signee's voter registration number or date of birth,
- (d) The signee's signature,
- (e) The date the elector signed the petition.

(3) Upon completion of the verification as set forth in subsection 1S-2.0091(2), F.A.C., a certificate shall be submitted to the Division of Elections of the Department of State by the Supervisor of Elections certifying the total number of signatures verified, the number verified as registered electors and the distribution by congressional district. ~~The certificate shall be submitted no later than 5 p.m. of the 91st day preceding the general election. Any certificate received later than that time will not be eligible to be counted toward the required number of electors' signatures for any congressional district or the State as a whole.~~ The Division will provide appropriate forms to the Supervisor of Elections to be used for transmission of the required information. In conjunction with the certificate submitted, each Supervisor shall submit a copy of one petition showing the text of the constitutional amendment to which the certified signatures relate. Certificates may be submitted by the supervisor via facsimile in order to meet the deadline, followed by an original copy by mail.

(4) Upon receipt of a certificate from the Supervisor of Elections, the Division shall compile the total number of signatures verified as being registered electors to determine whether the requisite number of signatures has been obtained with respect to each constitutional amendment, ~~by each political committee~~, for each congressional district and the State as a whole. In order to have the initiative appear on the next general election ballot, certificates indicating the requisite number of signatures have been obtained must be received by the Division of Elections no later than 5 p.m. of the 91st day preceding the general election. Upon completion of the compilation, a certification of ballot position shall be issued by the Secretary of State to an appropriate political committee which has obtained the constitutionally required number of signatures. ~~Any political committee which has not obtained the required number of signatures will be so notified.~~

(5) If an initiative petition submitted by a political committee appears on the general election ballot and fails to become enacted by the electors at the general election, the signatures accompanying such petition may not be utilized in support of any future initiative petition.

Specific Authority 100.371(7)(6) FS. Law Implemented 100.371 FS. History--New 1-6-80, Amended 12-20-83, Formerly 1C-7.091, 1C-7.0091, Amended 2-13-90, 3-5-96, \_\_\_\_\_.

1S-2.010 Advisory Opinions.

(1) General. The Division of Elections has the responsibility to render advisory opinions as to the application of Chapters 97 through 106, F.S.

(2) Those Who May Receive Advisory Opinions.

(a) Those who may formally request and receive advisory opinions as provided for in this rule include the following:

- 1.(a) Supervisors of Elections.
- 2.(b) Candidates.
- 3.(c) Local officers having election related duties.
- 4.(d) Political parties.
- 5.(e) Registered political committees.
- 6.(f) Certified committees of continuous existence.

7.(g) Other persons or organizations engaged in political activity; that is, persons or members of an organization which are is actually involved in the action which is the concern of the request.

(b) A representative may request an opinion in the name of his or her principal; however, the opinion will be addressed to the principal.

(3) Subject Matter of Advisory Opinions. Advisory opinions may be rendered only with respect to provisions or possible violations of Florida election law with respect to actions elections taken or proposed to be taken by a person or entity listed supervisor, candidate, local officer having election related duties, political party, committee or person or organization engaged in political activity, as defined in subsection 1S-2.010(2), F.A.C.

(4) Form of Requests for Opinions. Requests for advisory opinions, pursuant to Section 106.23(2), F.S., shall occur only in the form of a written request to the Florida Department of State, Division of Elections. Such request may be accompanied by pertinent attachments, exhibits and memoranda, but must contain the following information in the body of the request:

- (a) Name of Requestor ~~Petitioner~~.
- (b) Address of Requestor ~~Petitioner~~.
- (c) Statutory provision(s) of Florida election law on which advisory opinion is sought.
- (d) Description of how this statutory provision may or does affect the requestor ~~petitioner~~.
- (e) Possible violation of Florida election laws on which advisory opinion is sought.
- (f) The precise factual circumstances giving rise to the request ~~petition~~.
- (g) The point(s) on which the requestor ~~petitioner~~ seeks an opinion ~~requests a declaration~~.
- (h) Additional relevant information.
- (i) Statement of necessity, if any, to expedite division's response. ~~The division shall not be limited to analyzing statutory provisions set forth in a petition for an advisory opinion in its preparation of a response to the request.~~

(5) Division Disposition.

(a) The division will prepare a written response to the request in a timely manner. The division shall not be limited to analyzing statutory provisions set forth in a request for an advisory opinion in its preparation of a response to the request.

(b) Once the opinion is rendered, the division shall forward a copy of it to the requestor ~~petitioner~~ and each county Supervisor of Elections and to any person or organization upon request.

(6) Indexing.

(a) Advisory opinions shall be dated and indexed by subject matter.

(b) ~~In addition, the~~ Opinions shall be numbered sequentially. The first two digits of the advisory opinion shall be the last two digits of the year in which the opinion was rendered. Following the year shall be a dash and the number of the opinion.

(7) Verbal, Telephone or Other Informal Advice. The process described in the preceding provisions of Rule 1S-2.010, F.A.C., is the only process by which the Division of Elections is authorized to provide advisory opinions pursuant to Section 106.23(2), F.S. Other telephone, verbal or written advice does not constitute an advisory opinion rendered pursuant to that law.

Specific Authority 106.22(9) FS. Law Implemented 106.23(2) FS. History—New 9-17-79, Amended 1-31-80, Formerly 1C-7.10, 1C-7.010, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Sarah Jane Bradshaw, Assistant Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Division of Elections, Department of State  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2003

**DEPARTMENT OF STATE**

**Division of Elections**

RULE TITLE: State Write-in Ballot  
RULE NO.: 1S-2.028

PURPOSE AND EFFECT: Amend the rule regarding state write-in ballots.

SUMMARY: The proposed rule clarifies language included in the form for state write-in ballots.

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: 101.6951 FS.

LAW IMPLEMENTED: 101.6951 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

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.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sarah Jane Bradshaw, 107 West Gaines Street, Suite 100, Tallahassee, Florida 32399-0250, (850)245-6200

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.028 State Write-in Ballot.

(1) The following is the form of the state write-in ballot.

(2) The form provides those offices to be filled in a general election. Offices to be filled in the election shall be arranged in the order named below.

(3) STATE WRITE-IN GENERAL ELECTION  
ABSENTEE BALLOT

\_\_\_\_\_ COUNTY

\_\_\_\_\_ (DATE) \_\_\_\_\_

TO VOTE: For each race that you intend to cast a vote, write in the name of the candidate on the line provided or write in the name of a political party, in which case the ballot will be counted for the candidate of that political party, if there is such a party candidate on the ballot.

PRESIDENT AND VICE PRESIDENT: \_\_\_\_\_

CONGRESSIONAL UNITED STATES SENATOR, DISTRICT \_\_\_\_\_:

REPRESENTATIVE IN CONGRESS, DISTRICT \_\_\_\_\_:

STATE GOVERNOR AND LT. GOVERNOR: \_\_\_\_\_

ATTORNEY GENERAL: \_\_\_\_\_

CHIEF FINANCIAL OFFICER: \_\_\_\_\_

COMMISSIONER OF AGRICULTURE: \_\_\_\_\_

STATE ATTORNEY, \_\_\_\_\_ JUDICIAL CIRCUIT \_\_\_\_\_:

PUBLIC DEFENDER, \_\_\_\_\_ JUDICIAL CIRCUIT \_\_\_\_\_:

LEGISLATIVE STATE SENATOR, DISTRICT \_\_\_\_\_:

STATE REPRESENTATIVE, DISTRICT \_\_\_\_\_:

COUNTY CLERK OF CIRCUIT COURT (OR COUNTY COURT): \_\_\_\_\_

SHERIFF: \_\_\_\_\_

PROPERTY APPRAISER: \_\_\_\_\_

TAX COLLECTOR: \_\_\_\_\_

DISTRICT SUPERINTENDENT OF SCHOOLS: \_\_\_\_\_

SUPERVISOR OF ELECTIONS: \_\_\_\_\_

BOARD OF COUNTY COMMISSIONERS, DISTRICT \_\_\_\_\_:

(List any other county and district offices involved in the appropriate general election.)

NONPARTISAN JUDICIAL/SCHOOL BOARD

JUSTICE OF THE SUPREME COURT (Add appropriate offices)

Shall Justice \_\_\_\_\_ of the Supreme Court, be retained in office? Yes No

DISTRICT COURT OF APPEAL (Add appropriate offices)

Shall Judge \_\_\_\_\_ of the \_\_\_\_\_ District Court of Appeals, be retained in office? Yes No

CIRCUIT JUDGE \_\_\_\_\_ JUDICIAL CIRCUIT, GROUP \_\_\_\_\_:

COUNTY COURT JUDGE, GROUP \_\_\_\_\_:

MEMBER SCHOOL BOARD MEMBER, DISTRICT \_\_\_\_\_:

(4) Additional local races, for which the voter may otherwise be entitled to vote, may be inserted in the appropriate places at the end of the form.

(5) For the retention of Justices of the Supreme Court and Judges of the District Court of Appeal, the supervisor shall print the names of the incumbent Justices and judges scheduled to be on the ballot for retention in the election on the write-in ballot.

Specific Authority 101.6951 FS. Law Implemented 101.6951 FS. History--New 2-11-02, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sarah Jane Bradshaw, Assistant Division Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Edward C. Kast, Division of Elections, Department of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 22, 2003

DEPARTMENT OF COMMUNITY AFFAIRS

Florida Communities Trust

RULE CHAPTER TITLE: Land Acquisition Procedures With Florida Forever Program

RULE TITLES: Preparation and Acceptance of Project Plans Trust Governing Board Action

PURPOSE, EFFECT AND SUMMARY: The proposed rule changes are needed to eliminate a step in the procedures relating to grant applications for Florida Forever funds from the Florida Communities Trust.

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

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

TIME AND DATE: 1:00 p.m., November 3, 2003

PLACE: Room 310M 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 hearing. 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 RULES IS: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, Suncom 292-2207

THE FULL TEXT OF THE PROPOSED RULES 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 \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, Suncom 292-2207

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janice Browning, Executive Director, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-2207, SunCom 292-2207

DATE PROPOSED RULES APPROVED BY AGENCY HEAD: August 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

**DEPARTMENT OF REVENUE**

**Division of Ad-Valorem Tax**

RULE CHAPTER TITLE: Exemptions  
RULE CHAPTER NO.: 12D-7

RULE TITLE: Exemption of Property of Widows, Widowers, Blind Persons, and Persons Totally and Permanently Disabled; Disabled Veterans  
RULE NO.: 12D-7.003

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12D-7.003, F.A.C., is to clarify the value of the aggregate exemptions under Sections 196.202 and 196.24, F.S., for property of widows/widowers, blind persons, totally and permanently disabled persons, and veterans.

SUMMARY: The proposed amendment to Rule 12D-7.003, F.A.C., removes references to Section 196.031, F.S., (the \$25,000 homestead exemption) and removes that amount from the combined exemption totals stated in the rule.

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

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

SPECIFIC AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 196.202, 196.24, 213.05 FS.

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

TIME AND DATE: 10:30 a.m., October 31, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)414-6108, e-mail address gallopsS@dor.state.fl.us.

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green at (850)922-4830. A person who is hearing-impaired or

speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (voice) and (800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-7.003 Exemption of Property of Widows, Widowers, Blind Persons, and Persons Totally and Permanently Disabled; Disabled Veterans.

(1) For the purposes of the exemption provided in Section 196.202, Florida Statutes:

(a) through (c) No change.

(d) The exemptions provided under Section 196.202, Florida Statutes, shall be cumulative. An individual who properly qualifies under more than one classification shall be granted more than one five hundred dollar exemption. However, in no event shall the ~~combined~~ exemption under Section 196.202, Florida Statutes, ~~and Section 196.031, Florida Statutes,~~ exceed one thousand five hundred dollars (\$1,500) for an individual ~~twenty six thousand five hundred dollars (\$26,500).~~

(e) No change.

(2) The \$5,000 exemption granted by Section 196.24, Florida Statutes, shall be considered to be the same constitutional disability exemption provided for by Section 196.202, Florida Statutes. The exemptions under sections 196.202 and 196.24, ~~196.031, and 196.202~~, Florida Statutes, shall be cumulative, but in no event shall the aggregate exemption exceed \$6,000 for an individual ~~\$31,000~~.

(3) The exemptions granted by sections 196.202 and 196.24, Florida Statutes, apply to any property owned by a bona fide resident of this state.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented ~~196.031, 196.202, 196.24, 213.05~~ FS. History—New 10-12-76, Formerly 12D-7.03, Amended 11-21-91, 12-31-98, 12-30-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)414-6108, e-mail address [gallopsS@dor.state.fl.us](mailto:gallopsS@dor.state.fl.us).

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator, Property Tax Technical Unit, Department of Revenue, Tallahassee, Florida 32314, telephone number (850)414-6100.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003, Vol. 29, No. 33, pp. 3196-3197. A workshop was held on August 29, 2003. No one gave testimony at the workshop regarding this rule and no written comments have been received by the Department.

DEPARTMENT OF REVENUE

Division of Ad-Valorem Tax

RULE CHAPTER TITLE: Assessment Roll Preparation and Approval  
 RULE CHAPTER NO.:

RULE TITLE: Uniform Standards for Computer Operations: Minimum Data Requirements  
 RULE NO.: 12D-8.011

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12D-8.011, F.A.C., is to provide exemption type codes for the property appraisers' use in maintaining uniform data processing files.

SUMMARY: The proposed amendment to Rule 12D-8.011, F.A.C., provides exemption type codes required to be used in data files maintained by the property appraisers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost was prepared. Any person who wishes to provide information regarding regulatory costs or to provide a proposal for a lower-cost regulatory alternative must do so in writing within 21 days after this notice.

SPECIFIC AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 195.027, 196.031, 196.075, 196.081, 196.091, 196.101, 196.175, 196.195, 196.196, 196.197, 196.1975, 196.198, 196.1985, 196.1986, 196.199, 196.1995, 196.1997, 196.1998, 196.2001, 196.202, 196.24, 213.05 FS.

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

TIME AND DATE: 10:30 a.m., October 31, 2003

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)414-6108, e-mail address [gallopsS@dor.state.fl.us](mailto:gallopsS@dor.state.fl.us).

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green at (850)922-4830. A person who is hearing-impaired or speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at (800)955-8770 (voice) and (800)955-8771 (TDD).

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULES IS:

12D-8.011 Uniform Standards for Computer Operations: Minimum Data Requirements.

(1) Each property appraiser shall maintain the following data in one or more of his or her data processing files regarding each parcel of real estate in his or her county.

(a) through (n) No change.

(o) 1. Exemption type. A code indicating the type of exemption granted to the parcel and the value(s) thereof. The property appraiser may continue to use any existing codes provided they are translated to the codes prescribed when submitted to the Department. The code is as follows:

A – Senior Homestead Exemption (Section 196.075, Florida Statutes)

B – Blind (Section 196.202, Florida Statutes)

C – Charitable, Religious, Scientific or Literary (Section 196.196, Florida Statutes)

D – Disabled (Sections 196.081, 196.091, 196.101, Florida Statutes)

E – Economic Development (Section 196.1995, Florida Statutes)

G – Federal Government Property (Section 196.199(1)(a), Florida Statutes); State Government Property (Section 196.99(1)(b), Florida Statutes); Local Government Property (Section 196.199(1)(c), Florida Statutes); Leasehold Interests in Government Property (Section 196.199(2), Florida)

H – Historic Property (Section 196.1997, Florida Statutes)

I – Historic Property Open to the Public (Section 196.1998, Florida Statutes)

L – Labor Organization (Section 196.1985, Florida Statutes)

M – Homes for the Aged (Section 196.1975, Florida Statutes)

N – Nursing Homes, Hospitals, Homes for Special Services (Section 196.197, Florida Statutes)

O – Widowers (Section 196.202, Florida Statutes)

P – Totally and Permanently Disabled (Section 196.202, Florida Statutes)

Q – Combination (Homestead, Disabled, Widow, Widower, Totally and Permanently Disabled, Senior Homestead Exemption – Sections 196.031, 196.075, 196.202, Florida Statutes)

R – Renewable Energy Source (Section 196.175, Florida Statutes)

S – Sewer and Water Not-for-Profit (Section 196.2001, Florida Statutes)

T – Community Centers (Section 196.1986, Florida Statutes)

U – Educational Property (Section 196.198, Florida Statutes)

V – Disabled Veteran (Section 196.24, Florida Statutes)

W – Widows (Section 196.202, Florida Statutes)

X – Homestead Exemption (Section 196.031, Florida Statutes)

Y – Combination (Homestead, Disabled, Widow, Widower, Totally and Permanently Disabled, Disabled Veteran, Senior Homestead Exemption – Sections 196.031, 196.075, 196.202, 196.24, Florida Statutes)

Z – Combination (Renewable Energy Source, Economic Development – Sections 196.175, 196.1995, Florida Statutes)

1 – Licensed Child Care Facility Operating in Enterprise Zone (Section 196.095, Florida Statutes)

2 – Historic Property Used for Certain Commercial or Nonprofit Purposes (Section 196.1961, Florida Statutes)

3 – Proprietary Continuing Care Facilities (Section 196.1977, Florida Statutes)

4 – Affordable Housing Property (Section 196.1978, Florida Statutes)

5 – Charter School (Section 196.1983, Florida Statutes)

6 – Public Property Used under License or Lease Agreement Entered into Prior to January 1, 1969 (Section 196.1993, Florida Statutes)

7 – Space Laboratories and Carriers (Section 196.1994, Florida Statutes)

8 – Water and Wastewater Systems Not-for-Profit (Section 196.2002, Florida Statutes)

2. A code or codes indicating each exemption granted to the parcel and the value(s) thereof. The property appraiser may continue to use any existing codes provided they are translated to the codes prescribed when submitted to the Department. Personal exemption codes shall be “0” indicating the exemption does not apply or the applicable code provided in this rule subsection an alphabetic character indicating an the exemption does apply. Five of six personal exemptions may apply for each parcel, in the following order.

Exemption Type	Maximum Value	Code
Homestead	\$25,000	X
Widowed	\$500	W/O
Blind	\$500	B
Disabled	\$500	P
Veteran Disabled	\$5000	V
Disabled (100 percent Exempt)	–	D

An individual who qualified for the \$25,000 exemption may also be entitled to the \$500 exemption of Section 3(b), Art. VII, State Const. (for widows, widowers, or blind or totally and permanently disabled persons) and Section 196.202, Florida Statutes, and/or the \$5000 exemption under Section 196.24, Florida Statutes (disabled veterans). In no event shall the aggregate exemption exceed \$26,500, for individuals exempt under Section 196.202, Florida Statutes, or \$31,000 for individuals exempt under Section 196.24, Florida Statutes, except for total exemptions under Sections 196.081, 196.091, or 196.101, Florida Statutes.

(p) through (q) No change.

(2) Each property appraiser shall maintain the following data in one or more of his/her data processing files regarding each personal property account in his/her county.

(a) through (l) No change.

(m) Exemption type. A code indicating the type of exemption granted the account. The code is as follows:

A – Institutional (Sections 196.195, 196.196, 196.197, Florida Statutes)

B – Non-Governmental Educational Property other than under Section 196.1985, Florida Statutes. (Section 196.198, Florida Statutes)

C – Federal Government Property (Section 196.199(1)(a), Florida Statutes)

D – State Government Property (Section 196.99(1)(b), Florida Statutes)

E – Local Government Property (Section 196.199(1)(c), Florida Statutes)

F – Leasehold Interests in Government Property (Section 196.199(2), Florida Statutes)

G – Economic Development (Section 196.1995, Florida Statutes)

H – Not-for-profit Sewer and Water Companies (Section 196.2001, Florida Statutes)

I – Blind Exemption (Section 196.202, Florida Statutes)

J – Total and Permanent Disability Exemption (Section 196.202, Florida Statutes)

K – Widow’s Exemption (Section 196.202, Florida Statutes)

L – Disabled Veteran’s Exemption (Section 196.24, Florida Statutes)

(n) through (4) No change.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 195.027, 196.031, 196.075, 196.081, 196.091, 196.101, 196.175, 196.195, 196.196, 196.197, 196.1975, 196.198, 196.1985, 196.1986, 196.199, 196.1995, 196.1997, 196.1998, 196.2001, 196.202, 196.24, 213.05 FS. History—New 12-7-76, Amended 9-30-82, Formerly 12D-8.11, Amended 12-31-98, 12-30-02, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail address gallopsS@dor.state.fl.us.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator, Property Tax Technical Unit, Department of Revenue, Tallahassee, Florida 32314, (850)414-6100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003, Vol. 29, No. 33, pp. 3197-3200. A workshop was held on August 29, 2003. No one gave testimony at the workshop regarding these rules and no written comments have been received by the Department.

**DEPARTMENT OF REVENUE**

**Division of Ad-Valorem Tax**

RULE TITLES:	RULE NOS.:
Sale of Tax Certificates for Unpaid Taxes	12D-13.045
Application for Obtaining Tax Deed by Holder of Tax Certificate; Fees	12D-13.060
Notices; Advertising, Mailing, Delivering and Posting of Notice of Tax Deed Sale	12D-13.062
Land Available for Taxes	12D-13.064
Disbursement of Proceeds of Sale	12D-13.065

PURPOSE AND EFFECT: A) The purpose of the proposed amendment to Rule 12D-13.045, F.A.C., is to implement the provisions of chapter 2003-22, L.O.F., allowing tax certificate sales to be conducted by electronic means. B) The purpose of the proposed amendment to Rule 12D-13.060 is to implement the provisions of chapter 2003-284, L.O.F., which increases the tax deed application fee and provides that the titleholder of submerged land or common elements in a subdivision that is contiguous to property on which a tax deed application has been made be included in the tax collector’s statement, unless that titleholder is the current owner of the property on which the application has been made. The purpose of the amendments to Rules 12D-13.062, 12D-13.064 and 12D-13.065, F.A.C., is to implement the provisions of Chapter 2003-284, L.O.F., which: requires that titleholders of submerged land or common elements in a subdivision that is contiguous to property on which a tax deed application has been made be provided the warnings required by Section 197.522(2)(b), F.S.; provides that the titleholder of submerged lands or common elements of a subdivision that is contiguous to property that is on the list of lands available for sale be notified if the county does not elect to purchase the land from the list; provides that titleholders of contiguous property are not to be included in disbursement of tax deed sale proceeds.

SUMMARY: A) The proposed amendment to Rule 12D-13.045, F.A.C., provides that a tax collector may conduct tax certificate sales electronically. B) The proposed amendment to Rule 12D-13.060, F.A.C., revises the fifteen dollar application fee to seventy five dollars and provides that titleholders of submerged land or common elements in a subdivision that is contiguous to property on which a tax deed application has been made must be included in the tax collector’s statement and provides an exception where the titleholder is the current owner of the property on which the application has been made. C) The proposed amendment to Rule 12D-13.062, F.A.C, provides that the titleholder of contiguous property be provided the warning notice under



Section 197.522(2)(b), F.S., of the pending tax deed sale. D) The proposed amendment to Rule 12D-13.064, F.A.C., provides that the county must notify the titleholder of property contiguous to property on the list of lands available for sale where the county elects not to purchase that property from the list of lands. E) The proposed amendment to Rule 12D-13.065, F.A.C., provides that excess funds from a tax deed sale are not distributed to owners of contiguous property.

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

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

SPECIFIC AUTHORITY: 195.022, 195.027(1), 213.06(1) FS. LAW IMPLEMENTED: 125.411, 193.092, 193.102, 194.171, 195.022, 197.122, 197.3632, 197.402, 197.403, 197.432, 197.473, 197.482, 197.502, 197.512, 197.522, 197.532, 197.542, 197.552, 197.562, 197.573, 197.582, 197.593, 197.602, 213.05, 298.36, 298.365, 298.366, 298.465, 298.54 FS.

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

TIME AND DATE: 10:30 a.m., October 31, 2003  
 PLACE: Room 116, Larson Building, 200 E. Gaines Street, Tallahassee, Florida

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green, (850)922-4830. A person who is hearing-impaired or speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULES IS:

12D-13.045 Sale of Tax Certificates for Unpaid Taxes.

(1) Except as provided in Rule 12D-13.047, F.A.C., the tax collector shall sell tax certificates on all lands on which the taxes are delinquent. The tax collector is authorized to conduct the public sale by electronic means as provided in Section 197.432(16), Florida Statutes. The sale shall begin on the day and at approximately the time advertised, which shall be on or

before June 1 or the sixtieth day after the date of delinquency, whichever is later. The sale shall continue from day to day or until all tax certificates are sold or struck off to the county.

(2) through (13) No change.

Specific Authority 195.022, 195.027(1), 213.06(1) FS. Law Implemented 193.092, 193.102, 194.171, 197.122, 197.402, 197.403, 197.432, 213.05 FS. History—New 6-18-85, Formerly 12D-13.45, Amended 5-23-91, 12-13-92, 12-28-95, \_\_\_\_\_.

12D-13.060 Application for Obtaining Tax Deed by Holder of Tax Certificate; Fees.

(1) through (2) No change.

(3) PROCEDURE: APPLICATION FOR TAX DEED BY PRIVATE HOLDER.

(a) The procedure for tax deed applications by anyone other than the county shall be as follows:

1. No change.

2. The tax deed applicant shall immediately pay to the tax collector the costs and fees required for making application and all amounts required for redemption or purchase of all other outstanding certificates covering the land. A tax deed application is not considered completed until all application costs and fees, including redemption fees, have been paid. It is recommended that the collector accept only cash, cashiers checks, bank drafts or money orders. The applicant shall pay a tax deed application fee of seventy five ~~fifteen~~ dollars (\$75.00).

3. No change.

(4) PROCEDURE AFTER APPLICATION IS MADE – ALL CERTIFICATES.

(a) through (b) No change.

(c) The tax collector shall also attach to the certification Form DR-513 a statement certifying the names and addresses of all persons the clerk is required by law to notify prior to the tax deed sale. (See Section 197.522, Florida Statutes.) The statement shall contain at a minimum the following names and addresses:

1. Legal titleholders of record and the owner's address as it appears on the record of conveyance; if no address is shown on the record of conveyance, the collector shall so state.

2. Lienholders who have recorded liens against the property if an address appears on the recorded lien.

3. Mortgagees of record if an address appears on the recorded mortgage.

4. Vendees of recorded contracts for deed if an address appears on the recorded contract.

5. Vendees of recorded contracts for deed if an application to receive notice has been made pursuant to section 197.344, Florida Statutes; and their addresses.

6. Lienholders who have applied to the tax collector to receive notice if an address has been furnished to the tax collector, and their addresses.

7. Persons to whom the property was last assessed on the tax roll, and their addresses.

8. In the case of county tax deed applications, owners of tax certificates that have not been redeemed in connection with the tax deed application.

9. Any lienholder of a lien recorded with the clerk of the circuit court against a mobile home located on property described in the tax certificate and taxed as real property if an address appears on the recorded lien.

10. Any legal titleholder of record of property that is contiguous to the property described in the tax certificate, when the property described is either submerged land or common elements of a subdivision, if the address of the titleholder of contiguous property appears on the record of conveyance of the land to that legal titleholder. However, if the legal titleholder of property contiguous to the property described in the tax certificate is the same as the person to whom the property described in the tax certificate was assessed on the tax roll for the year in which the property was last assessed, the notice may be mailed only to the address of the legal titleholder as it appears on the latest assessment roll.

(d) No change.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 197.3632, 197.482, 197.502, 197.512, 197.522, 197.532, 197.542, 197.552, 197.562, 197.573, 197.582, 197.593, 197.602, 213.05 FS. History—New 6-18-85, Formerly 12D-13.60, Amended 5-23-91, 12-13-92, 1-11-94, 12-25-96, 12-31-98, \_\_\_\_\_.

12D-13.062 Notices; Advertising, Mailing, Delivering and Posting of Notice of Tax Deed Sale.

(1) No change.

(2) Delivering and Posting.

(a) At least 30 days prior to the date of sale, the clerk shall prepare a notice containing the warnings warning required by Section 197.522(2)(a), Florida Statutes, for owners of the property to be sold and by section 197.522(2)(b), Florida Statutes, for owners of contiguous property listed in the tax collector’s statement pursuant to s. 197.502(4)(h), F.S., and:

1. If the owner of the property to be sold resides in the same county in which the property is located, deliver an original and sufficient copies of the notice to the sheriff of that county and

2. If the owner resides in Florida outside the county where the land is located, deliver an original and sufficient copies of the notice to the sheriff of the county in which the property is located, unless the property is assessed as non-agricultural acreage or vacant land.

3. If the owner resides outside the State of Florida, the clerk shall send notice to the sheriff of the county where the property is located, unless the property is assessed as non-agricultural acreage or vacant land.

4. For the owners of the property contiguous to the property to be sold, deliver an original and sufficient copy of the notice described in section 197.522(2)(b), Florida Statutes to the sheriff of the county in which the contiguous property lies.

(b) through (5) No change.

Specific Authority 195.022, 195.027(1), 213.06(1) FS. Law Implemented 197.502, 197.512, 197.522, 197.542, 197.562, 197.582, 213.05 FS. History—New 6-18-85, Formerly 12D-13.62, Amended 12-3-01, \_\_\_\_\_.

12D-13.064 Lands Available for Taxes.

(1) If the tax deed application was made by the county and there are no other bidders, the clerk shall enter the land on a “List of Lands Available for Taxes”. If all outstanding tax sale certificates from the land were issued after July 1, 1999, the county shall then have 90 days after the land is placed on the list to purchase the land for the opening bid. If any tax sale certificates were sold on or before July 1, 1999, the 90 days shall run from the sale date. After 90 days, any person or governmental unit may purchase the land for the opening bid. If the county does not elect to purchase the land, the county must notify each legal titleholder of property contiguous to the land available for taxes, as provided in Section 197.502(4)(h), Florida Statutes, before expiration of the 90-day period. Interest on the opening bid continues to accrue through the month of sale as prescribed by Section 197.542, Florida Statutes. Where property is purchased from the list by the county or other governmental unit for its own use, omitted years’ taxes may be canceled in the manner prescribed under the provisions of Section 197.447, Florida Statutes.

(2) through (3) No change.

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 125.411, 197.502, 213.05 FS. History—New 6-18-85, Formerly 12D-13.64, Amended 12-30-99, \_\_\_\_\_.

12D-13.065 Disbursement of Proceeds of Sale.

(1) through (2) No change.

(3) Any remaining funds held by the clerk shall be distributed to those persons described in Section 197.502(4), Florida Statutes, except persons listed in Section 197.502(4)(h), Florida Statutes, as their interests may appear. Therefore, the distribution scheme must observe the priorities of recordation of the liens or interests in the public records of the County. The excess funds must be used to satisfy in full to the extent possible each senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien. Any valid lien in the property is entitled to payment before any payment is made to the titleholder of ~~o~~ record. If a judgment lien or mortgage lien is terminated by court decree or by operation of law (i.e., Ch. 95, Florida Statutes), such lien is not a valid lien and is therefore not entitled to be satisfied.

(4) The clerk shall send notices to those persons listed in Section 197.502(4), Florida Statutes, except persons listed in Section 197.502(4)(h), Florida Statutes, advising them of the funds held for their benefit. The form of the notice shall be as follows:

NOTICE

CTF NO. \_\_\_\_\_ Description \_\_\_\_\_

Pursuant to Chapter 197, Florida Statutes, the above property was sold at public sale on \_\_\_\_\_. After payment of all funds due to government units has been made, a surplus of \$\_\_\_\_\_ will remain and be held by this office for a period of 90 days from the date of this notice for the benefit of persons having interest in and to this property as described in Section 197.502(4), Florida Statutes, as their interests may appear.

Attached hereto is a copy of the abstract of this property received from the office of the tax collector reflecting all such persons as described in Section 197.502(4), Florida Statutes, having an interest in the subject property. These funds will be used to satisfy in full, to the extent possible, each senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien. In order to be considered for distribution of these funds, you must submit a notarized statement of claim to this office, detailing the particulars of your lien, and the amounts currently due, within 90 days of the date of this notice. A copy of this notice must be attached to your statement of claim. After examination of the statements of claim filed, this office will notify you if you are entitled to any payment. Dated this \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
County

(5) through (10) No change.

Specific Authority 195.022, 195.027(1), 213.06(1) FS. Law Implemented 195.022, 197.473, 197.502, 197.522, 197.532, 197.542, 197.582, 213.05, 298.36, 298.366, 298.465, 298.54, 298.365 FS. History—New 6-18-85, Formerly 12D-13.65, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator, Property Tax Technical Unit, Department of Revenue, Tallahassee, Florida 32314, (850)414-6108

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003, Vol. 29, No. 33, pp. 3200-3203 (A workshop was held on August 29, 2003. No one gave testimony at the workshop regarding these rules and no written comments have been received by the Department.)

DEPARTMENT OF REVENUE

Division of Ad-Valorem Tax

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

Index to Forms 12D-16.002

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12D-16.002, F.A.C., is to implement forms revisions created in Chapters 2002-226, 2003-162 and 2003-284, L.O.F., and incorporate other technical changes made to forms.

SUMMARY: The proposed amendments to Rule 12D-16.002, F.A.C., incorporate legislative and technical changes to ad valorem property tax forms used by property appraisers, tax collectors, and the general public.

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

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

SPECIFIC AUTHORITY: 195.027(1), 213.06(1) FS.

LAW IMPLEMENTED: 92.525, 95.18, 136.03, 192.001(18), 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.461, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 195.095, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.193, 196.1983, 196.1995, 196.24, 197.182, 197.222, 197.253, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.512, 197.552, 200.065, 200.069, 213.05, 218.66 FS.

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

TIME AND DATE: 10:30 a.m., October 31, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green, (850)922-4830. A person who is hearing-impaired or speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

THE FULL TEXT OF THE PROPOSED RULE IS:

12D-16.002 Index to Forms.

(1) The following paragraphs list the forms utilized by the Department of Revenue. A copy of these forms may be obtained by writing to: Director, Property Tax Administration Program, Department of Revenue, Post Office Box 3000, Tallahassee, Florida 32315-3000. The Department of Revenue adopts, and hereby incorporates by reference in this rule, the following forms and instructions:

Form Number	Form Title	Effective Date
(2) DR-401	Private Car and Freight Line Equipment Companies Annual Report to State of Florida Department of Revenue Property Tax Administration (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(3)(a)	No change.	
(b) DR-403AC	Revised Recapitulation of the Ad Valorem Assessment Rolls (County Values) (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(4)(a) DR-403AM	Revised Recapitulation of the Ad Valorem Assessment Rolls (Municipality Values) (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(b) through (5)(a)	No change.	
(b) DR-403EB	Assessment Roll Exemption Breakdown (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(6) through (8)	No change.	
(9)(a) DR-409	Certificate of Correction of Tax Roll (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(b) through (16)(a)	No change.	
(b) DR-453B	Notice of Tax Lien for Assessment of Escaped Taxes (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(c) through (21)(a)	No change.	
(b) DR-474	Notice of Proposed Property Taxes (r. <del>12/03</del> <del>1/02</del> )	____ 12/01
(c)	No change.	
(d) DR-474N	Notice of Proposed Property Taxes and Proposed or Adopted Non-Ad Valorem Assessments (r. <del>12/03</del> <del>01/02</del> )	____ 12/01
(22) through (27)	No change.	
(28)(a) DR-489AC	Preliminary Recapitulation of Ad Valorem Assessment Rolls – County (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(b) DR-489AM	Preliminary Recapitulation of Ad Valorem Assessment Rolls – Municipality (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(c) DR-489EB	Assessment Roll Exemption Breakdown (r. <del>1/03</del> <del>4/00</del> )	____ 1/01
(d)	No change.	

(29)(a) DR-490	Notice of Disapproval of Application for Property Tax Exemption by the County Property Appraiser (r. <del>12/03</del> <del>12/00</del> )	____ 1/01
(b) through (33)(c)	No change.	
(d) DR-499C	Renewal and Certification of Agricultural Classification of Lands (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(34) through (38)(c)	No change.	
(d) DR-501SC	Sworn Statement of Adjusted Gross Income of Household and Return (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
<u>(e) DR-501PGP</u>	<u>Original Application for Assessment Reduction for Living Quarters of Parents or Grandparents (n. 12/03)</u>	____
(39)(a) DR-501S	Eligibility Criteria to Qualify for Property Tax Exemption (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(b) through (46)(a)	No change.	
(b) DR-513	Tax Collectors Certification (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(c) through (51)(a)	No change.	
(b) DR-534	Notice and Application for Alternative Payment of <del>2004</del> <del>2003</del> Property Taxes (r. <del>12/03</del> <del>12/02</del> )	____ 1/03
(52) through (61)	No change.	

Specific Authority 195.027(1), 213.06(1) FS. Law Implemented 92.525, 95.18, 136.03, 192.001(18), 193.052, 193.077, 193.085, 193.092, 193.114, 193.122, 193.461, 193.625, 193.703, 194.011, 194.032, 194.034, 194.035, 194.037, 195.002, 195.022, 195.087, 195.095, 196.011, 196.015, 196.031, 196.075, 196.095, 196.101, 196.121, 196.141, 196.151, 196.193, 196.1983, 196.1995, 196.24, 197.182, 197.222, 197.253, 197.3632, 197.3635, 197.414, 197.432, 197.472, 197.512, 197.552, 200.065, 200.069, 213.05, 218.66 FS. History—New 10-12-76, Amended 4-11-80, 9-17-80, 5-17-81, 1-18-82, 4-29-82, Formerly 12D-16.02, Amended 12-26-88, 1-9-92, 12-10-92, 1-11-94, 12-27-94, 12-28-95, 12-25-96, 12-30-97, 12-31-98, 2-3-00, 1-9-01, 12-27-01, 1-20-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator, Property Tax Technical Unit, Department of Revenue, Tallahassee, Florida 32314, (850)414-6100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003, Vol. 29, No. 33, pp. 3203-3204 (A workshop was held on August 29, 2003. No one gave testimony at the workshop regarding this rule and no written comments have been received by the Department.)

**DEPARTMENT OF REVENUE**

**Division of Ad-Valorem Tax**

RULE TITLE: Adoption of Non-Ad Valorem Assessment Roll 12D-18.005

RULE NO.: 12D-18.005

PURPOSE AND EFFECT: The purpose of the proposed amendment to Rule 12D-18.005, F.A.C., is to implement the provisions of Chapter 2003-70, L.O.F., which revises the date of public hearings held for purposes of adoption of a new non-ad valorem assessment.

SUMMARY: The proposed amendment to Rule 12D-18.005, F.A.C., revises the date of public hearings held for purposes of adoption of a new non-ad valorem assessment.

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

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

SPECIFIC AUTHORITY: 195.027(1), 197.3632(11), 197.3635, 213.06(1) FS.

LAW IMPLEMENTED: 197.322, 197.363, 197.3631, 197.3632, 197.3635, 213.05 FS.

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

TIME AND DATE: 10:30 a.m., October 31, 2003

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

NOTICE UNDER THE AMERICANS WITH DISABILITIES ACT: Any person requiring special accommodations to participate in this hearing is asked to advise the Department at least 48 hours before the hearing by contacting Larry Green, (850)922-4830. A person who is hearing-impaired or speech-impaired should contact the Department by using the Florida Relay Service, which can be reached at 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

The Department's proposed rules are available on the Department's web site: [www.myflorida.com/dor/rules](http://www.myflorida.com/dor/rules)

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

12D-18.005 Adoption of Non-Ad Valorem Assessment Roll.

(1) The provisions of this rule section are applicable to non-ad valorem assessments levied for the first time.

(a) No change.

(b) For a new non-ad valorem assessment, a local government shall adopt a non-ad valorem assessment roll at a public hearing held between January 1 ~~June 1~~ and September 15 if one or more of the following circumstances exist regarding the assessment:

1. It is levied for the first time;
2. It is increased beyond the maximum rate authorized by law or judicial decree at the time of its initial imposition;
3. It is related to a change in boundaries of (name of local government), unless all newly affected property owners have provided written consent for such assessment to the local governing board; or,
4. It is related to a change in purpose for an existing assessment or in the use of the revenue from such assessment.

(c) A local government may hold its public hearing and adopt or reaffirm a capital project assessment roll at any time prior to certification of the roll to the tax collector, and is not required to hold the public hearing between January 1 ~~June 1~~ and September 15. For capital project assessments, any notice or hearing required by this rule chapter may be combined with any other notice required by this rule chapter, by the general or special law, or by municipal or county ordinance, pursuant to which the capital project assessment is levied.

(2) through (4) No change.

Specific Authority 195.027(1), 197.3632(11), 197.3635, 213.06(1) FS. Law Implemented 197.322, 197.363, 197.3631, 197.3632, 197.3635, 213.05 FS. History—New 2-21-91, Amended 4-18-94, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Sharon Gallops, Tax Law Specialist, Property Tax Technical Unit, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, (850)414-6108, e-mail: gallopsS@dor.state.fl.us

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jerry Miller, Revenue Program Administrator, Property Tax Technical Unit, Department of Revenue, Tallahassee, Florida 32314, (850)414-6100

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 15, 2003, Vol. 29, No. 33, pp. 3204-3205 (A workshop was held on August 29, 2003. No one gave testimony at the workshop regarding this rule and no written comments have been received by the Department.)

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER TITLE: Prepaid Escrow Accounts

RULE CHAPTER NO.: 14-114

RULE TITLE: Prepaid Escrow Accounts

RULE NO.: 14-114.0011

PURPOSE AND EFFECT: This amendment includes an editorial revision to incorporate a new version of the Prepaid Escrow Account Application, Form 350-060-10. The form is being revised to show a change resulting from the September 4, 2003, amendment.

SUMMARY: A revised version of the Prepaid Escrow Account Application, Form 350-060-10, is being incorporated by reference.

SPECIFIC AUTHORITY: 334.044(2), 334.187(4) FS.

LAW IMPLEMENTED: 334.187 FS.

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

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: James C. Myers, Clerk of Agency Proceedings, Florida Department of Transportation, Office of the General Counsel, 605 Suwannee Street, Mail Station 58, Tallahassee, Florida 32399-0458

THE FULL TEXT OF THE PROPOSED RULE IS:

14-114.0011 Prepaid Escrow Accounts.

(1) through (2) No change.

(3) Initial Application. Application for a Prepaid Escrow Account with the Department will be made by submitting a Prepaid Escrow Account Application, Department of Transportation Form 350-060-10, R. 09/03 ~~01/02~~, and the appropriate deposit as set forth in paragraph 14-114.004(4)(b), F.A.C., to the Florida Department of Transportation, Office of Comptroller, Cashier, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

(4) through (6) No change.

(7) Forms. The following forms, which are incorporated by reference and made a part of these rules, are to be used by the applicants for Prepaid Escrow Accounts:

Form Number	Date	Title
350-060-10	<u>09/03</u> <del>01/02</del>	Prepaid Escrow Account Application
350-060-08	01/02	Account Bond

These forms may be obtained from the Department of Transportation Office of the Comptroller, Accounts Receivable Section, 3717 Apalachee Parkway East, Tallahassee, Florida 32311-3400.

Specific Authority 334.044(2), 334.187(4) FS. Law Implemented 334.187 FS. History—New 6-4-02, Amended 9-4-03, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Rebecca Sponholtz, CPA, Accounts Receivable Administrator, General Accounting Office

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ken Morefield, Assistant Secretary for Transportation Policy, for José Abreu, P.E., Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2003

**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: Correctional Probation Officers: Appointment and Responsibility

RULE NO.: 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.

SUMMARY: The proposed rule provides a cross-reference to rule provisions governing use of correctional probation officer badges.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: None.

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

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Perri King Dale, Office of the General Counsel, Department of Corrections, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE FULL TEXT OF THE PROPOSED RULE IS:

33-302.103 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,

NAME OF PERSON ORIGINATING PROPOSED RULE: Tina Hayes

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: James V. Crosby, Jr.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 23, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 5, 2003

DEPARTMENT OF THE LOTTERY

RULE TITLE: Salary Additives RULE NO.: 53-13.003

PURPOSE AND EFFECT: The purpose of the proposed rule amendment is to amend the salary additives provisions for Lottery employees whose positions are assigned to a shift for which a shift differential is approved.

SUMMARY: The rule amends the salary additives provisions for Lottery employees whose positions are assigned to a shift for which a shift differential is approved by adding a rotating shift category and related differential amount. This rule is being amended to adopt, in permanent form, the provisions set forth in Emergency Rule 53ER03-45, Florida Administrative Code.

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

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

SPECIFIC AUTHORITY: 24.105(9)(j), 24.105(19)(d) FS.

LAW IMPLEMENTED: 24.105(19)(d) FS.

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

TIME AND DATE: 9:00 a.m., November 5, 2003

PLACE: Department of the Lottery, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Diane D. Schmidt, Office of the General Counsel, 250 Marriott Drive, Tallahassee, Florida 32399-4011, (850)487-7724

THE FULL TEXT OF THE PROPOSED RULE IS:

53-13.003 Salary Additives.

(1) The following salary additives have been approved for Lottery employees:

(a) Shift Differential.

Hours

Differential

Amount

(Based upon employee's base rate of pay)

11:00 p.m. to 7:00 a.m. or when the majority of work hours fall after 11:00 p.m. 10%

7:00 a.m. to 3:00 p.m. 0%

3:00 p.m. to 11:00 p.m. or when the majority of work hours fall after 3:00 p.m. 5%

Weekend (Saturday and/or Sunday)

or when at least 50% of the employee's scheduled work hours fall on Saturday and/or Sunday 10%

Rotating Shift - when two or more of the employee's scheduled work days during a workweek fall on different shifts and the employee is scheduled for two or less days off during the workweek. 15%

(b) On-Call Compensation. Employees who are in on-call status shall be compensated at the rate of two dollars (\$2.00) per hour. All on-call hours shall be rounded to the nearest quarter hour.

(2) through (3) No change.

Specific Authority 24.105(9)(j) FS. Law Implemented 24.105(19)(d) FS. History--New 2-25-93, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE: Diane D. Schmidt, Office of the General Counsel

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Kenneth H. Hart, Jr. General Counsel

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 26, 2003

AGENCY FOR HEALTH CARE ADMINISTRATION

Medicaid

RULE CHAPTER TITLE: Silver Lifesaver Rx Program RULE CHAPTER NO.: 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 Program.

SUMMARY: The purpose of this rule is to enable the Agency to implement the Silver Lifesaver Rx program, to replace the current rules, in order to provide a pharmacy benefit to low-income elderly residents of Florida and help address the need for prescription drug coverage.

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

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

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

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

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

TIME AND DATE: 1:00 p.m., November 3, 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, Medicaid Pharmacy Services, 2728 Mahan Drive, Building 3, Mail Stop 38, Tallahassee, Florida 32308, (850)487-4441

THE FULL TEXT OF THE PROPOSED RULE IS:

SILVER LIFESAVER RX PROGRAM ~~RON SILVER SENIOR DRUG PROGRAM~~

59G-12.001 Purpose.

The purpose of these rules is to implement the Silver Lifesaver Rx ~~Ron Silver Senior Drug~~ Program (program) to be administered by the Agency for Health Care Administration as directed in subsections (1) and (2) of 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 ~~Ron Silver Senior Drug Program, which will be known as the ‘Silver Saver’ program.~~

(2) The Department of Children and Family 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) The 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.

(1) 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.

(a) Component 1 will be limited to a monthly enrollment of 65,225.

(b) Component 2 will be limited to a monthly enrollment of 150,000.

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.



(2) 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 ~~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 Component 2;

2. Individuals with an income greater than 120 percent up to 200 percent of the federal poverty level are eligible for Component 2 only; and

~~(d) Not be enrolled in a Medicare health maintenance organization that provides a pharmacy benefit; and~~

~~(d)(e)~~ 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.

(3) 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.

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

(5) 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/co-insurance 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 Family 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 Family 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) 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 Family 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 and enrollment will be automated effective January 2004 form CF ES 2936, effective 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 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 \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Michele Hudson

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rhonda M. Medows, M.D., FAAFP, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 10, 2003

**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

Premises 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.

SUMMARY: The proposed rules provide: 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, information regarding licenses that are not eligible for the smoking designation, requirements for annual certification and triennial renewal, reporting requirements, record-keeping requirements, requirements regarding access to records by division employees, the formula used to determine compliance, the formula used to determine percentage of gross alcohol sales revenue, the 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, information regarding violations and appeals.

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: 386.2125, 386.207 FS.

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

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michael Martinez, Chief Attorney, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2202

THE FULL TEXT OF THE PROPOSED RULES 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. 849.0931, 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](http://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
- 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

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

#### 61A-7.004 Annual Certification Requirements.

A qualifying stand-alone bar receiving an “ss” or “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 for consumption on premises 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 consumption on premises for each year and a total for the 3-year period, and the percentage of food sales for consumption on premises to total revenue for each year and for the 3-year period.

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

#### 61A-7.006 Records Required to Maintain the Designation.

Stand-alone bars holding an “ss” or “ssf” designation shall maintain records to substantiate reports, affidavits and designation qualifications. Records of all purchases of food, all gross retail sales of alcohol, all gross retail sales of food sold for consumption on premises, all gross retail sales of food sold for consumption off the premises, and gross revenue from all other sales 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 Chapter 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, including but not limited to non-alcoholic beverages, 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 386.203(11), 561.695(6) 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(1),(9) FS. History--New \_\_\_\_\_.

<u>STATUTE</u>	<u>VIOLATION</u>	<u>FIRST OCCURRENCE</u>	<u>SECOND OCCURRENCE</u>	<u>THIRD OCCURRENCE</u>	<u>FOURTH OCCURRENCE</u>
386	Failure to comply with Florida Clean Indoor Air Act within Florida Statute 386.	\$275	\$550	\$750	\$1,750

Specific Authority 386.2125, 561.695(9) FS. Law Implemented 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.

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.

(1) Upon receipt of a complaint of a violation of Section 386, F.S., 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 \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mike Martinez, Chief Attorney, Florida Department of Business and Professional Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary, Florida Department of Business and Professional Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 29, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 3, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Asbestos Consultants/Asbestos Consultant Examination**

RULE TITLES: \_\_\_\_\_ RULE NOS.:

Asbestos Consultants/Contractors; Licensure Requirements 61E1-1.001

Continuing Education Requirements for Asbestos Consultants/Contractors 61E1-1.002

PURPOSE AND EFFECT: The purpose of this rule development is to revise the Specific Authority for Rule 61E1-1.001, F.A.C.; to revise the Law Implemented for Rule 61E1-1.002, F.A.C.; to clarify the time period prescribed in Rule 61E1-1.002, F.A.C., in which asbestos consultants and contractors applying for biennial renewal of a license must complete refresher courses and for which asbestos contractors must maintain records demonstrating that asbestos abatement workers and onsite supervisors have completed a refresher course; and to delete the requirement to perform random audits of asbestos consultants and contractors to verify compliance with the continuing education requirements for license renewal. The effect is to restate that a refresher course be completed in each year of the preceding biennial period for asbestos consultants, asbestos surveyors, management planners, project designers, project monitors, asbestos contractors, asbestos abatement workers and onsite supervisors and to no longer require the Department to perform random audits of at least five percent of asbestos consultants and contractors to verify compliance with continuing education requirements.

SUMMARY: Applicants for biennial license renewal as an asbestos consultant or asbestos contractor must complete certain refresher courses in each of the years of the current biennial period and maintain records demonstrating completion. The Department will no longer perform random audits to verify continuing education compliance.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared

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

SPECIFIC AUTHORITY: 469.011 FS.

LAW IMPLEMENTED: 469.004, 469.005; 469.004(6) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

THE FULL TEXT OF THE PROPOSED RULES IS:

61E1-1.001 Asbestos Consultants/Contractors; Licensure Requirements.

(1) The Department will accept as meeting the requirements for licensure as an asbestos consultant as defined in Section 469.001(5), Florida Statutes, any individual who meets the requirements set forth in Section 469.004(1) and Section 469.005, Florida Statutes.

(2) The Department will accept as meeting the requirements for licensure as an asbestos contractor as defined in Section 469.001(7), Florida Statutes, any individual who meets the requirements set forth in Section 469.004(2) and Section 469.005, Florida Statutes.

(3)(a) The Department shall accept as evidence of financial stability, as required in Section 469.005(5)(4), Florida Statutes, a statement from the applicant that he/she has not had any asbestos projects which were not satisfactorily completed and that no claims exist on asbestos projects that have been completed; and compliance with paragraph 61E1-4.001(1)(c), Florida Administrative Code.

(b) The Department shall accept as meeting the requirements of Section 469.005(6)(5), Florida Statutes, an applicant who has paid the appropriate examination fee and passed the Department administered examination set forth in Rules 61E1-2.001 through 61E1-2.005, Florida Administrative Code.

(4) To satisfy the requirements of Section 469.005(4)(3), Florida Statutes, the applicant must submit evidence of ten asbestos projects within the last five years, with said evidence containing a description of the project, the level of responsibility, the dates of the engagement and a statement that no claims of unsatisfactory professional services have been sustained against the professional activities of the applicant. This statement must be certified by the owner or entity for who the service was rendered.

(a) Distribution of the ten projects for an asbestos consultant shall be as follows:

1. Two projects involving asbestos surveys;
2. Two projects involving the development of operations and maintenance plans;
3. Two projects involving asbestos abatement project management and supervision;
4. Two projects involving the design of asbestos abatement projects; and
5. Two additional projects from any of the above categories.

(b) The ten projects for an asbestos contractor shall involve asbestos abatement activities.

Specific Authority 469.011, ~~469.008~~ FS. Law Implemented 469.004, 469.005 FS. History—New 6-14-89, Formerly 21-25.001, Amended 11-11-97, \_\_\_\_\_.

61E1-1.002 Continuing Education Requirements for Asbestos Consultants/Contractors.

(1) Each applicant for biennial renewal of a license as an asbestos consultant ~~Asbestos Consultant~~ shall;

(a) Complete 2 days of refresher courses in each preceding year ~~for each calendar year~~ related to any of the courses as outlined in Section 469.005(2), Florida Statutes, which have been approved by the Department; and

(b) Maintain records demonstrating that each asbestos surveyor, management planner, project designer, and project monitor has completed an approved refresher course each calendar year for each biennial renewal period. The refresher courses must have met the requirements of Section 469.013, Florida Statutes and such records shall be furnished upon request pursuant to Rule 61-6.010, Florida Administrative Code.

(2) Each applicant for renewal of an asbestos contractor license shall:

(a) Complete 1 day of an asbestos abatement project management and supervisor refresher courses in each preceding year ~~for each calendar year~~ which has been approved by the Department; and

(b) Maintain records demonstrating that each asbestos abatement worker and onsite supervisor has completed a 1 day refresher course in each calendar year of each biennial period ~~refresher course each calendar year for each biennial period~~. The refresher courses must have met the requirements of Section 469.012, Florida Statutes, and been approved by the Department, and the records related to such course shall be furnished upon request pursuant to Rule 61-6.010, Florida Administrative Code.

~~(3) The Department shall perform random audits of not less than five (5%) percent of asbestos contractors and five (5%) percent of asbestos consultants in accordance with Rule 61-6.010, Florida Administrative Code, to verify compliance with continuing education required for license renewal.~~

Specific Authority 469.011 FS. Law Implemented ~~469.005(6)~~ 455-004(6) FS. History—New 8-13-90, Formerly 21-25.002, Amended 11-11-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Anthony B. Spivey, Executive Director, Asbestos Licensing  
 Unit, Department of Business and Professional Regulation,  
 1940 North Monroe Street, Tallahassee, Florida 32399-2214,  
 (850)922-5012

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
 THE PROPOSED RULE: Diane Carr, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: September 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

**Asbestos Consultants/Asbestos Consultant Examination**

RULE TITLES:	RULE NOS.:
Written Examination; General Requirements	61E1-2.001
Asbestos Training Courses and Providers	61E1-2.006

PURPOSE AND EFFECT: The purpose of this rule development in Rule 61E1-2.001, Florida Administrative Code, is 1) to state that the Department shall administer a written examination to applicants for licensure as asbestos consultants and asbestos contractors procured by the Department in accordance with Section 455.217, Florida Statutes, or provided by a computer-based testing vendor approved by the Department and 2) to revise the Specific Authority and Law Implemented. The purpose of this rule development in Rule 61E1-2.006, Florida Administrative Code, is 1) to require registration with the Department of training course providers and training courses, limiting the time of validity of registration and requiring reapplication for approval of training courses if substantially changed; 2) to revise the definition of Training Course for consistency with Sections 469.005, 469.012 and 469.013, Florida Statutes; 3) to add a definition of Refresher Course for asbestos consultants and asbestos contractors; 4) to revise the definition of Training Course Provider to include refresher courses as well as training courses; 5) to require training course providers and training courses registered by a state with an Environmental Protection Agency-approved accreditation program to be registered with the Department and comport with Chapter 469, Florida Statutes, and Rule 61-6.015, Florida Administrative Code; 6) to require training course providers and training courses registered by a state with a reciprocating agreement with the Department to be registered with the Department and comport with Rule 61-6.015, Florida Administrative Code; 7) to state that the information required in applications for course provider and training course approval is not limited to the information specified; 8) to require that the Asbestos Abatement Worker, Building Asbestos Abatement Surveys and Mechanical Systems and Asbestos Management Planner refresher courses contain a course review including a multiple choice test with 70 percent as the minimum passing score; 9) to

specify Asbestos Abatement Project Designer initial and refresher courses; 10) to state that worker training for work with asbestos containing flooring material is described in Section 469.002(3), Florida Statutes, and that the training course shall address noticing requirements as prescribed in Section 469.002(3)(d), Florida Statutes; 11) to correct the statutory reference for exemption from licensure for roofing contractors as Section 469.002(2), Florida Statutes; 12) to provide provisions regulating the advertising of training and refresher courses; 13) to revise the requirements for Department training course audits; and 14) to require training course providers to maintain course attendee records for a minimum period of time; to state compliance requirements for course providers; and to state requirements for reporting course attendance to the Department. The effect is to clarify and augment the qualification requirements for course providers and for training and refresher courses for asbestos abatement professionals.

SUMMARY: The Department will give a written examination for licensure as provided by Section 455.217, Florida Statutes, or by an approved computer based testing vendor. Training course providers and training courses must be registered with the Department. Registrations are valid until May 31 of odd-numbered years and must be renewed prior to expiration. The definition of training course is revised and refresher course is defined. Registration and compliance requirements for training providers and courses registered in states with an Environmental Protection Agency-approved accreditation program or a written reciprocating agreement with the Department are established. Training courses are required to include a multiple-choice test with a minimum 70% passing score. Training and refresher courses are established for Asbestos Abatement Project Designers. Requirements for advertising training and refresher courses are established. The Department will do on-site training course audits in its discretion. Additional record keeping and reporting requirements for training course providers are established. A course provider shall not offer training courses if its provider status is expired or if under discipline. A course provider whose provider status has been revoked may not apply for registration for two years from the date of the revocation order. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared

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

SPECIFIC AUTHORITY: 469.011 FS.

LAW IMPLEMENTED: 469.004, 469.005, 469.004(6) FS.

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



THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

THE FULL TEXT OF THE PROPOSED RULES IS:

61E1-2.001 Written Examination ~~Designated~~; General Requirements.

~~A The Department of Professional Regulation hereby determines that a~~ written examination shall be given and passed prior to any applicant receiving a license to practice as an asbestos consultant or an asbestos contractor as provided in Chapter ~~469 455.303(1)(a), (b) and (2)~~, Florida Statutes. The examination shall be provided by the Department pursuant to Section 455.217, Florida Statutes or a computer based testing vendor contract consultant approved by the Department. The written examination shall consist of one day (approximately 8 hours). Examinations are closed book ~~and, that is,~~ the use of notes and reference books is ~~are~~ prohibited. All materials including pens and pencils are to be furnished by the applicant. The examination security requirements as set forth by the Department in Rule 61-11.014, Florida Administrative Code, shall be followed throughout the administration of the examination.

Specific Authority ~~469.011 455.307 FS. Law Implemented 469.005(6), 455.217, 455.2171 455.217, 455.303 FS. History--New 2-15-89, Formerly 21-23.001, Amended~~

61E1-2.006 Asbestos Training Courses and Providers.

(1) Each training course provider must be registered with the Department as a course provider and each training course must be registered with the Department. Provider registration and courses are valid until May 31st of odd numbered years and must be renewed prior to expiration. Any substantial change in the course content will require the provider to reapply to the Department for approval.

~~(2)(1)~~ Definitions.

(a) Training Course: An initial A course of study which provides the educational experience required for asbestos related occupational certification pursuant to Sections ~~469.005, 469.012 and 469.013 s. 469.001 469.015~~, Florida Statutes.

(b) Refresher Course: Refresher training required each year to maintain accreditation. For an asbestos consultant, the refresher courses shall include one half day of Asbestos Survey and Mechanical Systems Course, one half day of Asbestos Management Planning Course and one full day of Project Designer Course. For an asbestos contractor, the refresher course shall include one full day of Asbestos Contractor/Supervisor Course.

~~(c)(b)~~ Training Course Provider: An entity and any of its agents engaged in providing training courses and refresher courses as required by this chapter.

~~(d)(e)~~ Training day: The equivalent of 8 hours including breaks and lunch. Breaks and lunches are not to exceed 1.5 hours of each training day.

~~(e)(d)~~ Training Instructor: Any person approved by the department to conduct asbestos training for a department approved asbestos course. Outside experts brought in to address a specific topic or subset of the course are not considered training instructors.

~~(f)(e)~~ Regulatory Review: As used in this rule, regulatory review means review concerning applicable regulations including but not limited to the EPA Worker Protection Rule, Toxic Substance Control Act Title II, OSHA 29 CFR 1926, 1101, NESHAP 40 CFR part 61, subpart M, chapter 469, Florida Statutes, Sections 255.551-255.565, Florida Statutes, the Florida Department of Environmental Protection Fee Rule 62-257, Florida Administrative Code, and local regulations.

~~(3)(2)~~ A training course provider must meet the standard set forth in Chapter 469 s. 469.001 469.015, Florida Statutes, and those set forth in 40 CFR Part 763, subpart E of Appendix C, which are incorporated herein by reference. Copies can be obtained by writing the department at Department of Business and Professional Regulation, Asbestos Licensing Unit, 1940 North Monroe Street, Tallahassee, Florida 32399. The following providers and courses shall be approved.

(a) Training providers and courses registered approved by a state with an Environmental Protection Agency-approved accreditation program must register with the department and meet the requirements of Chapter 469, Florida Statutes, and Rule 61-6.015, F.A.C.

(b) Training providers and courses registered approved by a state that has a written reciprocating agreement with the department must register with the department and meet the requirements in subsection 61-6.015(5), F.A.C.

(c) Training courses completed prior to July 1, 1995, that are recognized by the Environmental Protection Agency and listed in the National Directory of Asbestos Hazard Emergency Response Act Accredited Courses as set forth in 40 CFR Part 763, as it existed on September 1, 1997, which are incorporated herein by reference.

~~(4)(3)~~ The application for the provider and course approval shall include but is not limited to the following information.

(a) The course provider's name, address, telephone number, and social security number or federal tax identification number.

(b) A list of states that currently approve the training course.

(c) The course curriculum. Courses must at a minimum demonstrate the inclusion of the following curriculum content areas for initial training and refresher courses:

1. Asbestos abatement worker course (initial) shall include a minimum of 4 training days with a minimum of 14 hours of hands-on training. Additionally an examination of at least 50

multiple choice questions, with a passing score of 70 percent must be given to each person seeking accreditation. The training course shall address the following topics:

- a. Physical characteristics of asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protection equipment;
- e. Personal hygiene;
- d. State-of-the-art work practices;
- f. Additional safety hazards;
- g. Medical monitoring;
- h. Air monitoring;
- i. Regulatory review;
- j. Establishment of respiratory protection programs; and
- k. Course review.

2. Asbestos abatement worker course (refresher) shall include a minimum of 1 training day. The training course shall address the following topics:

- a. Physical characteristics of asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protective equipment;
- d. State-of-the-art work practices;
- e. Personal hygiene;
- f. Additional safety hazards;
- g. Air monitoring;
- h. Regulatory review; and

i. Course review to include a multiple choice test with a minimum 70% passing score.

3. Asbestos abatement project management and supervision course (initial) shall include a minimum of 5 training days with a minimum of 14 hours of hands-on training. This course also fulfills the requirements of an asbestos roofing course as required in Section 469.012(3), Florida Statutes. Additionally an examination of at least 100 questions in an objective test format, with a passing score of 70 percent must be given to each person seeking accreditation. The training course shall address the following topics:

- a. Physical characteristics of asbestos and asbestos-containing material;
- b. Potential health effects related to asbestos exposure;
- c. Employee personal protective equipment;
- d. State-of-the-art work practices;
- e. Personal hygiene;
- f. Additional safety hazards;
- g. Medical monitoring;
- h. Air monitoring;
- i. Regulatory review;
- j. Respiratory protection and medical surveillance programs;
- k. Insurance and liability issues;
- l. Record keeping for asbestos abatement projects;
- m. Supervisory techniques for asbestos abatement activities;

- n. Contract specifications; and
- o. Course review.

4. Asbestos abatement project management and supervision course (refresher) shall include a minimum of 1 training day. The training course shall address the following topics:

- a. Employee personal protective equipment;
- b. State-of-the-art work practices;
- c. Personal hygiene;
- d. Additional safety hazards;
- e. Medical monitoring;
- f. Air monitoring;
- g. Regulatory review;
- h. Respiratory protection and medical surveillance programs;
- i. Insurance and liability issues;
- j. Record keeping for asbestos abatement projects;
- k. Supervisory techniques for asbestos abatement activities; and

l. Course review to include a multiple choice test with a minimum 70% passing score.

5. Building asbestos abatement surveys and mechanical systems (initial) shall include a minimum of 3 training days, with a minimum of 4 hours of hands-on-training (to include conducting a simulated building walk-through inspection and respirator fit testing). The training course shall address the following topics:

- a. Background information on asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Functions/qualifications and role of inspectors;
- d. Legal liabilities and defenses;
- e. Understanding building systems;
- f. Public/employee/building occupant relations;
- g. Pre-inspection and review of previous inspection records;
- h. Inspecting for friable and non-friable asbestos containing material and assessing the condition of friable asbestos containing material;
- i. Bulk sampling/documentation of asbestos;
- j. Inspector respiratory protection and personal protective equipment;
- k. Record keeping and writing the inspection report;
- l. Regulatory review; and
- m. Course review.

6. Building asbestos abatement surveys and mechanical systems (refresher) shall include a minimum of one-half training day. The training course shall address the following topics:

- a. Functions/qualifications and role of inspectors;
- b. Legal liabilities and defenses;
- c. Understanding building systems;

- d. Public/employee/building occupant relations;
- e. Review of previous inspection records;
- f. Inspecting for friable and non-friable asbestos containing material and assessing the condition of friable asbestos hazard emergency;
- g. Bulk sampling/documentation of asbestos;
- h. Regulatory review; and
- i. Course review to include a multiple choice test with a minimum 70% passing score.

7. Asbestos abatement management planner course (initial) shall include a minimum of 2 training days, with hands-on training (to include analysis and application of an operation and maintenance plan). Completion of the building asbestos abatement surveys and mechanical systems or inspector course must be demonstrated prior to attendance. The training course shall address the following topics:

- a. Course overview;
- b. Evaluation and interpretation of survey results;
- c. Hazard assessment;
- d. Legal implications;
- e. Evaluation and selection of control options;
- f. Role of other professionals;
- g. Developing an operations and maintenance plan;
- h. Regulatory review;
- i. Record keeping for the management planner;
- j. Assembling and submitting the management plan;
- k. Financing abatement actions; and
- l. Course review.

8. Asbestos abatement management planner course (refresher) shall include a minimum of one-half training day. The training course shall address the following topics:

- a. Legal implications;
- b. Evaluation and selection of control options;
- c. Role of other professionals;
- d. Developing an operations and maintenance plan;
- e. Regulatory review;
- f. Record keeping for the management planner; and
- g. Assembling and submitting the management plan.
- i. Course review to include a multiple choice test with a minimum 70% passing score.

9. Asbestos abatement respiratory protection course shall include a minimum of 3 training days, to include a minimum of 8 hours hands-on training. The training course shall address the following topics:

- a. Course overview;
- b. Terminology;
- c. Respiratory system/medical recommendations;
- d. Respiratory hazards and overview;
- e. Selection of respirators and decision making;
- f. Establishing and maintaining a respiratory protection program; and

g. Cleaning, maintenance, storage, and inspection of respirators, fit testing (qualitative and quantitative), and protection factors.

10. Asbestos Abatement Project Designer course (initial) shall include a minimum of 3 training days. The project designer course shall include lectures, demonstrations, a field trip, course review, and a written examination of least 100 multiple choice questions, with a passing score of 70 percent correct. The abatement project designer training course shall adequately address the following topics:

- a. Background information on asbestos.
- b. Potential health effects related to asbestos exposure.
- c. Overview of abatement construction projects.
- d. Safety system design specifications.
- e. Field trip.
- f. Employee personal protective equipment.
- g. Additional safety hazards.
- h. Fiber aerodynamics and control.
- i. Designing abatement solutions.
- j. Final clearance process.
- k. Budgeting cost estimating.
- l. Writing abatement specifications.
- m. Preparing abatement drawings.
- n. Contract preparation and administration.
- o. Legal/liabilities/defenses.
- p. Replacement.
- q. Role of other consultants.
- r. Occupied buildings.
- s. Relevant Federal, State, and local regulatory requirements, procedures, and standards.
- t. Course review.

11. Asbestos Abatement Project Designer (refresher) shall include a minimum of one full day of training. The refresher course shall include the review and discussion of changes in Federal, State and local regulations, developments in state-of-the-art procedures as well as the following:

- a. Potential health effects related to asbestos exposure overview.
- b. Safety system design specifications review.
- c. Additional safety hazards (review of safety considerations).
- d. Fiber aerodynamics and control (review of air monitoring requirements).
- e. Abatement materials and methods update.
- f. Writing abatement specifications review.
- g. Legal/liabilities/defenses.
- h. Course review to include a multiple choice test with a minimum 70% passing score.

~~12.10.~~ Asbestos abatement sampling course shall include a minimum of 4 training days, to include a minimum of 16 hours hands-on training. The training course shall address the following topics:

- a. Course overview;
- b. Sampling and air flow calibration equipment;
- c. Microscopes, accessories, adjustments, calibration and 1-hour review, sampling procedures and calibrations, sampling equipment (pump) placement, statistical calculations and counting procedures, image quality investigation, slide counting procedures and analysis, comprehensive lab and quality control; and
- d. Course review.

~~13.11.~~ Worker training for work with asbestos containing flooring material as described in Section ~~469.002(3) 469.004(4)~~, Florida Statutes, shall include hands on training and a minimum of 1 training day. Additionally an examination of at least 25 objective (i.e. multiple choice or true/false) questions, with a passing score of 70 percent must be given to each person seeking certification. The training course shall address the following topics:

- a. Physical characteristics and methods of recognizing asbestos;
- b. Potential health effects related to asbestos exposure;
- c. Relationship between smoking and asbestos related diseases including a list of names, addresses and phone numbers of public health organizations which provide information and conduct programs concerning smoking cessation;
- d. Employee personal protective equipment including decontamination and emergency procedures;
- e. Regulatory review;
- f. State-of-the-art work practices including removal procedures for resilient floor tile, resilient sheet flooring, and residual asphaltic adhesive as prescribed by OSHA;
- g. Medical surveillance program requirements;
- h. Waste disposal procedures and requirements;
- i. Sign posting and labeling requirements; and
- j. Noticing requirement as prescribed in Section ~~469.002(3)(d) 469.004(4)(d)~~, Florida Statutes.

~~14.12.~~ Supervisor training for the supervision of intact removal of resilient flooring material shall include a minimum of one half day training in addition to successful completion of the 1 day worker training in subparagraph 61E1-2.006(3)(c)11., F.A.C. The additional one half day training will include an examination of at least 25 objective (i.e. multiple choice or true/false) questions on the following topics, with a passing score of 70 percent for certification:

- a. Prework activities and considerations including a list of common building materials containing asbestos;
- b. Assessment of the work area including site preparation and safety hazards;

c. Supervising workers which includes goal setting, establishing expectations, motivating, and providing clear instructions;

- d. Course review.

~~15.13.~~ On site roofing supervisor training for the purpose of meeting the exemption of Section ~~469.002(2) 469.004(3)~~, Florida Statutes, and described in Section 469.012(3), Florida Statutes, shall be equivalent to the requirements of the competent person as defined by OSHA for work with Class II roofing material under 29 CFR, Part 1926.1101, as it existed on September 1, 1997, which is hereby incorporated by reference and made a part of this rule.

(d) A statement from the course provider clearly indicating compliance with the requirements of subsection 61E1-2.006(2), F.A.C., and:

1. The length of training days;
2. The amount and a description of hands-on training;
3. The length, format and passing score of the examination; and
4. The topics covered in the course.

(e) A copy of all course materials, including student manuals, instructor notebooks, handouts, videotapes and any other materials requested by the department.

1. Pursuant to 40 CFR, Part 763, subpart E of appendix C, the asbestos worker courses are the only courses approved to be conducted in a language other than English.

2. Any course provider who wishes to conduct a course in a language other than English must comply with the following;

- a. Translate the course into other language;
- b. Provide the translated course material to the Department;
- c. Give written assurance with the submission of the course that the translation has been checked for accuracy; and
- d. Give assurance that the instructor is fluent in the language that the course is being taught and that no additional translator is being used.

(f) A detailed statement about the development of the examination used in the course, including the number of questions in the item bank, the names and qualifications of the persons or entities who developed the examination, and the psychometric data used to support the validity of the examination.

(g) The names and qualifications of course instructors. Instructors must have academic credentials or certification, and field experience in asbestos abatement. Instructors must have completed both initial and refresher courses from an approved provider in the course(s) they instruct. Such proof of course completion will be required to be documented in the application. The list of instructors and their qualifications must be updated and submitted to the department whenever changes

are made. Outside experts may address topics including but not limited to legal liabilities and defenses, insurance and liability issues, and regulatory review.

(h) A description and example of the certificate of successful completion issued to students who attend the course and pass examination.

(i) A fee as provided in this rule, which must be received by the department in order for the application for approval to be deemed complete.

(5) Advertising of Training and Refresher Courses:

(a) A course provider may not advertise a course as one approved by the Department until such approval is granted.

(b) A course provider may not include any false or misleading information regarding the contents, instructors, or number of classroom hours of any course approved under this rule.

(c) Once approved, the course provider shall use the course number in the course syllabus, in all other course materials used in connection with the course, and in all written advertising materials used in connection with the course.

(d) Upon completion of an initial or refresher course, the provider shall issue a completion certificate listing the name and license number of the attendee, the name and course number, the provider name and registration number, the date the course was offered, the instructor name, and the length of the course.

~~(6)(4)~~ Training course audits.

(a) The department shall, at its discretion ~~least once every three years following the date that approval was granted by the department or other approval agencies,~~ conduct on-site ~~random~~ audits of training courses to ensure compliance with ~~Rule~~ subsection 61E1-2.006(2), F.A.C., which shall include, but not be limited to an evaluation of the following:

1. Training course content;
2. Technical accuracy;
3. Instructor effectiveness; and
4. Course administration.

(b) Such audits may be conducted without advance notice if the department has reasonable cause to believe that a violation of this rule or Chapter 469.001-469.015, Florida Statutes, has occurred.

(c) The department shall pursue administrative action to suspend or revoke approval of the course if the on-site reviewer finds the course not in compliance with the requirements of this rule as set forth in paragraph 61E-2.006(2)(a), F.A.C.

(d) Training course providers who are located outside this state must meet the requirements of this section in either of the following ways;

1. The training course provider will make arrangements for the department representatives to conduct an on-site review of the training course located outside the state at no charge, including travel, subsistence, and lodging costs as provided in Section 112.061, Florida Statutes.

2. Another state in which the training provider is approved has reciprocal agreement with this state for auditing of training courses for compliance with the standards set forth in this rule.

~~(7)(5)~~ Upon a change of instructors, the provider shall submit the credentials of the new instructor to the department for approval.

~~(8)(6)~~ The department will seek written reciprocal agreements with other states where equivalency of asbestos accreditation requirements with the Florida requirements can be demonstrated.

~~(9)(7)~~ Fees.

(a) Fees for initial training course review shall be \$350.00 per training day. Courses with a duration of eight hours will be assessed at the 8 hour day rate (\$350.00).

An additional \$350.00 will be assessed for each 8-hour day of training above the minimum days of training specified in Sections 469.001-469.015, Florida Statutes, and those set forth in 40 CFR Section 763, subpart E of Appendix C, as it existed on September 1, 1997. Courses with a duration of four hours of training will be assessed \$175.00. Courses with a duration of eight hours will be assessed at the 8-hour day rate (\$350.00).

(b) Fees for refresher training course approval shall be as follows:

1. \$175.00 – per 4 hour day
2. \$250.00 – per 8 hour day

(c) All application fees are non-refundable.

~~(10)(8)~~ Records.

(a) Training course providers shall be responsible for maintaining records of all persons taking approved courses for a minimum of 3 years from the date of the course. Copies of such records shall be released upon written request by the trainee and shall be made available to the department at any time upon request of the department.

(b) Upon ceasing to provide training and/or refresher courses, the provider shall forward all records relating to persons trained to the department within 60 days. Such records shall include class rosters, examination scores, certificates issued, and any other record which may be used to verify training. Upon receipt of the records, the department shall void the provider's certificate.

(c) Any changes in the course provider name, address, telephone number, course curriculum and/or instructors must be submitted in writing to the department, within 30 days of such change.

(d) The provider must provide the attendee list to the Department in the prescribed electronic format of all licensees who attended refresher courses to obtain continuing education credits. The provider is required to resolve reporting conflicts with the licensee by the expiration date.

(e) The course provider shall not offer any training courses if the provider status is expired or under discipline.

(f) The provider must submit attendance rosters of all Florida licensed consultants and contractors who have attended refresher courses within 30 days of completion of such course(s). The roster should include the licensee name, course number, course name, date the course was administered and the provider number.

(g) If the provider status is revoked by the Department, the provider cannot reapply to be registered as a provider for two years from the date of the Final Order revoking the registration.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.014 FS. History—New 5-12-93, Formerly 21-23.006, Amended 8-17-94, 11-24-97,

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Asbestos Consultants/Asbestos Consultant Examination**

RULE TITLE: Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status

RULE NO.: 61E1-3.001

PURPOSE AND EFFECT: The purpose of this rule development is 1) to provide a fee for training provider and course renewals; 2) to provide that fees due a testing vendor for computer-based testing shall be paid directly to the vendor; 3) to provide that any license not renewed before the end of the biennial period shall become delinquent; 4) to require licensees on inactive status to meet the requirements of Sections 469.004(3) and 469.005(6), Florida Statutes; 5) to require a fee to add a qualifying agent; and 6) to revise the Specific Authority. The effect is to require a registration fee for added qualifying agents, a registration renewal fee for training providers and a registration initial and renewal fee for training and refresher courses, to clarify that business and qualifying agent licenses that are not renewed before the end of the

biennial period shall become delinquent, and to require licensees on inactive status to meet examination and continuing education requirements.

SUMMARY: Fees are established to add a Qualifying Agent, for provider renewal and for training and refresher course renewal. Fees due a testing vendor shall be paid directly to the vendor. Any license not renewed before the end of the current biennium shall become automatically delinquent. A licensee whose license status is inactive must meet the continuing education requirements of Section 469.004(3), Florida Statutes, and the examination requirement of Section 469.005(6), Florida Statutes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No Statement of Estimated Regulatory Cost has been prepared

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

SPECIFIC AUTHORITY: 469.011, 469.004, 469.006, 469.008 FS.

LAW IMPLEMENTED: 455.271, 469.006, 469.008 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

THE FULL TEXT OF THE PROPOSED RULE IS:

61E1-3.001 Fees; License Renewal; Active, Inactive and Delinquent Licenses; Change of Status.

(1) The following fee schedule is adopted by the Department regarding the applications, initial licensure, examinations, delinquent licenses, reactivation, change of status, active and inactive licenses, renewals, late renewals, unlicensed activities, transfers, and changing a qualifying agent or financially responsible officer, for asbestos consultants and asbestos contractors, and for business organizations or qualified agents proposing to engage in consulting or contracting under a name other than the applicant's legal name, training provider and course renewal pursuant to Sections 455.203(1), 455.271, 455.2281, 469.006, 469.008, FS:

(a) Application fee	\$300.00
(b) Initial License fee	\$500.00
(c) Delinquent fee	\$250.00
(d) Reactivation fee	\$100.00
(e) Biennial License Renewal fee for Asbestos Consultants, Asbestos Contractors	\$300.00

(f) Biennial License Renewal fee for Asbestos Business Organizations	\$500.00
(g) Biennial Inactive License Renewal fee for Asbestos Consultants, Asbestos Contractors	\$200.00
(h) Examination fee	\$400.00
(i) Reexamination fee	\$400.00
(j) Change of Status fee	\$100.00
(k) Unlicensed Activity fee	\$5.00
(l) To change a Financial Officer	\$100.00
(m) To <u>add or change</u> a Qualifying Agent	\$100.00
(n) Transfer fee	\$200.00
<u>(o) Provider renewal fee</u>	<u>\$100.00</u>
<u>(p) Training course initial or refresher renewal fee</u>	<u>\$100.00</u>

(2) ~~All~~ The fees shall be made payable to: ~~the~~ Department of Business and Professional Regulation. Any fee due to the testing vendor for computer based testing shall be made payable directly to the vendor.

(3) An asbestos consultant, asbestos contractor, business organization or qualifying agent shall renew his or her license on or before November 30 of each biennial year. If an asbestos consultant, asbestos contractor, business organization or qualifying agent makes a written request to change a qualifier or financially responsible officer during the biennial period, the department shall charge the respective changing fee and a transfer fee.

(4) Any license, ~~other than a business organization or qualifying agent license~~, which is not renewed prior to the end of each biennium renewal period, shall automatically revert to a delinquent status.

(a) A licensee may change a delinquent status license by remitting a delinquent fee and the applicable biennial license renewal fee(s) to the department.

(b) If a licensee makes a written request during the renewal period to activate a delinquent status license to active or inactive, the department shall impose a delinquent fee, a reactivation fee, a renewal fee that will be applied to the delinquent biennium period, and a biennial license renewal fee.

(c) If a licensee makes a written request to the department to activate a delinquent status license to active or inactive status at a time other than the renewal period, the department shall impose a delinquent fee, a reactivation fee, a change of status fee, a renewal fee that will be applied to the delinquent biennium period, and a biennial license renewal fee.

(d) The failure of a delinquent status licensee to change the status of the license to active or inactive before the expiration of the current licensure period, shall render the license null without any further action by the department. Thereafter, any subsequent licensure shall be as a result of applying for and meeting all requirements imposed on an applicant for new licensure.

(e) A business organization shall not be required to take an examination or reexamination.

(f) The department shall conduct an investigation to determine whether an applicant, whose license has become null, has met the minimum qualifications for new licensure.

(5) A licensee may make written request during the renewal period to place his or her license in an inactive status and remit the biennial inactive license renewal fee. The department shall then change the status of the license to inactive status.

(a) An inactive license may be maintained during each subsequent biennium period by the department in an inactive status upon the payment of a biennial inactive license renewal fee. However, the department shall require a licensee, who has been on an inactive status to meet the requirements of ss. 469.004(3) and 469.005(6), for more than two consecutive biennial licensure periods, F.S.

(b) If a licensee makes a written request to the department during the renewal period to activate his or her license from an inactive status to an active status, the department shall impose a reactivation fee in addition to the biennial license renewal fee.

(c) If a licensee makes a written request to the department at a time other than during the renewal period to activate his or her license from an inactive status to an active status, the department shall impose a reactivation fee, a change of status fee, and a biennial license renewal fee.

(d) The department shall conduct an investigation to determine whether a licensee has met the minimum qualifications for active licensure.

(6) An asbestos consultant, asbestos contractor, business organization or qualifying agent shall not work with an inactive, delinquent, or null license.

Specific Authority ~~455.271, 469.004, 469.006, 469.008, 469.011~~ FS. Law Implemented ~~455.271, 469.006, 469.008~~ FS. History—New 9-22-94, Amended 10-17-95, 10-29-97, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Asbestos Consultants/Asbestos Consultant Examination**

RULE TITLES: RULE NOS.:

Licensure of Business Organizations and Qualifying Agents 61E1-4.001  
 Financial Responsibility; Definitions; Grounds for Denial 61E1-4.002  
 Public Liability and Property Damage Insurance 61E1-4.003

**PURPOSE AND EFFECT:** The purpose of this rule development in Rule 61E1-4.001, F.A.C., is 1) to specify more fully the contents required of credit reports and financial statements to be submitted with the applications of business organizations or qualifying agents for licensure; 2) to require a signed statement of the prescribed amounts of public liability and property damage insurance; 3) to delete a provision making it a violation to fail to continually maintain public liability and property damage insurance; 4) to require that applicants for licensure provide answers pertaining to the organization and its responsible persons to specified questions concerning past financial settlements, unpaid past-due bills and claims, liens, suits or judgments of record or pending, bankruptcy proceedings, past assignment of assets in settlement, disciplinary proceedings, and criminal proceedings; and 5) to define "responsible person." The effect is to provide the Department with more comprehensive information with which to determine the fitness of applicants for licensure. The purpose of this rule development in Rule 61E1-4.002, F.A.C., is to define "financial responsibility" and to set forth grounds based on financial responsibility for denying applicants for licensure. The effect is to make more clear what the Department shall consider in assessing an applicant's fitness for licensure. The purpose of this rule development in Rule 61E1-4.003, F.A.C., is to require that applicants for licensure certify that they have obtained and will maintain public liability and property damage insurance in the amounts specified in the rule and to authorize the Department to conduct random audits of at least ten percent of licensees directing them to submit proof of coverage by means of a Certificate of Insurance as prescribed in the rule. The effect is to provide assurance that licensees procure and maintain adequate insurance coverage. Both Rules 61E1-4.002 and 61E1-4.003, F.A.C., provide that failure to meet certain of their provisions constitutes a violation of the rule.

**SUMMARY:** New requirements to furnish information relating to the licensure applicant's financial responsibility, credit and business reputation are established. Financial responsibility is defined. Financial responsibility grounds on which an applicant may be denied are established. Applicants must attest they have public liability and property damage insurance in requisite amounts. The Department is to be the certificate of insurance holder.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No Statement of Estimated Regulatory Cost has been prepared

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

**SPECIFIC AUTHORITY:** 455.203(5), 469.011 FS.

**LAW IMPLEMENTED:** 469.006, 469.007 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

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

61E1-4.001 Licensure of Business Organizations and Qualifying Agents.

(1)(a) As a prerequisite to the initial issuance of a license to a qualifying agent, business organization, or a change in the status of an active business organization license, the applicant shall pay the required fee as provided for in Rule 61E1-3.001 of this Chapter, and submit a signed, completed application on a form approved by the department. The form is entitled "Application For Business Organizations or Qualifying Agents," Form AB/LP, effective 6-20-95, and incorporated herein by reference. Copies of the application and other forms required by this Rule can be obtained by contacting the Department at the following address: Asbestos Licensing Unit, 1940 North Monroe Street, Tallahassee, Florida 32399-1006. If the applicant proposes to engage in asbestos consulting or asbestos contracting as a partnership, corporation, business trust or other legal entity, or in any name other than the applicant's legal name, the legal entity must comply with s. 469.006(2), F.S. The applicant must furnish evidence of statutory compliance of Section 865.09, F.S., if a fictitious name is used.

(b) The application shall contain the information contained in s. 469.006(2)(a)1., 2. & 3., F.S.

1. If a limited partnership is formed for the purposes of a joint venture, the qualifying business organization or individual must be a general partner of the joint venture.

2. The applicant's street and mailing address, and where applicable, a current license number. A post office box, by itself, is not acceptable as an address.

3. A list of the previous three completed asbestos projects, including the date of completion, address of the project, and the name of the owner.



4. If the business organization has a financially responsible officer, the financially responsible officer, rather than the qualifying contractor or consultant, shall sign and complete the application. The application shall include the requirements of s. 469.006(2)(a)2., F.S.

5. If the qualifying agent is a primary qualifying agent, the application shall include the requirements of s. 469.006(2)(a)1., F.S.

6. If the qualifying agent is a secondary qualifying agent, the application shall include the requirements of s. 469.006(2)(a)3., F.S.

(c) In order that the department may carry out its statutory duty to investigate the financial responsibility, credit and business reputation of a new applicant for licensure or a change of status of a licensee, an applicant shall be required to forward the following, in addition to the signed, completed application for licensure, to the Department for review:

1. A credit report on, not older than six months, from any recognized credit bureau which includes but is not limited to liens, judgments, suits and bankruptcy obtained from county, state, and federal records. The credit report must be dated within six (6) months of the date of filing the application. Reports which are limited to only information obtained from the qualifying agent or past or present employers are not acceptable.

2. A comprehensive financial statement reflecting the financial condition of the business entity in its previous fiscal year, provided the statement is prepared within 12 months of the date of the filing of the application. The financial statement shall include the following: balance sheet, income statement, capital statement; and statement of changes in financial position. Unless prepared by a certified public accountant, the financial statement shall be signed, in the presence of a notary, by a responsible officer of the business entity as representing the financial condition of the business entity for the period reflected in the statement. The financial statement must indicate a positive networth. A financial statement, not older than 12 months and showing a positive net worth, which shall contain information indicating the current assets, current liabilities, total assets, total liabilities, and total net worth.

3. A letter of bond ability, a letter of credit or a compliance bond established to reimburse the appropriate parties for diversion of funds, abandonment, and all other statutory violations. These instruments must be written in the amount of \$10,000 dollars or more and are not to be construed as performance bonds.

4. A signed statement indicating ~~that~~ the applicant has obtained and will maintain public liability and property damage insurance in the amounts set forth herein during the life of each asbestos job.

5. Answers to the following questions on the application: It shall be considered a violation of this rule for any licensee to fail to continually maintain public liability and property damage insurance in amounts set forth herein for the life of each asbestos job.

(a) Has any bonding or surety company ever completed or made a financial settlement upon any construction contract or work undertaken by any person named in (i) below or any organization in which such person was a responsible person as defined in paragraph (j)? Yes ( ) No ( ).

(b) Are there any unpaid past-due bills or claims for labor, materials, or services, as a result of the consultant or construction operations of any person named in (i) below or any organization in which any such person was a responsible person as defined in paragraph (j)? Yes ( ) No ( ).

(c) Are there now any liens, suits or judgments of record or pending against any person named in (i) below or any organization in which such person was a responsible person as defined in paragraph (j), as a result of the consultant or construction operations of such persons or organization? Yes ( ) No ( ).

(d) Are there now any liens of record by the U.S. Internal Revenue Service or the State of Florida Corporate Tax Division against any person named in (i) below or any organization in which such a person was a responsible person as defined in paragraph (j)? Yes ( ) No ( ).

(e) Has any person named in (i) below or has any organization in which any such person was a responsible person as defined in paragraph (j) been adjudicated as bankrupt, within the past five years or is any such person or organization presently in the process of bankruptcy proceedings? Yes ( ) No ( ).

(f) Has any person named in (i) below or has any organization in which any such person was a responsible person as defined in paragraph (j) ever made an assignment of assets in settlement of consultant or construction obligations for less than the total amount of indebtedness? Yes ( ) No ( ).

(g) Has any person named in (i) below or has any business organization in which any such person was a member been convicted of acting in the capacity of a consultant or contractor without a license or if licensed as a consultant or contractor in this or any other state, has any disciplinary action( including probation, fine or reprimand) ever been taken against such license by a state, county, or municipality? Yes ( ) No ( ).

(h) Has any person in (i) below or has any business organization in which any such person was a responsible person as defined in paragraph (j) ever been convicted of any offense in this state or elsewhere, other than a traffic violation? Yes ( ) No ( ).

(i) Required signatures: if an individual, the qualifying consultant or contractor; if a partnership, the qualifying consultant or contractor and the partners; if a corporation, the qualifying consultant or contractor, the president, vice-president and secretary.

(j) For purposes of this rule, "responsible person" includes any partner, officer, trustee, qualifying consultant or contractor, or any person having managerial or supervisory role in a business organization as defined in Section 469.006, F.S.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New 10-17-95, Amended 10-29-97, \_\_\_\_\_.

#### 61E1-4.002 Financial Responsibility; Definitions; Grounds for Denial.

(1) For purposes of this rule, the phrase "financial responsibility" is defined as the ability to insure the public, laborers, materialmen, suppliers and other parties with whom the applicant will do business as an asbestos consultant or contractor, will not sustain economic losses resulting from the consultant or contractors inability to pay his or her lawful contractual obligations.

(2) The financial responsibility grounds on which the Department may refuse to qualify an applicant can include:

(a) Failure to submit any of the items required by Rule 61E1-4.001, F.A.C.

(b) The existence, within the past five years preceding the application, of an unsatisfied court judgement rendered against the applicant based upon the failure of the applicant to pay its just obligations to parties with whom the applicant conducted business as a consultant or contractor.

(c) An unfavorable credit report or history as indicated by any of the documents submitted.

(d) A determination by the Department that the applicant lacks the financial stability necessary to assure compliance with the standards set forth in section (1) of this rule. As guidelines for the determination of financial stability the Department shall consider the applicant's financial statement and responses to the questions set forth in subsection 61E1-4.001(1), F.A.C.

(3) The applicant's history of bankruptcy is included in the statutory definition of financial responsibility and shall be considered by the Department; however, the fact that an applicant has been or is a debtor in bankruptcy shall not be the sole basis of the Department's determination to deny the issuance of a license.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New \_\_\_\_\_.

#### 61E1-4.003 Public Liability and Property Damage Insurance.

(1) As a prerequisite to the issuance of a license, the applicant shall submit a signed affidavit attesting the applicant has obtained and will maintain public liability and property

damage insurance, in the amounts stated herein. It shall be a violation of this rule for any licensee to fail to continually maintain liability and property damage insurance in amounts set forth herein.

(2) To verify the accuracy of the signed affidavit, the Department will conduct random audits of at least 10% of the total number of licensees. Upon written request by the Department, by certified mail, each selected licensee must within thirty days submit proof of coverage, in the form of an original Certificate of Insurance, showing the licensee obtained and continually maintained the proper amount of public liability and property damage within the specified time period set forth in the Department's request.

(3) The Certificate of Insurance must be prepared by a licensed insurance agency and must contain the following information.

(a) Date the Certificate of Insurance was issued.

(b) Name and license number of insurance agent.

(c) Name of insured must reflect the exact name of the entity qualified by applicant.

(d) Name of insurance company.

(e) Policy number must be on certificate. Binder numbers are not acceptable.

(f) Expiration date of policy.

(g) The minimum amount of liability and property damage insurance required as a prerequisite to the issuance of a license is:

1. Liability Insurance (including completed operations and products) \$100,000/\$300,000 and,

2. Property Damage Insurance (including completed operations and products) \$100,000/\$300,000.

(h) Certificate holder must be the Department of Business and Professional Regulation.

(i) The cancellation notice shall stipulate that, should the public liability and property damage coverage described above, be canceled before the expiration date, the issuing company will mail a thirty-day written notice to the Certificate holder on the Certificate.

(j) The agent's signature.

(k) The licensee's correct license number.

(4) The insurance must be in the name of the licensee or the business name appearing on the license.

(5) Failure to comply with the Department's request to submit proof of coverage, which meets the requirements of the Department, will be a violation of this rule.

Specific Authority 455.203(5), 469.011 FS. Law Implemented 469.006, 469.007 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Anthony B. Spivey, Executive Director, Asbestos Licensing Unit, Department of Business and Professional Regulation, 1940 North Monroe Street, Tallahassee, Florida 32399-2214, (850)922-5012

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Diane Carr, Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2003  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: April 18, 2003

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLES:	RULE NOS.:
Written Examination Designated;	
General Requirements	61G15-21.001
Grading Criteria for the Essay Portion of Examination	61G15-21.003
Passing Grade	61G15-21.004
Engineer Intern Examination	61G15-21.005

PURPOSE AND EFFECT: Rule 61G15-21.001, F.A.C., is being amended to clarify that Part One of the Exam is the engineer intern examination portion. Rules 61G15-21.003 and 61G15-21.005, F.A.C., are being repealed as these rules are now obsolete. Rule 61G15-21.004, F.A.C., is being amended to state that the requirements for passing grades on each portion of the exam is a grade of 70 or better. Surplus language regarding needless detailing of methods used by the creator of the national exam in scoring is being removed.

SUMMARY: Rules 61G15-21.001 and 61G15-21.004, F.A.C., sets forth general requirements for the written examination and what the passing score is. Rules 61G15-21.003 and 61G15-21.005, F.A.C., set forth the criteria for grading the essay portion of the engineering examination and state that Part One of the examination is the engineer intern examination.

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

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

SPECIFIC AUTHORITY: 455.217(1) FS.

LAW IMPLEMENTED: 455.217(1) FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. (IF NOT REQUESTED, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Natalie Lowe, Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-21.001 Written Examination Designated; General Requirements.

(1) The Florida Board of Engineers hereby determines that a written examination shall be given and passed prior to any applicant receiving a license to practice as a professional engineer, or as an engineer intern in the State of Florida except as provided in Section 471.015, Florida Statutes. The examination shall be provided by the National Council of Examiners for Engineers and Surveyors (NCEES). The examination consists of two parts, each of eight hours. The engineer intern examination is defined to be Part One of the written examination provided by the NCEES. Candidates are permitted to bring certain reference materials and calculators. A list of approved reference materials and calculators will be provided to all candidates prior to each examination. Reference materials are limited to fifteen (15) bound volumes. National examination security requirements as set forth by the NCEES shall be followed throughout the administration of the examination.

(2) No change.

Specific Authority 455.217(1) FS. Law Implemented 455.217(1), 471.015 FS. History—New 1-8-80, Formerly 21H-21.01, Amended 10-5-92, Formerly 21H-21.001, Amended 11-15-94, 10-14-02, \_\_\_\_\_.

61G15-21.003 Grading Criteria for the Essay Portion of Examination.

Specific Authority 455.217(1) FS. Law Implemented 455.217(1) FS. History—New 1-8-80, Formerly 21H-21.03, Amended 1-6-92, Formerly 21H-21.003, Repealed \_\_\_\_\_.

61G15-21.004 Passing Grade.

~~(1) The passing grade for the Engineering Fundamentals Examination is 70 or better. The criteria for determining the minimum score necessary for passing the Engineering Fundamentals Examination shall be developed through the collective judgment of qualified experts appointed by NCEES to set the raw score that represents the minimum amount of knowledge necessary to pass the examination. The judges shall use a Modified Angoff Method in determining the minimally acceptable raw score necessary to pass the Fundamentals of Engineering Examination. Using the above mentioned Modified Angoff Method, the judges will indicate the probability that a minimally knowledgeable Fundamentals of Engineering examinee would answer any specific questions correctly. The probability of a correct response is then assigned to each question. Each judge will then make an estimate of the percentage of minimally knowledgeable examinees who would know the answer to each question. The totals of each of the judges is added together and divided by the number of judges to determine the overall estimate of the minimum standards necessary. The minimum number of correct answers required to achieve a passing score will take into account the relative difficulty of each examination through scaling and equating~~

each examination to the base examination. The raw score necessary to show competence shall be deemed to be a 70 on a scale of 100.

(2) ~~The passing grade for the Principles and Practice Examination is 70 or better. A passing grade on Part Two of the examination is defined as a grade of 70 or better. The grades are determined by a group of knowledgeable professional engineers, who are familiar with engineering practice and with what is required for an applicable engineering practice and with what is required for an applicable engineering task. These professional engineers will establish a minimum passing score on each individual test item (i.e., examination problem). An Item Specific Scoring Plan (ISSP) will be prepared for each examination item based upon the NCEES standard scoring plan outline form. An ISSP will be developed by persons who are familiar with each discipline including the item author, the item scorer, and other NCEES experts. On a scale of 0-10, six (6) will be a minimum passing standard and scores between six (6) and ten (10) will be considered to be passing scores for each examination item. A score of five (5) or lower will be considered an unsatisfactory score for that item and the examinee will be considered to have failed that item. To pass, an examinee must average six (6) or greater on his/her choice of eight (8) exam items, that is, the raw score must be forty eight (48) or greater based on a scale of eighty (80). This raw score is then converted to a base 100 on which, as is noted above, a passing grade will be seventy (70).~~

Specific Authority 455.217(1)(c), 471.013 FS. Law Implemented 455.217(1)(c), 471.03 FS. History--New 1-8-80, Amended 3-23-81, 8-25-81, 2-21-84, 1-20-85, Formerly 21H-21.04, 21H-21.004, Amended.

61G15-21.005 Engineer Intern Examination.

Specific Authority 455.217(1) FS. Law Implemented 455.217(1) FS. History--New 1-8-80, Formerly 21H-21.05, 21H-21.005, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003, Vol. 29, No. 38

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Schedule of Fees RULE NO.: 61G15-24.001

PURPOSE AND EFFECT: The Board proposes to amend this rule to remove obsolete language and provide for a specific fee for testing in additional disciplines as requested by an existing licensee.

SUMMARY: This rule sets forth the fees for application, examination, reexamination, licensing and renewal, temporary registration, late renewal, registration by endorsement, reactivation fees, and replacement certificate fees.

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

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

SPECIFIC AUTHORITY: 455.213, 455.217(3), 455.219, 455.271, 471.011, 471.019 FS.

LAW IMPLEMENTED: 119.07(1)(a), 455.217(3), 471.011, 471.019 FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNED IN THE FAW. (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Natalie Lowe, Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULES IS:

61G15-24.001 Schedule of Fees.

(1) No change.

(2) Engineering fees (individuals and firms):

(a) No change.

(b) Examination and re-examination fee ~~Initial examination fee~~ – \$ 100.00 ~~(both parts)~~, except the fee for Structural II examination is \$ 450.00.

(c) Application fee for licensure by endorsement – \$ 125.00.

(d) Initial ~~registration and~~ licensure – \$ 100.00.

(e) Renewal – \$ 125.00 per biennium.

(f) Delinquency Fee – \$ 100.00.

(g) Temporary registration (individual) – \$ 25.00.

(h) Temporary Certificate of Authorization (firm) – \$ 50.00.

(i) Registration for a Certificate of Authorization (firm) – \$ 125.00.

(j) Biennial Renewal of Certificate of Authorization (firm) – \$ 125.00.

(k) Additional Discipline Examination Fee ~~Re-examination~~ – \$ 100.00 per part.

(l) Inactive Status fee – \$ 75.00.

(m) Reactivation fee – \$ 150.00.

(n) Duplicate Certificate – \$ 25.00.

(o) Verification of Licensure – \$ 25.00.

(p) Special Inspector Certification – \$ 100.00.

(3)(a) through (c) No change.

Specific Authority 455.213, 455.217(3), 455.219, 455.271, 471.011, 471.019 FS. Law Implemented 119.07(1)(a), 455.217(3),(7), 471.011, 471.019 FS. History—New 1-8-80, Amended 8-26-81, 12-19-82, 6-2-83, 2-28-84, Formerly 21H-24.01, Amended 3-10-86, 12-11-86, 3-10-87, 4-12-88, 12-21-88, 1-10-90, 8-15-90, 1-6-93, Formerly 21H-24.001, Amended 11-15-94, 8-10-98, 6-16-99, 5-8-00, 11-15-01, 2-21-02, 9-16-02,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003, Vol. 29, No. 38

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Board of Professional Engineers**

RULE TITLE: Retention of Engineering Documents RULE NO.: 61G15-30.009

PURPOSE AND EFFECT: The Board proposes this new rule to set forth criteria for retaining engineering documents.

SUMMARY: This rule sets forth the requirement for licensees to retain documents bearing their signature, seal, date and all related calculations for a minimum period of three years .

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

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

SPECIFIC AUTHORITY: 471.008, 471.033(2) FS.

LAW IMPLEMENTED: 471.033(1)(g) FS.

IF REQUESTED IN WRITING WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW. (IF NOT REQUESTED IN WRITING, A HEARING WILL NOT BE HELD):

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Natalie Lowe, Executive Director, Florida Board of Professional Engineers, 2507 Callaway Road, Suite 200, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G15-30.009 Retention of Engineering Documents.

At least one copy of all documents displaying the licensee’s signature, seal, date and all related calculations shall be retained by the licensee or the licensee’s employer for a minimum of three years from the date the documents were sealed.

Specific Authority 471.008, 471.033(2) FS. Law Implemented 471.033(1)(g) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Professional Engineers

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 19, 2003, Vol. 29, No. 38

**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**

**School Psychology**

RULE TITLE: Examinations RULE NO.: 64B21-500.011

PURPOSE AND EFFECT: Amendment is proposed to subsection (3) of Rule 64B2-500.011, F.A.C., to reflect that scoring of the national examination designated by the Department in subsection (1) of this Rule shall be consistent with testing procedures and scoring of the entities responsible for providing the examination.

SUMMARY: The Department proposes to strike unnecessary language as it has determined that the scoring range should be consistent with the entities responsible for providing the examination.

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

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

SPECIFIC AUTHORITY: 490.015 FS.

LAW IMPLEMENTED: 490.005(2), 455.217(1)(b),(c) FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

64B21-500.011 Examinations.

(1) through (2) No change.

(3) The examination shall be multiple choice. All items will be weighted equally in scoring the (ETS) examination. All scoring procedures and the determination of the minimum passing score shall be The minimum passing score will be a converted score of 610, with possible scores ranging from 0 to 999. The minimum passing score for the (ETS) examination is determined by the National Association for School Psychology (NASP) and ETS using the modified Angoff method. Candidates' scores which include fractions will be rounded up if the fractional part is 0.5 or greater. The subject areas of the examination shall include assessment, intervention, evaluation, professional practice, psychological foundations, and educational foundations.

(4) No change.

Specific Authority 490.015 FS. Law Implemented 455.217(1)(b),(c), 456.017, 490.005(2) FS. History--New 12-21-83, Amended 9-18-84, Formerly 21U-500.11, Amended 1-2-92, 6-21-92, Formerly 21U-500.011, 61E9-500.011, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kaye Howerton, Executive Director

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Amy Jones, Division Director

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 26, 2003

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 23, 2002

Section III
Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

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

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule as noticed in the October 11, 2002, issue of the Florida Administrative Weekly, Vol. 28, No. 41 and the Notice of Change published in Vol. 29, No. 35, August 29, 2003, issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF EDUCATION

Commission for Independent Education

RULE NO.: RULE TITLE:
6E-1.0032 Fair Consumer Practices

NOTICE OF ADDITIONAL PUBLIC HEARING

The Commission for Independent Education hereby gives notice of an additional public hearing on the above-referenced rule to be held on November 13 and 14, 2003, in Tampa, Florida. An additional notice setting forth the time and location of the public hearing shall be published at a later date. The rule was originally published in Vol. 29, No. 29, of the July 18, 2003, Florida Administrative Weekly.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Samuel Ferguson, Executive Director, Commission for Independent Education, 2650 Apalachee Parkway, Suite A, Tallahassee, Florida 32301

Any person requiring a special accommodation at this hearing because of a disability or physical impairment should contact the Commission's Executive Director at least five calendar days prior to the hearing. If you are hearing or speech impaired, please contact the Commission office using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) and 1(800)955-8771 (TDD).

DEPARTMENT OF COMMUNITY AFFAIRS

Division of Emergency Management

RULE CHAPTER NO.: RULE CHAPTER TITLE:
9G-19 Base Funding for County
Emergency Management
Agencies, Emergency
Management Competitive Grant
Program and Municipal
Competitive Grant Program
Rule

RULE NO.: RULE TITLE:
9G-19.010 Disbursement

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 29, No. 34, August 22, 2003, issue of the Florida Administrative Weekly.

9G-19.010 Disbursement.

(1) through (5) No change.

(6) Upon written request and accompanying documentation detailing exceptional circumstances justifying the need, and at the discretion of the Division, not later than July 31 of each year, Base Grant Recipients receiving trust funds may carry forward up to twenty-five (25) percent of a single year grant award to the next fiscal year.

(7) through (11) No change.

Specific Authority 252.35, 252.373 FS. Law Implemented 216.052, 252.35, 252.373, 252.83 FS. History--New 1-12-94, Amended 6-21-95, 11-13-96, \_\_\_\_\_.