

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

**DEPARTMENT OF STATE**

**Division of Cultural Affairs**

RULE NO.:                   RULE TITLE:  
IT-1.001                    Division of Cultural Affairs  
                                  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. in response to comments received from the Joint Administrative Procedures Committee. The rule was originally published in Vol. 30, No. 45, of the November 5, 2004 issue of the Florida Administrative Weekly.

When changed, Rule IT-1.001, F.A.C., will read as follows:

(9) Quarterly Assistance Program. The purpose of this program is to provide funding to promote professional development for arts organizations. There are five funding categories in this program. In addition to the basic eligibility requirements detailed in paragraph (5), the applicant must meet the category-specific eligibility criteria as stated below. For the purpose of this program, an arts organization is defined as a non-profit organization whose primary mission, or more than 50% of its operating budget, is dedicated to activity in the arts.

(a) No change.

(b) Review panel, scoring, and funding recommendations. A committee ~~appointed by the Secretary of State of the Florida Arts Council~~ will serve as the review panel for this program. The total maximum points than can be earned for any of the application categories is 20. Applicants must achieve a minimum of 10 to be considered for funding. Funding recommendations will be made by the panel in consideration of the funds available and the relative merits of each proposal. The panel is not required to fund all proposals that achieve the minimum score.

(10) Underserved Arts Communities Assistance Program. The purpose of this program is to foster the development of underserved arts organizations. In addition to the basic eligibility requirements detailed in paragraph (5), the applicant must also meet the following program-specific conditions. Funding is open only to arts organizations which are located within counties whose population is 100,000 or less or whose population density is less than 250 people per square mile, or are REDI qualified, or are a minority organization, or are otherwise able to demonstrate a lack of resources. REDI qualified means counties or communities designated pursuant to Sections 288.0656 and 288.06561, Florida Statutes.

(a) No change.

(b) Review panel, scoring, and funding recommendations. A committee ~~appointed by the Secretary of State of the Florida Arts Council~~ will serve as the review panel for this program.

The total maximum points than can be earned for any of the funding categories is 100 points. Applicants must achieve a minimum of 75 to be considered for funding. Funding recommendations will be made by the panel in consideration of the anticipated funds available and the relative merits of each proposal. The panel is not required to fund all proposals that achieve the minimum average score.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Dr. Gaylen Phillips, Division of Cultural Affairs, 1001 DeSoto Park Drive, Tallahassee, Florida 32301

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:                   RULE TITLE:  
6A-4.003                    Degrees, Programs, and Credits  
                                  NOTICE OF CONTINUATION OF HEARING

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 42, October 15, 2004, Florida Administrative Weekly has been continued from November 16, 2004 to January 18, 2005.

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Communities Trust**

RULE CHAPTER NO.:   RULE CHAPTER TITLE:  
9K-7                       Florida Forever Program  
RULE NOS.:             RULE TITLES:  
9K-7.003                General Requirements and  
                                  Eligibility Standards  
9K-7.004                Submission of Application and  
                                  Application Materials  
9K-7.007                Project Evaluation Criteria

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rules in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 30, No. 36, September 3, 2004, issue of the Florida Administrative Weekly.

9K-7.003 General Requirements and Eligibility Standards.

The following constitutes the general procedures for the Florida Forever Program of the Florida Communities Trust.

(1) through (9) No change.

(10) Site Management. Each Applicant is required to provide a Management Plan as outlined in this rule chapter. To ensure that future management funds will be available for the management of the site in perpetuity pursuant to Section 259.105, F.S., and Chapter 380, Part III, F.S., the Applicant shall be required to provide the Trust with Reasonable Assurance that they have the financial resources, background, qualifications and competence to manage the Project Site in perpetuity in a reasonable and professional manner that is consistent with the approved management plan. Where the Application or Partnership Application does not include at least one Local Government, the Trust shall: require the

Recipient to establish an endowment or other fund in an amount equal to ten percent of the project cost to insure that the Project Site shall be reasonably and professionally managed in perpetuity; require a guaranty or pledge by a Local Government, the Water Management District, the Florida Division of Forestry, the Florida Fish and Wildlife Conservation Commission, or the Florida Department of Environmental Protection which shall require the Local Government, the Water Management District or the State agency to take over the responsibility for management of the Project Site in the event the Nonprofit Environmental Organization is unable to; and require such other assurances as the governing board may deem necessary to adequately protect the public interest.

Specific Authority 380.507(11) FS. Law Implemented 420.55(1)(a)4, 259.105, 380.505-.515 FS. History—New 5-27-01, Amended 5-20-02, \_\_\_\_\_.

9K-7.004 Submission of Application and Application Materials.

- (1) through (6) No change.
- (7) The following exhibits shall be provided:
  - (a) through (e) No change.

(f) Natural Communities map of an appropriate scale that depicts the Natural Communities on the Project Site, utilizing the Florida Natural Areas Inventory or other appropriate classification system, such as the Florida Land Use, Cover and Forms Classification System, and providing the approximate acreage of the various Natural Communities.

- (g) through (p) No change.
- (8) No change.

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

9K-7.007 Project Evaluation Criteria.

The evaluation of Applications shall be based on the criteria set forth in this rule chapter and in Application Form FCT-3. Trust staff will be responsible for evaluating Applications and recommending point scores to the Governing Board. Trust staff shall utilize the information contained in the Application (including exhibits) and all information obtained during its review of the Application for scoring recommendations to the Governing Board. Personnel from other state agencies, regional planning councils, water management districts, and other public and private groups may assist the Trust staff in project evaluation as requested by Trust staff on an application-by-application basis. Unless otherwise noted, an Application shall receive all the points assigned to a particular criterion if the criterion is met; no partial scores will be given for a criterion. If a criterion does not apply to the proposed Project Site, the Applicant should state “No” in the response to the criterion.

- (1) through (3) No change.

(4) The proposed project furthers and exemplifies “project excellence.” Up to 10 points, based on issues that support the goals of the Trust, but such issues are not adequately addressed by the evaluation criteria established in this rule such as whether the proposed project exhibits strong community-based support, possesses exemplary characteristics, assists an otherwise disadvantaged community, or voluntarily helps resolve land use conflicts.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Grant Gelhardt, Environmental Administrator, Florida Communities Trust, 2555 Shumard Oak Boulevard, Tallahassee, Florida 32399-2100, (850)922-1704, Suncom 292-1704

**DEPARTMENT OF COMMUNITY AFFAIRS**

**Florida Communities Trust**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
9K-8	Land Acquisition Procedures With Florida Forever Program
RULE NOS.:	RULE TITLES:
9K-8.004	Election by Recipient of Titleholder and Negotiating Entity; Rules Governing Acquisitions; Title
9K-8.007	Appraisal Procedures, Appraisal Report Requirements and Determination of Maximum Approved Purchase Price
9K-8.011	Preparation and Acceptance of Project Plans
9K-8.012	Examination for Hazardous Materials Contamination
9K-8.014	Closing

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rules, as noticed in Vol. 30, No. 36, September 3, 2004, Florida Administrative Weekly, have been withdrawn.

**DEPARTMENT OF TRANSPORTATION**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
14-48	Safety Inspection of Bridges
RULE NO.:	RULE TITLE:
14-48.0011	Safety Inspection of Bridges

**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. 30, No. 42, October 15, 2004 issue of the Florida Administrative Weekly.

SUMMARY OF CHANGE: Although the changes are only to Rule 14-48.0011, F.A.C., the repeals of the other rules in the rule chapter are dependent upon the adoption of this new rule. The following changes being made are in response to a review by the Joint Administrative Procedures Committee.

1. In subsection 14-48.0011(3), F.A.C., add the word “Inventory” to the name of the reference document and correct the website address as follows:

“(3) The Federal Highway Administration *Recording and Coding Guide for the Structure Inventory and Appraisal of the Nation’s Bridges*, December 1995, is hereby incorporated by reference and made a part of this rule. This manual is available on line and can be downloaded at <http://www.fhwa.dot.gov/bridge/mtguide.pdf>.

2. In subsection 14-48.0011(5), F.A.C., add a reference to the *Bridge Inspectors Reference Manual* as follows:

“(5) The Department will certify persons with a minimum of five years of bridge construction or maintenance inspection experience in a responsible capacity, who have completed the training course as bridge inspectors. The five years of constructive experience must include at least one year of experience conducting bridge safety inspections meeting the requirements of the National Bridge Inspection Standards, 23 C.F.R., Part 650, Subpart C, incorporated herein by reference. Also incorporated herein by reference is the *Bridge Inspector’s Reference Manual*, U.S. Department of Transportation Publication No. FHWA NHI 03-001, October, 2002, which is available for review and downloading at: <http://www.fhwa.dot.gov/bridge/pripub.htm>. The other four years may include any combination of the following: engineering education, bridge construction, bridge maintenance, materials testing, or additional bridge safety inspection. The Application for Bridge Inspection Certification, DOT Form 850-010-16, Rev. 09/04, is hereby incorporated by reference and made a part of this rule. Copies of this form can be obtained from State Maintenance Office, 605 Suwannee Street, MS 52, Tallahassee, Florida 32399-0450.”

3. Law Implemented citations: Add Section 334.044(28), Florida Statutes.

**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.”

**REGIONAL PLANNING COUNCILS**

**Southwest Florida Regional Planning Council**

RULE NOS.:	RULE TITLES:
29I-1.001	Name and Scope
29I-1.002	Purpose
29I-1.003	Staff Functions; General Description
29I-1.004	Council Membership and Appointments, Terms of Service, Vacancies, Removal from Office
29I-1.005	Officers, Terms, Duties, Committees
29I-1.006	Conduct of Meetings
29I-1.007	Budget and Finances
29I-1.008	Responsibilities and Authority
29I-1.009	Amendments
29I-1.010	Information Requests

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol 30, No. 12, March 19, 2004, Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE NOS.:	RULE TITLES:
61B-80.102	Filing for Recall Dispute Arbitration
61B-80.106	Parties; Appearances; Substitution and Withdrawal of Counsel
61B-80.107	Who May Appear; Criteria for Other Qualified Representatives

**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. 30, No. 40, October 1, 2004, issue of the Florida Administrative Weekly.

Subsection 61B-80.102(6), F.A.C., now reads:

(6) As provided by subsection 720.303(10), F.S., the board of directors must hold a board meeting within 5 full business days after its receipt of a recall agreement in writing or the written recall ballots, and further, the board must within 5 full business days of the board meeting, file a petition for recall arbitration if the board determines not to accept the recall of one or more board directors. The time periods contained in subsection 720.303(10), F.S., operate in the manner of statutes of limitation and are therefore subject to equitable considerations. However, where the board fails to timely comply with these rules relating to the calling and holding of a meeting on whether to certify a recall, or fails to comply with these rules relating to the filing of a petition for recall arbitration, the board must provide legitimate justification and

must demonstrate that its actions or inactions were taken or based in good faith. The board’s claims of excusable neglect or the inability to identify defects in the recall effort within the time provided, ~~or other unremarkable excuses~~ will not be considered as proper defenses. The failure of an association to timely file a petition for recall arbitration within the time limits imposed under these rules or Chapter 720, F.S., will result in the certification of the recall and the immediate removal of the board directors subject to recall; however, the failure of the association to timely call or hold a board meeting or to file a petition for recall arbitration will not validate a written recall that is otherwise void at the outset for failing to obtain a majority of the voting interests or is deemed fatally defective for failing to substantially comply with the provisions of these rules.

Subsection 61B-80.106(5), F.A.C., now reads:

(5) An attorney or qualified representative who has filed a petition or has otherwise become the attorney or representative of record for a party to a proceeding shall be permitted to withdraw from representation only upon the filing of a suitable motion with the arbitrator, which motion shall provide a correct mailing address for the client. Only attorneys licensed to practice law in Florida shall be permitted to appear as counsel of record, except that an attorney licensed out of state may apply to the arbitrator for permission to appear in an individual proceeding. ~~No attorney wherever licensed shall be permitted to appear as a qualified representative which is reserved for lay individuals.~~

Subsection 61B-80.107(2), F.A.C., now reads:

(2) If a person wishes to be represented by a qualified ~~non-attorney~~ representative, the arbitrator shall make diligent inquiry of the prospective representative during a non-adversarial proceeding, under oath, to assure that the prospective representative is qualified to appear in the arbitration proceedings and is capable of representing the rights and interests of the person. In lieu of the above, the arbitrator may consider the prospective representative’s sworn affidavit setting forth the representative’s qualifications.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE NOS.:	RULE TITLES:
61B-81.002	Recall of One or More Directors of a Board at a Homeowner Meeting; Board Certification; Filling Vacancies
61B-81.003	Recall by Written Agreement of the Voting Interests; Board Certification; Filling Vacancies

**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. 30, No. 40, October 1, 2004, issue of the Florida Administrative Weekly.

The Specific Authority for Section 61B-81.002 is amended to include Section 720.303(10)(d)-(e), F.S.

Paragraph 61B-81.003(1)(g), F.A.C., now reads:

(g) The written agreement or a copy shall be served on the board by certified mail or by personal service. Service on the board after 5:00 p.m. on a business day or on a Saturday, Sunday or legal holiday, as prescribed by Section 110.117, F.S., shall be deemed effective as of the next business day that is not a Saturday, Sunday, or legal holiday. Service of the written agreement on an officer, association manager, board director or the association’s registered agent will be deemed effective service on the association. Service upon an attorney who has represented the association in other legal matters will not be effective on the association unless that attorney is a director, the association’s registered agent, or has otherwise been retained by the association to represent it in the recall proceeding. Personal service shall be effected in accordance with the procedures set out in Chapter 48, F.S., and the procedures for service of subpoenas as set out in rule 1.410(c), Florida Rules of Civil Procedure, effective \_\_\_\_\_; and

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Florida Land Sales, Condominiums and Mobile Homes**

RULE NOS.:	RULE TITLES:
61B-82.001	Scope; Nature of Remedy; Forms
61B-82.003	Answer
61B-82.004	Assignment of Mediator; Billing
61B-82.007	Subsequent Proceedings; Conclusion of Mediation Proceeding

**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. 30, No. 40, October 1, 2004, issue of the Florida Administrative Weekly.

Subsections 61B-82.001(1) and (5), F.A.C., now read:

(1) This chapter shall be entitled “The Rules of Mediation Procedure in Homeowners’ Associations” and shall govern the mediation of disputes between a homeowners’ association and a homeowner or homeowners pursuant to Section 720.311(2), F.S. In addition to these rules, mediation shall be conducted in accordance with Florida Rules of Civil Procedure 1.700-1.750, effective \_\_\_\_\_. Only disputes arising or existing on or after October 1, 2004 and not filed in the courts by October 1, 2004, are subject to mediation under Section 720.311(2), F.S.

(5) In order to file a petition for mediation, a petitioner must use DBPR FORM HOA 6000-5, PETITION FOR MEDIATION IN HOMEOWNERS' ASSOCIATIONS, incorporated herein by reference and effective \_\_\_\_\_. ~~In order to file an answer to the petition for mediation, a respondent must use DBPR FORM HOA 6000-9, ANSWER TO PETITION, incorporated by reference and effective \_\_\_\_\_.~~ In order for someone who is not a member of the Florida Bar to represent a party in a proceeding, the person must file a completed DBPR FORM HOA 6000-6 QUALIFIED REPRESENTATIVE APPLICATION, incorporated herein by reference and effective \_\_\_\_\_. Section 61B-82.003, F.A.C., is deleted from the rule amendment proposal.

~~(1) After a petition for mediation is filed, the division will mail a copy of the petition to the respondent by certified mail along with a copy of the petition for mediation and an order requiring answer. The answer shall be filed with the division, with a copy directed to the other party, within 14 days after the respondent receives the order requiring answer. The answer shall be submitted on DBPR FORM HOA 6000-9, ANSWER TO PETITION.~~

~~(2) A motion to dismiss shall not be filed in lieu of the answer but may be filed along with the answer. The answer shall include all defenses to the dispute set forth in the petition for mediation, including lack of subject matter jurisdiction or other defense.~~

~~(3) The requirement that a respondent file an answer is intended to facilitate the mediation effort so that the petitioner and the mediator are aware of factual and legal defenses to the dispute set forth in the petition for mediation. If a respondent fails to timely file an answer, sanctions shall be imposed by the mediator or by the division on the respondent for failure to participate in the mediation process. Sanctions shall include an award of the mediation costs and fees to the petitioner. The petitioner under such circumstances may apply to a court for an order compelling the filing of an answer and for enforcement of any sanctions imposed by the division.~~

Specific Authority 720.311(1) FS. Law Implemented 720.311(2) FS. History—New \_\_\_\_\_.

Subsections 61B-82.004(1) and (2), F.A.C., now read:

(1) After an answer has been filed, the division shall refer the dispute either to an in-house mediator or to a private mediator who has been certified by the division in the operation of community associations, pursuant to Chapter 61B-83, F.A.C., Certification of Community Association Mediators and Arbitrators, F.A.C. The mediator shall coordinate the scheduling and conduct of the mediation session.

(2) Billing. If a private mediator is used, the mediator shall bill the parties directly who shall share the expenses and fees of the mediator equally, unless the parties agree to a different arrangement. The division is not responsible for collecting fees

not paid to a private mediator and will not seek enforcement or collection of the private mediator's fees. If a division mediator is used, the parties will share the expenses and fees of the mediator equally unless otherwise agreed to, and the division will bill the parties following the conclusion ~~conduct~~ of the mediation session.

Subsection 61B-82.007(2), F.A.C., is deleted from the rule amendment proposal:

~~(2) The division, the department, the mediator assigned to the case or other department employees shall not be named as parties in any court action seeking to resolve or adjudicate the dispute subject to the mediation proceeding.~~

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida State Boxing Commission**

RULE CHAPTER NO.:	RULE CHAPTER TITLE:
61K1-1	General Rules for Boxing, Kickboxing, and Mixed Martial Arts
RULE NO.:	RULE TITLE:
61K1-1.0031	Approval, Disapproval, Suspension of Approval, and Revocation of Approval for Amateur Sanctioning Organizations in Boxing and Kickboxing.

**NOTICE OF CORRECTION OF PROPOSED RULE DEVELOPMENT**

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. 30, No. 48, November 24, 2004 issue of the Florida Administrative Weekly:

PURPOSE AND EFFECT: Pursuant to Section 548.006(3), Florida Statutes, the Florida State Boxing Commission has exclusive jurisdiction over the approval, disapproval, suspension of approval, and revocation of approval of all amateur sanctioning organizations for amateur boxing and kickboxing matches held in Florida. In order to conform to amendments made to Chapter 548, Florida Statutes, in Legislative Session 2004, the development of additional boxing rules under Chapter 548, F.S., is necessary.

SUMMARY: Rule 61K1-1.0031, F.A.C., is titled "Amateur Boxing and Kickboxing." The rule requires amateur sanctioning organizations seek approval from the Florida State Boxing Commission in order to hold amateur boxing and kickboxing matches in Florida. It further provides for the criteria necessary for the approval, disapproval, and suspension and revocation of approval of amateur sanctioning organizations by the Florida State Boxing Commission.

SPECIFIC AUTHORITY: 548.003(2) FS.

LAW IMPLEMENTED: 548 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., January 10, 2005

PLACE: John's Building, 725 South Bronough Street, Tallahassee, Florida 32399-1016

Those persons who cannot attend in person may submit their comments in writing to Kelly Harris, Administrative Assistant I, 1940 North Monroe Street, Tallahassee, Florida 32399-1016, within 21 days of this notice. written comments received after the hearing may not be considered.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Kelly Harris, Administrative Assistant I, (850)488-8500. If you are hearing or speech impaired, please contact the Commission office using the Florida Dual Party Relay System, 1(800)955-8770 (Voice) or 1(800)955-8771 (TDD).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kelly Harris, Administrative Assistant I, Florida State Boxing Commission, 1940 North Monroe Street, Tallahassee, Florida 32399-1016, (850)488-8500

THE FULL TEXT OF THE PROPOSED RULE IS:

RULE FOR AMATEUR BOXING AND KICKBOXING.

61K1-1.0031 Approval, Disapproval, Suspension of Approval, and Revocation of Approval for Amateur Sanctioning Organizations in Boxing and Kickboxing.

(1) Criteria for Approval.

(k)1- Applications for approval of an amateur sanctioning organization shall specify either boxing or kickboxing. Accordingly, any approval shall be limited to the sport for which the amateur sanctioning organization has applied to obtain approval. An organization seeking approval for both amateur boxing and kickboxing may submit a single application, however, the commission may approve or disapprove the organization either as a whole or as it pertains to a specific sport.

(l)2- An amateur sanctioning organization shall adequately demonstrate to the satisfaction of the commission that the principals of the organization have sufficient background, training, and experience in sanctioning and supervising matches for which the organization is approved.

(2) Disapproval.

(a) An amateur sanctioning organization that does meet the criteria or requirements for approval provided above, shall be disapproved by the commission or its executive director.

(b)1- Other criteria or requirements not listed above nor found in the current rules of USA Boxing and/or the International Sport Kickboxing Association (ISKA) may be determined as necessary for approval. In such instances, any approved amateur sanctioning organization shall be notified by the executive director of the commission of the new criteria or requirements and given 30 days to implement the changes.

(c)2- Failure to implement any new requirements as described in the preceding paragraph may be grounds for suspension or revocation of approval.

Specific Authority 548.003(2) FS. Law Implemented 548.003, 548.006, 548.0065, 548.008 FS.; CS for SB 538. History—New \_\_\_\_\_

NAME OF PERSON ORIGINATING PROPOSED RULE: Jason Penley, Acting Executive Director, Florida State Boxing Commission, 1940 North Monroe Street, Tallahassee, Florida 32399-1016

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 2, 2004

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 22, 2004

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

Pursuant to Chapter 2003-145, Laws of Florida, all notices for the Department of Environmental Protection are published on the Internet at the Department of Environmental Protection's home page at <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: 64B-5.001  
 RULE TITLE: Definitions

**SECOND 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. 30, No. 30, July 23, 2004, issue of the Florida Administrative Weekly. The changes are in response to the Final Order issued in DOAH Case No. 04-3172RP on November 23, 2004.

Section (1) of the rule shall now read as follows:

(1) "Approved provider" means a person approved by a board, or the department when there is no board, to provide continuing education or whose continuing education program has been approved by a board, or the department when there is no board.

“Approved provider” also means an institution of higher learning or a school approved by a board, or the department when there is no board, to provide continuing education or whose continuing education program has been approved by a board, or the department when there is no board.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Amy Jones, Director, Division of Medical Quality Assurance, 4052 Bald Cypress Way, Bin #C00, Tallahassee, Florida 32399

**DEPARTMENT OF HEALTH**

**Board of Pharmacy**

RULE NO.: 64B16-27.830  
 RULE TITLE: Standards of Practice – Drug Therapy Management

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 30, No. 50, December 10, 2004, Florida Administrative Weekly has been withdrawn. The rule was erroneously and inadvertently noticed along with other rules in Chapter 64B16-27, F.A.C.

**FLORIDA HOUSING FINANCE CORPORATION**

RULE CHAPTER NO.: 67-37  
 RULE CHAPTER TITLE: State Housing Initiatives Partnership Program  
 RULE NO.: 67-37.005  
 RULE TITLE: Local Housing Assistance Plans

**NOTICE OF CHANGE**

Notice is hereby given that in response to oral or written comments the following changes have been made to Rule 67-37, Florida Administrative Code, as published in Vol. 30, No. 43, October 22, 2004 issue of the Florida Administrative Weekly.

- 67-37.005 Local Housing Assistance Plans.
- (1) through (5) No change.
- (6) through 1. No change.

2. The expenditure of the local housing distribution deposited into the local housing assistance trust fund by any eligible person or eligible sponsor within 24 months of the close of the applicable State fiscal year. In all cases, this will apply when the project is completed as evidenced by documentation of final payment to the contractor and release of all lien waivers, issuance of the certificate of occupancy by the local building department in the case of a new home or proof of the final building inspection for housing rehabilitation, and occupancy by an eligible person or eligible household. In the case of a loan guarantee strategy, the deposits to the local housing assistance trust fund will be considered expended when they are deposited from the local housing assistance trust fund into the guarantee fund. The funds deposited to the local housing assistance trust fund must be spent within twenty-four months from the end of the applicable State fiscal year.

Exceptions to this time frame must be approved by Florida Housing Finance Corporation SHIP Program Administrator or a majority vote of the Review Committee on a case-by-case basis. Exceptions will only be granted for good cause. Examples of good cause are natural disasters, requirements of other State agencies, adverse market conditions, and unavoidable development delays. Adequate documentation must be presented to the Review Committee before an extension will be granted, e.g., project status, work plan and completion schedule, commitment of funds, etc.

**FLORIDA HOUSING FINANCE CORPORATION**

RULE NOS.: 67-38.002  
 RULE TITLES: Definitions  
 67-38.003 Application Submission Procedures  
 67-38.007 Terms of the PLP Loan  
 67-38.011 Fees  
 67-38.014 Disbursement Procedures

**NOTICE OF CHANGE**

Notice is hereby given that in response to recommendations made by the Joint Administrative Procedures Committee, the following changes have been made to Rule Chapter 67-38, Florida Administrative Code, as published in Vol. 30, No. 43 of the Florida Administrative Weekly on October 22, 2004.

67-38.002 Definitions.

(1) through (15) No change.

(16) “Development Plan” or “Form TAP 1215” means the written description of the proposed Development submitted to the Corporation by the Technical Assistance Provider, with the concurrence of the Applicant, in the form created and approved by Florida Housing. Form TAP 1215 is hereby adopted and incorporated herein by reference. Copies of such may be obtained by contacting the Special Programs Administrator at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329.

(17) through (32) No change.

67-38.003 Application Submission Procedures.

(1) through (4) No change.

(5) Applications shall be accompanied by the Application fee as set forth in the Application Package. Applications shall be submitted on the forms provided in the Application Package and shall be bound in three ring binders and shall have tabs for each form and exhibit. Exhibits shall be placed behind the form to which they refer. Failure to comply with any of the requirements set forth in this rule chapter ~~shall may~~ result in the determination that the Application has not met Threshold Requirements.

(6) No change.

67-38.007 Terms of the PLP Loan.

(7) The Corporation ~~shall may~~ extend the term of the PLP ~~Loan loan~~ for an additional period if extraordinary circumstances exist and if such extension would not jeopardize

Florida Housing's security interest. Submission of a request for an extension of the term maturity of a PLP Loan shall ~~may~~ be subject to the following:

(a) The recommendation of the Credit Underwriter or the Technical Assistance Provider that an extension of the PLP Loan is likely to result in the successful completion of the Development; and

(b) Submission of:

1. A revised Development Plan, approved by the Technical Assistance Provider, reflecting the reasons for the extension and the tasks and activities to be completed during the extension period;

2. Evidence of the Applicant's ability to complete the Development, and

3. An alternate financing plan in the event the original financing source(s) withdraws.

67-38.011 Fees.

(1) through (4) No change.

Specific Authority 420.507(4) ~~420.528~~ FS. Law Implemented 420.528 FS. History--New 3-23-93, Amended 1-16-96, Formerly 91-38.011, Amended 3-26-98, 7-17-00, 7-21-03, \_\_\_\_\_.

67-38.014 Disbursement Procedures.

(1) No change.

(2) Any disbursement request shall set forth the amount requested by the Applicant and shall be accompanied by invoices, cancelled checks or other such documentation to evidence the amount and kind of work or labor that has been or is to be performed; the value of the same; the identification of the portion of the Development Site on which the work has been performed; and that such contractors, sub-contractors, materialmen, laborers, professionals, consultants and all persons employed by the Applicant to work on the Development have been paid for work performed or will be paid. Lien waivers ~~and~~ receipts for work or labor which has been completed shall be submitted along with requests for disbursement. Lien waivers ~~and~~ receipts for work that will be paid from the requested disbursement shall be submitted prior to receiving additional disbursements;

(3)(4) Disbursements for eligible activities, conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds provided that the eligible Predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application. Reimbursement for site acquisition which was completed prior to closing on the PLP loan shall not be allowed as a PLP expense.

(4)(5) Before requests for disbursements under the loan are processed, the Applicant shall provide verification to the Technical Assistance Provider and the Corporation that the work for which payment is being requested has been

performed satisfactorily and on schedule or that the expenses to be reimbursed have actually been incurred or will be incurred.

~~(5)(6)~~ In the event that the Applicant receives PLP funding for site acquisition, the Applicant must provide a Mortgage on the Development Site as collateral for the loan subject only to such encumbrances approved by the Corporation; however, if the Applicant is offering a subordinate Mortgage or other collateral for the PLP Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation.

**FISH AND WILDLIFE CONSERVATION COMMISSION**

**Marine Fisheries**

RULE CHAPTER TITLE: Marine Life

RULE NOS.:

68B-42.002

68B-42.0065

RULE TITLES:

Definitions

Commercial Requirements;

Endorsements; Requalifying;

Appeals; Leasing;

Transferability

**NOTICE OF CHANGE**

The Fish and Wildlife Conservation Commission announces changes to proposed amendment to Rule 68B-42.002, F.A.C., and new Rule 68B-42.0065, F.A.C., as published in Vol. 30, No. 44, October 29, 2004 issue of the Florida Administrative Weekly. The changes are in response to public comment, testimony, and Commission discussion contained in the record of the public hearing held by the Commission on December 1, 2004, in Key Largo, Florida. The proposed rules will now read as follows:

68B-42.002 Definitions.

As used in this rule chapter:

(1) No change.

(2) "Commercial quantities" means any amount of marine life harvested or possessed for the purposes of sale or with intent to sell or in excess of the recreational bag limit.

(3) "Diving" means swimming at or below the surface of the water.

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

(8) "Immediate family" refers to a license holder's mother, father, sister, brother, spouse, son, daughter, step-father, step-mother, step-son, step-daughter, half-sister, half-brother, son-in-law, or daughter-in-law.

(6) through (14) renumbered (9) through (17) No change.

PROPOSED EFFECTIVE DATE: February 1, 2005

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History--New 1-1-91, Amended 7-1-92, 1-1-95, 7-15-96, Formerly 46-42.002, Amended 2-1-05.



68B-42.0065 Commercial Requirements; Endorsements; Requalifying; Appeals; Leasing; Transferability.

(1)(a) Beginning in the 2005/2006 license year, in addition to a valid saltwater products license with a valid restricted species endorsement, a marine life tiered endorsement is required to harvest marine life species in quantities greater than the recreational bag limit or to sell marine life species as defined by Rule 68B-42.001, F.A.C.

(b) A marine life endorsement is not required to harvest live rock from a certified state aquaculture lease or federally permitted aquaculture site.

(2) The Commission shall notify all holders of a 2004/2005 saltwater products license with a marine life endorsement of their initial award or denial of a commercial marine life tiered endorsement. Persons will indicate either their acceptance of the initial award on a Marine Life Tiered Endorsement Application (Form DMF-SL4100 (2-05), incorporated herein by reference) or intent to appeal as specified in subsection (14).

(3) Application for issuance of a commercial marine life tiered endorsement (Form DMF-SL4100 (2-05), incorporated herein by reference), must be received by the Commission no later than September 30, 2005. An applicant may be a person, firm, or corporation.

(a) A tiered endorsement applicant must have held a valid marine life endorsement during the 2004/2005 license year. No new marine life tiered endorsement will be issued to an applicant who did not hold a valid saltwater products license with a valid restricted species endorsement and a marine life endorsement pursuant to Section 370.06(2)(j) F.S., at the time of application or on June 30, 2005.

(b) Qualification for a marine life tiered endorsement shall be determined by landings of marine life species as defined by Rule 68B-42.001, F.A.C., and reported on a valid saltwater products license with a valid restricted species endorsement and a marine life endorsement (ML) and as specified in paragraph (c) of this subsection.

(c) Qualified endorsement applicants must have documented commercial marine life landings, pursuant to Commission trip ticket records generated under the provisions of Rule Chapter 68E-5, F.A.C., during the license year, July 1, 1999 through June 30, 2000; the license year, July 1, 2000 through June 30, 2001; the license year, July 1, 2001 through June 30, 2002; or during the license year, July 1, 2002 through June 30, 2003. Qualifying landings must have been received by the FWC by January 1, 2004.

(d) Landings reported on all the applicant's individual and vessel saltwater products licenses with the current marine life endorsement will be used to determine an applicant's eligibility to receive one of the marine life tiered endorsements specified in subsections (4) through (6).

(4) Marine Life Bycatch Endorsement (MLB) – The marine life bycatch endorsement is required to harvest commercial quantities of marine life using bycatch gears as authorized in paragraph 68B-42.007(1)(f) and subsection 68B-42.007(3), F.A.C., which does not include harvest by diving.

(a) An applicant for the marine life bycatch endorsement must have an annual landings value of marine life as defined in paragraph (3)(b) of greater than zero dollars but less than \$5000 during any one of the qualifying years specified in paragraph (3)(c).

(b) A marine life bycatch endorsement will be issued on no more than one of an applicant's saltwater products licenses in any one license year.

(c) A marine life bycatch endorsement is transferable pursuant to subsections (16) and (17).

(5) Marine Life Transferable Dive Endorsement (MLD) – The marine life transferable dive endorsement is required to harvest commercial quantities of marine life using all allowable gears as authorized in Rule 68B-42.007, F.A.C., which includes harvest by diving.

(a) No marine life transferable dive endorsement will be issued to an applicant who does not qualify by one of the following methods:

1. An applicant must have qualified as specified in subsection (3) and have documented commercial marine life landings as defined in paragraph (3)(b) of greater than or equal to \$5,000 in any one of the qualifying years specified in paragraph (3)(c), and have documented dive landings during the qualifying years; or

2. An applicant must hold a live rock state lease or federal permit and have documented live rock landings value of greater than or equal to \$5,000 dollars during any one of the qualifying years specified in paragraph (3)(c) and held a marine life endorsement prior to 1998.

(b) A marine life transferable dive endorsement will be issued on no more than two of an applicant's saltwater products licenses in any one license year, except that an individual who has qualified as specified in subparagraph (a)1. and who has additional landings values of commercial marine life landings pursuant to subsection (3) on a subsequent saltwater products license held by the applicant of greater than \$10,000 may place the marine life transferable dive (MLD) on the additional vessel SPL (s) so qualified.

(c) A marine life transferable dive endorsement is transferable pursuant to subsections (16) and (17).

(6) Marine Life Non-transferable Dive Endorsement (MLN) – The marine life non-transferable dive endorsement is required to harvest commercial quantities of marine life by diving as defined in subsection 68B-42.002(3) using dive gears as authorized in paragraphs 68B-42.007(1)(a)-(e) and subsection 68B-42.007(2), F.A.C.

(a) No marine life non-transferable dive endorsements will be issued to an applicant who does not qualify by one of the following methods:

1. As specified in paragraph (4)(a); or

2. An applicant must hold a state live rock lease and/or a federal live rock permit and provide documentation of development of the site or sites and must have held a marine life endorsement prior to September 30, 2003.

(b) A marine life non-transferable dive endorsement will be issued on no more than one of an applicant's saltwater products licenses in any one license year.

(c) A marine life non-transferable dive endorsement (MLN) is not transferable, except in the event of death or permanent disability pursuant to subsection (17).

(7) After initial issuance, no endorsement may be converted from one type to another, except as provided in subsection (12).

(8) No Vested Rights. This marine life effort management program does not create any vested rights for endorsement holders whatsoever and may be altered or terminated by the Commission as necessary to protect the marine life resource, the participants of the fishery, or the public interest.

(9) No person, firm, or corporation shall be issued more than one marine life tiered endorsement type or more than one unique marine life tiered endorsement number.

(10) Effective September 30, 2005, no additional tiered endorsements will be issued and no endorsement will be renewed or replaced except those that were issued pursuant to subsections (4), (5), or (6). Beginning in the 2006/2007 license year, persons holding an endorsement that was active during the 2005/2006 license year or an immediate family member of that person must request renewal of the endorsement before September 30 of each year. Failure to renew by September 30 of any year will result in forfeiture of the endorsement.

(11) Requalifying. Beginning with license year 2010/2011, a person renewing a marine life transferable dive (MLD) endorsement must document landings of \$5,000 of marine life species as defined by Rule 68B-42.001, F.A.C., in one of the previous three license years. This endorsement will be valid for three years from the date of documentation used to qualify, but must still be renewed annually as required by subsection (10).

(12) A marine life transferable dive (MLD) endorsement can be converted to a marine life non-transferable dive (MLN) endorsement after the initial issuance. This MLN is not subject to the requalification requirements of subsection (11). This MLN can never be converted back to a MLD.

(13) A permanent marine life transferable dive (MLD) endorsement shall be available to those persons age 62 and older who held a valid MLD in the previous license year, hold a valid saltwater products license and valid restricted species endorsement at the time of application, and renew the permit pursuant to subsection (10).

(14) Appeals. The Director of the Division of Marine Fisheries Management, or one or more designees of the director, shall consider disputes and other problems arising from the initial denial of a commercial marine life tiered endorsement. The Director shall submit a recommendation to the Executive Director of the Commission for resolution of the appeal, which recommendation shall either allot an endorsement to the appellant or uphold the denial of an endorsement.

(a) An appeal of the initial denial or award of a commercial marine life tiered endorsement is initiated by submission and receipt of a completed appeals application (Form DMF-SL4110 (2-05), incorporated herein by reference) to the Director of the Division of Marine Fisheries Management before April 1, 2005.

(b) The burden of proof shall be on an appellant to demonstrate, through copies of trip tickets or other proof of landings, legitimate sales to a licensed wholesale dealer that were not reported by the wholesale dealer during the qualifying years or included in the agency landings database as of January 1, 2004.

(c) Special circumstances that can be considered during appeals shall include:

1. Persons who became disabled or can document hardship during the qualifying period, but can provide proof of landings of marine life through trip tickets prior to the qualifying period.

2. Persons who were serving in the military during the qualifying years, but can provide proof of landings of marine life through trip tickets prior to the qualifying period.

3. Persons involved in a partnership substantiated by documentation within the qualifying period.

(d) The Executive Director of the Commission may accept or disapprove the recommendations of the Director of the Division of Marine Fisheries Management, with notice given in writing to each party in the dispute explaining the reasons for the final decision. The action of the Executive Director of the Commission constitutes final agency action, and is appealable pursuant to the requirements of Chapter 120, Florida Statutes.

(15) Leasing Prohibited. The leasing of marine life endorsements is prohibited.

(16) Transferability. After the initial issuance, the marine life bycatch (MLB) and marine life transferable dive endorsements (MLD) are transferable upon approval of the Commission under the following conditions:

(a) A transferable marine life endorsement may be sold to an otherwise qualified buyer at fair market value upon approval by the Commission.

(b) The buyer must hold a saltwater products license with a valid restricted species endorsement and the seller must hold a transferable marine life tiered endorsement.

(c) The sale or transfer of a marine life transferable dive endorsement (MLD) will result in the forfeiture of the marine life transferable dive endorsement (MLD) on all other licenses held by the seller.

(d) An endorsement holder may elect to permanently forfeit a marine life bycatch endorsement (MLB), a marine life transferable dive endorsement (MLD), or a marine life non-transferable dive endorsement (MLN) to the Commission.

(e) A person who holds a valid marine life bycatch endorsement (MLB) cannot enter into a purchase agreement for a marine life transferable dive endorsement (MLD) until they sell or permanently forfeit the marine life bycatch endorsement (MLB) at the time of transfer.

(f) A marine life bycatch endorsement (MLB) may be transferred, to any person who holds a saltwater products license with a restricted species endorsement.

(g) A marine life transferable dive endorsement (MLD) may be transferred to any person who holds a saltwater products license with a restricted species endorsement.

(h) If the marine life transferable dive endorsement (MLD) has been applied to more than two saltwater products licenses as specified in paragraph (5)(b), only the initial MLD, which serves as an endorsement for no more than two saltwater products licenses, can be transferred. The sale of this portion of the endorsement, will result in the forfeiture of the endorsement on all other licenses held by the seller.

(i) The marine life non-transferable dive (MLN) endorsement is not transferable except as specified in subsection (17).

(j) A person who wishes to transfer a tiered endorsement shall submit a notarized statement of intent, that has been signed by both parties to the transaction, hand delivered, or sent by certified mail, return receipt requested, to the Commission between September 1 and November 30 each year. Requests received by the Commission before September 1 or post marked after November 30 of the current license year will not be processed. A transfer request must be received by the Commission within three days of the date of the notarized signature of the intended recipient. The statement of intent (Form DMF-SL4120 (2-05), incorporated herein by reference) shall include the following information:

1. The name, address, and SPL number of seller;
2. The name, address, and SPL number of buyer; and
3. The selling price.

(k) A marine life tiered endorsement shall not be issued, transferred, or renewed until all license fees, surcharges, and any other outstanding fees, fines, or penalties owed to the Commission by either party to the transaction have been paid in full within the transfer period.

(l) Upon receipt of a marine life transferable dive endorsement (MLD), the transferee has 12 months from the date of purchase to produce trip tickets and document income from the sale of marine life as defined in Rule 68B-42.001,

F.A.C., in order to renew the endorsement. Once renewed, this endorsement will be valid for three years from the date of documentation used to qualify, but must still be renewed annually as required by subsection (10).

(17) In the event of the death or permanent disability of a person holding a marine life tiered endorsement, the endorsement may be transferred by the license holder or the executor of the estate to a member of his or her immediate family within 12 months of the date of death or disability only after the recipient pays any outstanding fees, fines, or penalties to the Commission in full.

PROPOSED EFFECTIVE DATE: February 1, 2005.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 2-1-05.

## Section IV Emergency Rules

### 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 THE LOTTERY

RULE TITLE: Instant Game Number 548, LUCKY 7'S  
 RULE NO.: 53ER04-71  
 SUMMARY OF THE RULE: This emergency rule describes Instant Game Number 548, "LUCKY 7'S," for which the Department of the Lottery will start selling tickets on a date to be determined by the Secretary of the Department. The rule sets forth the specifics of the game; determination of prizewinners; estimated odds of winning, value, and number of prizes in the game.  
 THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Diane D. Schmidt, Legal Analyst, Department of the Lottery, 250 Marriott Drive, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER04-71 Instant Game Number 548, LUCKY 7'S.

(1) Name of Game. Instant Game Number 548, "LUCKY 7'S."

(2) Price. LUCKY 7'S lottery tickets sell for \$1.00 per ticket.

(3) LUCKY 7'S lottery tickets shall have a series of numbers in Machine Readable Code (or bar code) on the back of the ticket, along with a Void If Removed Number under the latex area on the ticket. To be a valid winning LUCKY 7'S lottery ticket, a combination of essential elements sufficient to