

Counsel, Fish and Wildlife Conservation Commission, 620 South Meridian Street, Tallahassee, Florida 32399-1600, (850)487-1764

Section II  
Proposed Rules

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

68B-14.005 Regulation and Prohibition of Certain Harvesting Gear: Allowable Gear, Incidental Bycatch, Violation.

- (1) Allowable gear.
  - (a) No change.
  - (b) 1. The outer dimensions do not exceed 2 feet in height, 2 feet in width, and 2 feet in depth or a volume of 8 cubic feet, and the throat or entrance does not exceed 5 inches in height and 2 inches in width at its narrowest point.
    - 2. through 6. No change.
    - (2) through (3) No change.

Specific Authority Art. IV, Sec. 9, Fla. Const. Law Implemented Art. IV, Sec. 9, Fla. Const. History—New 12-11-86, Amended 2-1-90, 3-1-94, 10-4-95, 7-15-96, 1-1-98, 12-31-98, 6-1-99, Formerly 46-14.005, Amended 1-1-03, 3-1-05, 7-17-05, 7-1-07, \_\_\_\_\_.

**DEPARTMENT OF MILITARY AFFAIRS**

RULE NO.: 70-1.001  
 RULE TITLE: Family Readiness Program  
 PURPOSE AND EFFECT: The purpose of the proposed rule is to establish an application form to be used by all applicants requesting assistance from the Family Readiness Program, with the effect of ensuring that all applications for assistance are processed using one standardized format.  
 SUBJECT AREA TO BE ADDRESSED: Family Readiness Program Application Form.  
 SPECIFIC AUTHORITY: 250.5206(8) FS.  
 LAW IMPLEMENTED: 250.5206 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Lieutenant Colonel Elizabeth Masters, at (904)823-0132

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AVAILABLE AT NO CHARGE FROM THE CONTACT PERSON LISTED ABOVE OR FROM THE Department of Military Affairs Open Government web site located at [www.dma.state.fl.us](http://www.dma.state.fl.us).

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE NO.: 5J-14.003  
 RULE TITLE: Definitions  
 PURPOSE AND EFFECT: The purpose and effect of this Rule 5J-14.003, F.A.C., is to define additional terms used to implement Section 849.094, F.S.  
 SUMMARY: Rule 5J-14.003, F.A.C., defines terms used in the administration of the game promotion statute.  
 SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.  
 Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.  
 SPECIFIC AUTHORITY: 849.094(8) FS.  
 LAW IMPLEMENTED: 849.094(1), 849.094(3), 849.094(5) FS.

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

DATE AND TIME: Tuesday, October 30, 2007, 1:00 p.m.  
 PLACE: Department of Agriculture and Consumer Services, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, phone (850)488-2221

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-14.003 Definitions.

(1) “Commencement of the game promotion” shall mean the date the game promotion begins which is disclosed in the filing made to the Department pursuant to Section 849.094(3), Florida Statutes.

(2) As used in these rules, “element” shall mean:

(a) A unique component of a contest, game of chance, or gift enterprise;

(b) Which is allocated to a single participant by operation of the rules of the contest, game of chance, or gift enterprise; and

(c) Which is the factor determining whether or not the participant is entitled to a prize under the rules of the contest, game of chance, or gift enterprise.

(3) "In connection with the sale of consumer products or services" shall mean the opportunity for a consumer to participate in the contest, game of chance, or gift enterprise directly results from the completion of a single retail sales transaction between a merchant or service provider and an end-use purchaser of the product or service.

(a) Any means by which a player may provide direct consideration for continued participation in the contest, game of chance, or gift enterprise after completion of the retail sales transaction is not "in connection with the sale of consumer products or services" and shall be deemed separate and apart from participation in the game promotion.

(b) Conversion of any prize awarded by participation in the contest, game of chance, or gift enterprise directly into additional opportunities to continue such participation is not "in connection with the sale of consumer products or services" and shall be deemed separate and apart from participation in the game promotion.

(4) "Operator" shall include "sponsor," "promoter," or "administrator."

Specific Authority 849.094(8) FS. Law Implemented 849.094(1), 849.094(3), 849.094(5) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, phone (850)488-2221

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: LuAnn Stiles, Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, phone (850)488-2221

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Consumer Services**

RULE NO.: RULE TITLE:

5J-14.004 Separate Promotions

PURPOSE AND EFFECT: The purpose and effect of this Rule 5J-14.004, F.A.C., is to clarify the statutory requirement for filing each game promotion separately.

SUMMARY: Rule 5J-14.004, F.A.C., applies the requirement for filing separate game promotions to situations where a single entity simultaneously operates similar games.

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

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

SPECIFIC AUTHORITY: 849.094(8) FS.

LAW IMPLEMENTED: 849.094(3) FS.

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

DATE AND TIME: Tuesday, October 30, 2007, 3:00 p.m.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Terry L. Rhodes Building, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, phone (850)488-2221

THE FULL TEXT OF THE PROPOSED RULE IS:

5J-14.004 Separate Promotions.

(1) Each single contest, game of chance, or gift enterprise is a separate game promotion.

(2) A single contest, game of chance, or gift enterprise consists of a finite number of readily-identifiable elements, entitling a player to an award of one of the designated prizes, within a greater number of elements which do not entitle the player to a prize award.

(3) Multiple physical locations linked to a central data processing facility, which is owned, controlled, or maintained by the Operator, do not constitute a single game promotion if:

(a) The contests, games of chance, or gift enterprises conducted at one or more of the physical locations have different rules of operation; or

(b) The contests, games of chance, or gift enterprises conducted at one or more of the physical locations award different designated prizes; or

(c) The contests, games of chance, or gift enterprises conducted at one or more of the physical locations have different periods of duration; or

(d) The odds of a player receiving a winning element in one location are adjusted constantly by one or more mathematical calculations, whether performed in the central data processing facility or in a separate physical location, and thus differ at any time from the odds of another player in another location receiving a winning element; or

(e) Without notice to any player, each separate location may proceed immediately to a subsequent contest, game of chance, or gift enterprise once the winning elements for all designated prizes are awarded to players.

Specific Authority 849.094(8) FS. Law Implemented 849.094(3) FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Miriam S. Wilkinson, Assistant Director, Division of Consumer Services, Department of Agriculture and Consumer Services

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: LuAnn Stiles, Director, Division of Consumer Services, Department of Agriculture and Consumer Services

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 18, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**ADMINISTRATION COMMISSION**

RULE NO.: 28-101.001  
 RULE TITLE: Statement of Agency Organization and Operation

PURPOSE AND EFFECT: The purpose of this proposed rule amendment is to clarify the filing date of documents not filed during business hours.

SUMMARY: The purpose of this proposed rule amendment is to clarify the filing date of documents not filed during business hours.

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

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.54(5)(b)7. 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

28-101.001 Statement of Agency Organization and Operation.

(1) No change.

(2) The Statement of Agency Organization and Operation shall:

(a) through (d) No change.

(e) State whether documents can be filed by electronic mail or facsimile transmission, including applicable telephone numbers and electronic mail addresses where filings may be submitted, and set forth the acceptable nature and scope of such filings, including the following:

1. That a party who files a document by electronic mail or facsimile transmission represents that the original physically signed document will be retained by that party for the duration of the proceeding and of any subsequent appeal or subsequent proceeding in that cause, and that the party shall produce it upon the request of other parties.

2. That a party who elects to file a document by electronic mail or facsimile transmission shall be responsible for any delay, disruption, or interruption of the electronic signals and accepts the full risk that the document may not be properly filed with the agency as a result.

3. That the filing date for a document transmitted by electronic mail or by facsimile shall be the date the agency receives the complete document. Any document received by the office of the agency clerk after 5:00 p.m. shall be filed as of 8:00 a.m. on the next regular business day.

(f) through (g) No change.

(3) No change.

Specific Authority 120.54(5) FS. Law Implemented 120.54(5)(b)7. FS. History--New 4-1-97, Amended 1-15-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**ADMINISTRATION COMMISSION**

RULE NO.: 28-104.005  
 RULE TITLE: Time for Consideration of  
 Emergency Petition

PURPOSE AND EFFECT: The purpose of the proposed amendment is to add a requirement that an agency inform interested persons of the right to submit comments in the notice.

SUMMARY: The purpose of the proposed amendment is to add a requirement that an agency inform interested persons of the right to submit comments in the notice.

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

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

SPECIFIC AUTHORITY: 120.54(5)(b)8., 120.542(3) FS.

LAW IMPLEMENTED: 120.542(3) 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

28-104.005 Time for Consideration of Emergency Petition.

(1) No change.

(2) Within 5 days after filing a petition for emergency variance or waiver with the agency clerk, the agency shall give notice of receipt of the petition on its website, if it has one. The agency shall also give notice by any procedure that is fair under the circumstances or provide notice of the petition to the Department of State for publication in the first available issue of the Florida Administrative Weekly. Any notice under this subsection shall inform interested persons of the right to submit comments. ~~Any~~ Interested persons or other agencies may submit written comments on the petition for emergency variance or waiver within 5 days after publication of the notice required herein. The notice and comment requirements in this subsection shall not apply if the agency head finds that an immediate danger to the public health, safety, or welfare requires an immediate final order, which final order shall recite with particularity the facts underlying such finding.

(3) through (5) No change.

Specific Authority 120.54(5)(b)8., 120.542(3) FS. Law Implemented 120.542(3) FS. History—New 4-1-97, Amended 1-15-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**ADMINISTRATION COMMISSION**

RULE NO.: 28-106.301  
 RULE TITLE: Initiation of Proceedings

PURPOSE AND EFFECT: The purpose of the proposed amendment is to reflect statutory requirements.

SUMMARY: The purpose of the proposed amendment is to reflect statutory requirements.

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

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.54(5), 120.569, 120.57 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.301 Initiation of Proceedings.

(1) No change.

(2) All petitions filed under these rules shall contain:

(a) through (e) No change.

(f) A statement of the specific rules or statutes that the petitioner contends require reversal or modification of the agency's proposed action; ~~and~~

(g) A statement of the relief sought by the petitioner, stating precisely the action petitioner wishes the agency to take with respect to the agency's proposed action; and

(h) A statement that no material facts are in dispute.

Specific Authority 120.54(5) FS. Law Implemented 120.54(5), 120.569, 120.57 FS. History—New 4-1-97, Amended 9-17-98, 1-15-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

ADMINISTRATION COMMISSION

RULE NO.: 28-106.302 RULE TITLE: Notice of Proceeding
PURPOSE AND EFFECT: The purpose of the proposed amendment is to add statutory requirements.
SUMMARY: The purpose of the proposed amendment is to add statutory requirements.
SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.
Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.
SPECIFIC AUTHORITY: 120.54(5) FS.
LAW IMPLEMENTED: 120.569, 120.57 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.302 Notice of Proceeding.

(1) No change.

(2) The agency may schedule a hearing on the matter for the purpose of taking oral evidence or argument. If it does so, the agency shall serve written notice at least 14 days prior to the hearing, setting forth the place, date, and time of the hearing, and legal authority and jurisdiction under which the hearing is to held.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57 FS. History--New 4-1-97, Amended 3-18-98, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

ADMINISTRATION COMMISSION

RULE NO.: 28-106.501 RULE TITLE: Emergency Action
PURPOSE AND EFFECT: The purpose of the proposed amendment is to clarify the rule and comport with statutory language.

SUMMARY: The purpose of the proposed amendment is to clarify the rule and comport with statutory language.

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

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.569, 120.57, 120.60(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 RULE IS: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

28-106.501 Emergency Action.

(1) If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency action, the agency shall enter an emergency order summarily suspending, limiting, or restricting a license, or taking such other emergency action as is authorized by law.

(2) The agency's emergency order shall include a notice of the licensee's (or person or entity subject to the agency's jurisdiction) right to an immediate appeal of the emergency final order pursuant to Section 120.569(2)(n) or 120.60(6), F.S.

(3) No change.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57, 120.60(6) FS. History--New 1-15-07, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**ADMINISTRATION COMMISSION**

RULE NO.: 28-106.601  
 RULE TITLE: Conflict

PURPOSE AND EFFECT: The purpose of the proposed rule is to address conflicts of interest when an agency is entering a final order.

SUMMARY: The purpose of the proposed rule is to address conflicts of interest when an agency is entering a final order.

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

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

SPECIFIC AUTHORITY: 120.54(5) FS.

LAW IMPLEMENTED: 120.569, 120.57, 120.60 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULE IS:

Part VI Conflict

28-106.601 Conflict.

Following receipt of a recommended order, the agency attorney or qualified representative who acts on behalf of the agency in the conduct of the hearing will not serve as legal advisor to the agency head during subsequent proceedings which result in the issuance of the final order.

Specific Authority 120.54(5) FS. Law Implemented 120.569, 120.57, 120.60 FS. History–New

NAME OF PERSON ORIGINATING PROPOSED RULE: Administration Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**ADMINISTRATION COMMISSION**

RULE NOS.: 28-112.001  
 RULE TITLES: Petition for Exception to Uniform Rules Relating to State Employment

28-112.002 Final Disposition on Petition for Exception

PURPOSE AND EFFECT: Proposed new rules address petitions for exception to uniform rules relating to state employment.

SUMMARY: Proposed new rules address petitions for exception to uniform rules relating to state employment.

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

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

SPECIFIC AUTHORITY: 14.202 FS.

LAW IMPLEMENTED: 110.201, 110.217 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: Barbara Leighty, Policy Analyst, telephone (850)487-1884, or Gladys Perez, General Counsel, telephone (850)488-3494, Administration Commission, The Capitol, Room 1801, Tallahassee, Florida 32399-0001

THE FULL TEXT OF THE PROPOSED RULES IS:

EXCEPTION TO UNIFORM RULES RELATING TO STATE EMPLOYMENT

28-112.001 Petition for Exception to Uniform Rules Relating to State Employment.

(1) The agency head shall file a petition with the Administration Commission for an exception to uniform rules as provided in Sections 110.201(1)(b), and 110.217, F.S., that includes the following:

- (a) Grounds for the request for the exception.
- (b) Citation to the particular uniform rule for which each exception is sought.
- (c) Specific citation to the provisions of existing agency rule for which an exception is sought, if any.
- (d) Attachment of the proposed rule language as an exhibit to the petition.

(2) The agency shall publish notice of the petition in the next available edition of the Florida Administrative Weekly, after consultation with the agency clerk of the Administration Commission. The notice shall include:

- (a) The name of the agency seeking an exception;

(b) The uniform rule from which the exception is sought;

(c) The date the matter is expected to be heard by the Administration Commission; and

(d) The contact name, address, and phone number where a copy of the petition may be obtained.

(3) The Administration Commission shall provide interested persons with the opportunity to file written statements or make oral presentations in support of or in opposition to the exception.

Specific Authority 14.202 FS. Law Implemented 110.201, 110.217 FS. History–New \_\_\_\_\_.

28-112.002 Final Disposition on Petition for Exception.

The Administration Commission shall publish, at the agency’s expense, notice in the next available edition of the Florida Administrative Weekly of the disposition of the petition, and shall transmit a copy of the notice to the Joint Administrative Procedures Committee, the Department of State, and any person who requests a copy.

Specific Authority 14.202 FS. Law Implemented 110.201, 110.217 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Administration Commission

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Administration Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 31, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-210.102                      RULE TITLE: Legal Documents and Legal Mail

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to implement Section 948.6038, Florida Statutes, which requires the Department of Corrections to charge inmates and place liens on inmate accounts for the cost of postage for mail to courts, attorneys, parties to a lawsuit, and other persons required to be served.

SUMMARY: The proposed rule implements Section 948.6038, Florida Statutes, which requires the Department of Corrections to charge inmates and place liens on inmate accounts for the cost of postage for mail to courts, attorneys, parties to a lawsuit, and other persons required to be served.

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

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

SPECIFIC AUTHORITY: 20.315, 944.09, 944.11, 945.6038 FS.

LAW IMPLEMENTED: 944.09, 944.11, 945.6038 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:

33-210.102 Legal Documents and Legal Mail.

(1) through (9) No change.

(10)(a) The institution shall furnish postage for mail to courts and attorneys and for pleadings to be served upon each of the parties to a lawsuit for those inmates who have insufficient funds to cover the cost of mailing the documents at the time the mail is submitted to the mailroom, but not to exceed payment for the original and two copies except when additional copies are legally required. The inmate shall be responsible for proving that copies in addition to the routine maximum are legally necessary. Submission of unstamped legal mail to the mailroom or mail collection representative by an inmate without sufficient funds shall be deemed to constitute the inmate’s request for the institution to provide postage and place a lien on the inmate’s account to recover the postage costs when the inmate receives funds.

(b) At the time that postage is provided to an inmate for this purpose, the Bureau of Finance and Accounting, Inmate Trust Fund Section, shall place a hold on the inmate’s account for the cost of the postage. The cost of providing the postage shall be collected from any existing balance in the inmate’s trust fund account. If the account balance is insufficient to cover the cost, the account shall be reduced to zero. If costs remain unpaid, a hold will be placed on the inmate’s account, subject to priorities of other liens, and all subsequent deposits to the account will be applied against the unpaid costs until the debt has been paid.

(11) through (16) No change.

Specific Authority 20.315, 944.09, 944.11, 945.6038 FS. Law Implemented 944.09, 944.11, 945.6038 FS. History–New 10-8-76, Amended 4-19-79, 7-2-81, 6-8-82, 9-23-85, Formerly 33-3.05, Amended 10-7-86, 8-20-89, 4-4-91, 9-1-93, 4-28-96, 2-12-97, 5-25-97, 10-7-97, 12-7-97, 2-15-98, Formerly 33-3.005, Amended 12-20-99, Formerly 33-602.402, Amended 5-5-02, 12-4-02, 5-11-03, 8-25-03, 9-20-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: George Sapp, Assistant Secretary of Institutions

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Laura E. Bedard, Ph.D., Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 24, 2007

**DEPARTMENT OF ELDER AFFAIRS**

**Statewide Public Guardianship Office**

RULE NOS.:	RULE TITLES:
58M-2.001	Professional Guardian Registration
58M-2.003	Professional Guardian Coursework and Competency Examination
58M-2.007	Electronic Fingerprint Criminal History Record Check

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to revise terminology; delete obsolete language; add a new rule for electronic fingerprint criminal history record check; update the registration form and add a new form for renewal registration.

SUMMARY: Professional Guardian Registration, including updating the registration forms; and electronic fingerprint criminal history record checks.

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

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

SPECIFIC AUTHORITY: 744.1083(6), 744.102(16), 744.1085, 744.3135 FS.

LAW IMPLEMENTED: 744.102(16), 744.1083, 744.1085, 744.3135 FS.

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

DATE AND TIME: October 31, 2007, 9:30 a.m. – 12:00 Noon

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference 225F, Tallahassee, FL 32399-7000

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Abbie Messer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, FL 32399-7000; telephone number (850)414-2000, SunCom 994-2000; Email address: messera@elderaffairs.org

THE FULL TEXT OF THE PROPOSED RULES IS:

58M-2.001 Professional Guardian Registration.

~~(1) A person serving as a guardian in the State of Florida must be registered as a professional guardian prior to submitting an application for appointment as guardian to a Florida court for the guardian's third case involving monetary compensation for services rendered to a ward.~~

~~(1)(2) Persons who are An applicant~~ required to register with Department of Elder Affairs' Statewide Public Guardianship Office (SPGO) as a professional guardian must complete the Professional Guardian Registration Form, DOEA/SPGO Form 001, ~~with all requested information. The Professional Guardian Registration Form, DOEA/SPGO Form 001, effective July 2007~~5, which is incorporated herein by reference and ~~may ean~~ be obtained from the Statewide Public Guardianship Office, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 or at <http://elderaffairs.state.fl.us/english/public.html>. The Professional Guardian Employee Registration Form, DOEA / SPGO Form 002, July \_\_\_\_\_, 2007 which is incorporated herein by reference and may be obtained from SPGO or at <http://elderaffairs.state.fl.us/english/public.html> must also be completed and submitted for all Professional Guardian Employees.

~~(2)(3) The Professional Guardian r~~Registration ~~f~~Form shall be signed by the registrant applicant (or corporate officer if the registrant applicant is a corporation).

~~(3)(4) The completed registration form shall be filed with the Statewide Public Guardianship Office, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399 7000, by hand-delivery or mail. No F~~facsimile submissions will not be accepted.

~~(4)(5) The following items must either accompany the registration form or must be on file with SPGO, for the registration application to be deemed complete:~~

(a) Credit history report for guardians as specified in Section 744.3135, F.S.;

(b) Criminal history record for guardians as specified in Section 744.3135, F.S.;

(c) Documentation of bonding as required under specified ~~in~~ Section 744.1085, F.S.;

~~(5)(d) For the initial registration, the applicant must submit proof of completion of the required training, as well as, proof of competency by evidence of satisfactory completion of a Department of Elder Affairs approved examination a copy of the certificate of attendance for the required professional guardian instruction and training. Thereafter, copies of certificates of attendance for continuing education unit requirements; For annual renewals, proof of receipt of the minimum continuing education requirements must be submitted, if not on file.~~

~~(6)(e) A registration fee of thirty-five twenty-five dollars (\$35) (\$25) for each professional guardian in the form of a personal check, money order, or cashier's check made payable to the Statewide Public Guardianship Office must be submitted with the registration form.~~

~~(6) An applicant required to register with SPGO as a professional guardian must submit the Professional Guardian Registration Form to SPGO with the registration fee annually.~~

(7)(a) The registration period begins the day the registration application is approved by SPGO and ends on the registrant's bond anniversary date. For multi year bonds, the annual registration expiration date will be determined by the day and month that the bond expires.

(b) SPGO may prorate the registration fee up to by 50% registration fees for initial registrants whose bond registrations that will expire in less than 6 months.

(8)(e) Annual Renewals: A completed DOEA/SPGO Form 001 for annual renewal of a registration An applicant shall be submitted annual registration materials to SPGO at least no later than 30 days prior to the expiration date of the current registration applicant's bond anniversary date to ensure that a lapse in continued registration does not occur. If the renewal form is not received 30 days prior to expiration, registrants may request expedited processing for an additional fee. All fees must be received with the completed registration form prior to the registration being processed by SPGO.

(7) SPGO will issue the annual registration license to the applicant upon approval.

(9)(8) If a professional guardian hires an employee with assigned fiduciary responsibilities during the professional guardian's registration period, then the professional guardian shall submit an amended DOEA/SPGO Form 001 that includes the new employee information to SPGO for approval prior to the employee assuming any fiduciary responsibilities.

Specific Authority 744.1083(6) FS. Law Implemented 744.102(16), 744.1083, 744.1085, 744.3135 FS. History--New 5-4-03, Amended 12-12-05,\_\_\_\_\_.

58M-2.003 Professional Guardian Coursework and Competency Examination.

(1) Information about the professional guardian coursework and competency examination may be obtained from the Statewide Public Guardianship Office, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000 or online at http://elderaffairs.state.fl.us.

(2) Completion of the required professional guardian instruction and training course is a mandatory requirement in order for the registrant applicant to be eligible to take the competency examination.

(3) Registrants must score a minimum of 75% correct response on both sections of the Professional Guardian Competency Examination or must receive a waiver from SPGO prior to the registration. The applicant must achieve a score of 75% or better on the Professional Guardian Competency Examination.

(4) If the registrant applicant fails to successfully complete either portion of the Professional Guardian Competency Examination in three (3) attempts, then the registrant applicant shall be is required to re-take the professional guardian instruction and training course prior to being eligible to before sitting again for the competency examination again.

Specific Authority 744.1083(6), 744.1085(6)(b) FS. Law Implemented 744.102(16), 744.1083, 744.1085, 744.3135 FS. History--New 12-12-05, Amended\_\_\_\_\_.

58M-2.007 Electronic Fingerprint Criminal History Record Check.

Per Section 744.3135(3), F.S., a professional guardian and their fiduciary employees may use electronic fingerprinting methods. Registrants must use an approved SPGO provider. A list of approved providers of electronic fingerprinting will be maintained by SPGO. This list will include the fee charged by each provider and if the provider requires an appointment or prepayment. This list may be obtained from the Statewide Public Guardianship Office or at http://elderaffairs.state.fl.us/english/public.html.

Specific Authority 744.3135 FS. Law Implemented 744.3135 FS. History--New\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Abbie Messer

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 24, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Electrical Contractors' Licensing Board**

RULE NO.: 61G6-10.008  
RULE TITLE: Mediation

PURPOSE AND EFFECT: The Board proposes the rule amendment to include an additional reason for permitting mediation.

SUMMARY: An additional cause for allowing mediation will be added to the rule.

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

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

SPECIFIC AUTHORITY: 455.0235(1), 489.507(3) FS.

LAW IMPLEMENTED: 455.2235 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 Spivey, Executive Director, Electrical Contractors' Licensing Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G6-10.008 Mediation.

Pursuant to Section 455.2235, F.S., the Board designated the following areas as appropriate for mediation:

(1) Section 489.533(1)(q), F.S.; License number not in ad, or wherever else required.

(2) Section 489.533(1)(r), F.S.; Any complaint that is based on non-completion of contract for not having a final inspection done; this would only be considered if the appropriate permit has been obtained in accordance with normal procedure.

Specific Authority 455.0235(1), 489.507(3) FS. Law Implemented 455.2235 FS. History--New 3-21-95, Amended 12-24-96,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Electrical Contractors' Licensing Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Electrical Contractors' Licensing Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 27, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-2.001 RULE TITLE: Fees

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to update the process for the request for a change of examination date and to delete the electronic fingerprinting processing fee.

SUMMARY: The process for the request for a change of examination date will be updated; the electronic fingerprint processing fee will be deleted.

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

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 215.34, 215.405, 455.217, 455.2281, 455.271(6)(b), 475.6147, 475.615, 475.618 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas O'Bryant, Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-2.001 Fees.

(1) through (11) No change.

(12) The fee for request for a change in examination date which must be in writing shall

be:

(a) through (b) No change.

~~(13)~~ **Electronic Fingerprinting Processing Fee** **\$61.00**

~~(13)~~~~(14)~~ through ~~(15)~~~~(16)~~ No change.

Specific Authority 475.614 FS. Law Implemented 215.34, 215.405, 455.217, 455.2281, 455.271(6)(b), 475.6147, 475.615, 475.618 FS. History--New 10-15-91, Amended 6-7-92, 5-6-93, Formerly 21VV-2.001, Amended 9-22-93, 7-5-94, 5-22-95, 8-20-96, 11-11-97, 10-1-98, 10-29-98, 1-7-99, 11-15-99, 11-10-03, 2-21-06, 9-21-06, 12-4-06, 3-13-07,\_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-4.010 RULE TITLE: Supervision and Training of Registered Trainee Appraisers

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to decrease the number of trainee appraisers that the supervising appraiser may supervise. The rule amendment also updates the requirements for the contents of an appraisal.

SUMMARY: The number of trainee appraisers that may be supervised by the supervising appraiser will be decreased; the requirements for the contents of an appraisal will be updated.

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

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 475.611, 475.6221, 475.6222 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: Thomas O'Bryant, Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-4.010 Supervision and Training of Registered Trainee Appraisers.

(1) through (3) No change.

(4) Any supervising appraiser, whether acting as primary or secondary supervisor, may not supervise more than 3 4 registered trainee appraisers at one time.

(5) No change.

(6) Appraisal logs shall be maintained by both the registered trainee appraiser and the supervisory appraiser in a format determined by the Department and shall, at a minimum, include the following for each appraisal:

(a) through (c) No change.

(d) Description of work performed; ~~and~~

(e) Number of work hours; and

(f) Signature and state license certification number of the supervising appraiser.

(7) through (10) No change.

Specific Authority 475.614 FS. Law Implemented 475.611, 475.6221, 475.6222 FS. History—New 2-16-04, Amended 3-1-06, 12-4-06, 8-12-07, \_\_\_\_\_.

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Real Estate Appraisal Board**

RULE NO.: 61J1-6.001  
 RULE TITLE: Experience Requirement

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to remove the requirement for client name and address on the appraisal experience log.

SUMMARY: The requirement for the client name and address to be listed on the appraisal experience log will be removed from the rule.

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

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

SPECIFIC AUTHORITY: 475.614, 475.615(2) FS.

LAW IMPLEMENTED: 455.213, 475.611(1)(o), 475.615(2), 475.617, 475.628 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: Thomas O'Bryant, Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-6.001 Experience Requirement.

(1) through (4) No change.

(5) Experience as defined in subsection (2) above shall be accounted for on an appraisal experience log, which shall include the following minimum information: type of property, date of report, ~~client name and address~~, address of appraised property, description of work performed, number of work hours, and signature and license number of supervising appraiser (if applicable). The log and supporting documents shall be retained for a minimum of 5 years after licensure or certification. All work submitted for experience shall comply with the Uniform Standards of Professional Appraisal Practice, as defined in Section 475.611(1)(o), Florida Statutes. Types of acceptable experience are, as follows:

(a) through (e) No change.

(6) No change.

Specific Authority 475.614, 475.615(2) FS. Law Implemented 455.213, 475.611(1)(o), 475.615(2), 475.617, 475.628 FS. History—New 10-15-91, Formerly 21VV-6.001, Amended 9-22-93, 9-6-94, 2-19-98, 9-6-98, 12-12-99, 10-1-00, 6-1-04, 3-1-06, 12-4-06, 4-18-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Real Estate Appraisal Board
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-8.001
RULE TITLE: Citation Authority

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to include a fee for the violation of failing to register the firm or business name and location as required by Section 475.623, F.S.

SUMMARY: The fee for violation of failing to register the firm or business name and location as required by Section 475.623, F.S., will be added to the rule.

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

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

SPECIFIC AUTHORITY: 475.614 FS.

LAW IMPLEMENTED: 455.224, 455.275, 475.622(1), 475.6221(1), 475.624(14), (18) 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: Thomas O'Bryant, Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-8.001 Citation Authority.

(1) No change.

(2) The following violations with accompanying fine may be disposed of by citation:

(a) Section 475.624(4), F.S. - has violated any of the provisions of Chapter 455 or 475, Part II, F.S., by -

1. through 4. No change.

5.a. Failing to register the name of the trainee as required by Section 475.6221(1), F.S. \$500.00
b. No change.

6. Failing to notify the department of the termination of the relationship with the supervising appraiser as required by Section 475.6221(1), F.S. \$300.00

7. through 8. No change.

9. Failing to register the firm or business name and location as required by Section 475.623, F.S. \$500.00

(3) through (5) No change.

Specific Authority 475.614 FS. Law Implemented 455.224, 455.275, 475.622(1), 475.6221(1), 475.624(14), (18) FS. History-New 12-4-91, Amended 4-21-92, Formerly 21VV-8.001, Amended 8-8-93, 5-14-95, 3-26-96, 7-23-96, 7-10-97, 11-11-97, 11-20-05, 12-4-06,

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

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Real Estate Appraisal Board
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Florida Real Estate Appraisal Board

RULE NO.: 61J1-8.002
RULE TITLE: Disciplinary Guidelines

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to include a penalty for the violation of failing to provide direct supervision or training of trainee appraiser and to change the penalty for a supervisory appraiser employed by a trainee appraiser.

SUMMARY: A penalty for violation of failing to provide direct supervision or training of a trainee appraiser will be added to the rule; the penalty for a supervisor appraiser employed by a trainee appraiser will be changed.

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

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

SPECIFIC AUTHORITY: 455.2273, 475.614 FS.

LAW IMPLEMENTED: 455.227, 475.622, 475.6221(3), 475.624, 475.626 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: Thomas O'Bryant, Deputy Director, Division of Real Estate, 400 West Robinson Street, Hurston Building, North Tower, Suite N801, Orlando, Florida 32801

61J1-8.002 Disciplinary Guidelines.  
(1) through (2) No change.  
(3) The penalties are as listed unless aggravating or mitigating circumstances apply pursuant to subsection (4):

THE FULL TEXT OF THE PROPOSED RULE IS:

VIOLATIONS

RECOMMENDED RANGE OF PENALTY

(a) through (aa) No change.

(bb) Section 475.6221(3), F.S.

Supervisory appraiser employed by a trainee appraiser.

(cc) Section 475.6222, F.S., failure to provide direct supervision or training of trainee appraiser.

The usual action of the Board shall be to impose a penalty of up to 5 year suspension to revocation and an administrative fine of \$54,000.00.  
The usual action of the Board shall be to impose a penalty of up to revocation and an administrative fine up to \$5,000.00.

(4) No change.

Specific Authority 455.2273, 475.614 FS. Law Implemented 455.227, 475.622, 475.6221(3), 475.624, 475.626 FS. History—New 1-7-92, Formerly 21VV-8.002, Amended 1-9-94, 8-17-97, 6-8-03, 12-4-06, \_\_\_\_\_.

statutory changes adopted in 2005. The Department believes that the regulatory costs of notification have been minimized to the extent possible.

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

SPECIFIC AUTHORITY: 376.303, 376.30702, 376.3071 FS.

LAW IMPLEMENTED: 376.30702, 376.3071 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: Brian Dougherty, (850)245-7503, Brian.Dougherty@dep.state.fl.us

NAME OF PERSON ORIGINATING PROPOSED RULE:

Florida Real Estate Appraisal Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:

Florida Real Estate Appraisal Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD:

August 6, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:

August 31, 2007

THE FULL TEXT OF THE PROPOSED RULES IS:

62-770.220 Notices.

(1) No change.

(2) Initial Notice of Contamination Beyond Property Boundaries – At any time during site rehabilitation conducted pursuant to this chapter, if the PRSR, its authorized agent, or other representative discovers from laboratory analytical results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C., that contamination [as defined in subsection 62-770.200(9), F.A.C.] exists in any medium beyond the boundaries of the property at which site rehabilitation was initiated pursuant to this chapter, the PRSR shall give actual notice as soon as possible, but no later than 10 days from such discovery, to the Division of Waste Management at the Department's Tallahassee Office. The actual notice shall be provided on Form 62-770.900(3) titled "Initial Notice of Contamination Beyond Property Boundaries," effective date \_\_\_\_\_, hereby adopted and incorporated by reference. Copies of this form are available from the Department of Environmental Protection, Bureau of Petroleum Storage Systems, MS 4575, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. The form shall be and mailed

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Notices for the Department of Environmental Protection between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NOS.: RULE TITLES:

62-770.220 Notices

62-770.900 Forms

PURPOSE AND EFFECT: Amend existing rule to incorporate additional noticing provisions enacted by the 2005 Florida Legislature (HB 937).

SUMMARY: Adds language to the rule to reflect legislative changes. Clarifies duties of school boards in providing notice to teachers and parents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS:

The proposed rule changes, which add additional notice requirements regarding contaminated sites for Persons Responsible for Site Rehabilitation (to notify lessees and tenants) and for school boards (to notify teachers and parents or guardians of students), are mandated by

to the Department by “Certified Mail, Return Receipt Requested.” A copy of such notice shall be mailed simultaneously to the appropriate Department District Office, ~~and~~ to the County Health Department, and to all known lessees and tenants of the property at which site rehabilitation was initiated. The notice shall include the following information:

(a) The location of the property at which site rehabilitation was initiated pursuant to this chapter and contact information for the responsible party, its authorized agent, or other representative;

(b) A listing of all recordowners of any real property, other than the property at which site rehabilitation was initiated pursuant to this chapter, at which contamination has been discovered; the parcel identification number for any such real property; the owner’s address listed in the current county property tax office records; and the owner’s telephone number. This paragraph does not apply to notice provided to the lessees and tenants of the property at which site rehabilitation was initiated pursuant to this chapter;

(c) Separate table(s) by medium (groundwater, soil, surface water, or sediment) that list all the sampling locations; sampling date(s); names of contaminants detected above CTLs; their corresponding CTLs; the contaminant concentration(s); and whether the CTL is based on health or nuisance, organoleptic, or aesthetic concerns; and

(d) A vicinity map that shows all the sampling locations with corresponding laboratory analytical results and the date(s) on which the sample(s) was (were) collected, and that identifies the property boundaries of the property at which site rehabilitation was initiated pursuant to this chapter and the other property(ies) at which contamination has been discovered during such site rehabilitation.

(3) Subsequent Notice of Contamination Beyond Source Property Boundaries for Establishment of a Temporary Point of Compliance (TPOC) – Prior to the Department authorizing a temporary extension of the point of compliance beyond the boundary of the source property (i.e., the location from which the contamination originates) in conjunction with Natural Attenuation Monitoring pursuant to Rule 62-770.690, F.A.C., or Active Remediation pursuant to Rule 62-770.700, F.A.C., the PRSR shall provide ~~the following~~:

(a) No change.

(b) Copies of the notices ~~must be provided~~ to the Department as proof of compliance with this section.

(4) No change.

(5) When the PRSR is the Department, if the Department ceases to conduct the site rehabilitation (for example, a funding cap is reached), then the noticing requirements shall be assumed by the responsible party.

(6) Notice Requirements for Schools – If the property at which contamination has been discovered is the site of a school as defined in Section 1003.01, F.S., regardless of whether the school property is the site at which site rehabilitation was

initiated, then the school board of the district in which the property is located shall provide actual notice of the contamination to teachers and parents or guardians of students attending the school during the period of site rehabilitation. Such notice must be provided within 30 days of discovery or receipt of notification from the Department, whichever is earlier, and shall conform to the requirements in paragraphs 62-770.220(2)(a), (c), and (d), F.A.C. At least annually during the period of site rehabilitation, the school board of the district in which the property is located shall continue to provide such actual notice of the contamination, updated as appropriate, to teachers and parents or guardians of students attending the school. A representative copy of all notices shall be submitted to the Department at the time the notice is provided to the teachers and parents or guardians.

Specific Authority 376.303, 376.30702, 376.3071 FS. Law Implemented 376.30702, 376.3071 FS. History–New 4-17-05, Amended 8-4-05\_\_\_\_\_.

62-770.900 Forms.

The forms used by the Department or by the FDEP local program in the Petroleum Contamination Cleanup Program are adopted and incorporated by reference in this rule. Each form is listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Petroleum Storage Systems, MS 4575, 2600 Blair Stone Road, Tallahassee, FL 32399-2400.

(1) through (2) No change.

(3) Form 62-770.900(3), Initial Notice of Contamination Beyond Property Boundaries (effective \_\_\_\_\_ April 17, 2005).

(4) through (5) No change.

Specific Authority 376.303, 376.30702, 376.3071 FS. Law Implemented 376.30702, 376.3071 FS. History–New 2-21-90, Formerly 17-770.900, Amended 9-23-97, 8-5-99, 4-17-05\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Deputy Secretary for Regulatory Programs and Energy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2006

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:                   RULE TITLES:

62-780.220                   Notices

62-780.900                   Forms

PURPOSE AND EFFECT: Amend existing rule to incorporate additional noticing provisions enacted by the 2005 Florida Legislature (HB 937).

SUMMARY: Adds language to the rule to reflect legislative changes. Clarifies duties of school boards in providing notice to teachers and parents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule changes, which add additional notice requirements regarding contaminated sites for Persons Responsible for Site Rehabilitation (to notify lessees and tenants) and for school boards (to notify teachers and parents or guardians of students), are mandated by statutory changes adopted in 2005. The Department believes that the regulatory costs of notification have been minimized to the extent possible.

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

SPECIFIC AUTHORITY: 376.30701, 376.30702, 403.7255 FS.

LAW IMPLEMENTED: 376.30701, 376.30702, 403.7255 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: Brian Dougherty, (850)245-7503, Brian.Dougherty@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-780.220 Notices.

(1) No change.

(2) Initial Notice of Contamination Beyond Property Boundaries. At any time during site rehabilitation conducted pursuant to this chapter, if the PRSR, its authorized agent, or other representative discovers from laboratory analytical results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C., that contamination [as defined in subsection 62-780.200(11), F.A.C.] exists in any medium beyond the boundaries of the property at which site rehabilitation was initiated pursuant to this chapter, the PRSR shall give actual notice as soon as possible, but no later than 10 days from such discovery, to the Division of Waste Management at the Department's Tallahassee Office. The actual notice shall be provided on Form 62-780.900(1) titled "Initial Notice of Contamination Beyond Property Boundaries," effective date \_\_\_\_\_, hereby adopted and incorporated by reference. Copies of this form are

available from the Department of Environmental Protection, Bureau of Waste Cleanup, MS 4505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. The form shall be ~~and~~ mailed to the Department by "Certified Mail, Return Receipt Requested". A copy of such notice shall be mailed simultaneously to the appropriate Department District Office, ~~and~~ the County Health Department and to all known lessees and tenants of the property at which site rehabilitation was initiated. The notice shall include the following information:

(a) The location of the property at which site rehabilitation was initiated pursuant to this chapter and contact information for the PRSR, its authorized agent, or other representative;

(b) A listing of all record owners of any real property, other than the property at which site rehabilitation was initiated pursuant to this chapter, at which contamination has been discovered; the parcel identification number for any such real property; the owner's address listed in the current county property tax office records; and the owner's telephone number. This paragraph does not apply to notice provided to the lessees and tenants of the property at which site rehabilitation was initiated pursuant to this chapter;

(c) Separate table(s) by medium (groundwater, soil, surface water, or sediment) that list all the sampling locations; sampling date(s); names of contaminants detected above CTLs; their corresponding CTLs; the contaminant concentration(s); and whether the CTL is based on health or nuisance, organoleptic, or aesthetic concerns; and

(d) A vicinity map that shows all the sampling locations with corresponding laboratory analytical results and the date(s) on which the sample(s) was (were) collected, and that identifies the property boundaries of the property at which site rehabilitation was initiated pursuant to this chapter and the other property(ies) at which contamination has been discovered during such site rehabilitation.

(3) through (5) No change.

(6) Notice Requirements for Schools. If the property at which contamination has been discovered, is the site of a school as defined in Section 1003.01, F.S., regardless of whether the school property is the site at which site rehabilitation was initiated, then the school board of the district in which the property is located shall provide actual notice of the contamination to teachers and parents or guardians of students attending the school during the period of site rehabilitation. Such notice must be provided within 30 days of discovery or receipt of notification from the Department, whichever is earlier, and shall conform to the requirements in paragraphs 62-780.220(2)(a), (c) and (d), F.A.C. At least annually during the period of site rehabilitation, the school board of the district in which the property is located shall continue to provide such actual notice of the contamination, updated as appropriate, to teachers and parents or guardians of

students attending the school. A representative copy of all notices shall be submitted to the Department at the time the notice is provided to the teachers and parents or guardians.

Specific Authority 376.30701, 376.30702, 403.7255 FS. Law Implemented 376.30701, 376.30702, 403.7255 FS. History–New 4-17-05, Amended.

62-780.900 Forms.

The forms used by the Department in the Contaminated Site Cleanup Criteria program are adopted and incorporated by reference in this rule. Each form is listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Waste Cleanup, MS 4505, 2600 Blair Stone Road, Tallahassee, FL 32399-2400; or to the applicable local district office of the Department.

- (1) Form 62-780.900(1), Initial Notice of Contamination Beyond Property Boundaries (effective date 4-17-05).
- (2) through (5) No change.

Specific Authority 376.30701, 376.30702 FS. Law Implemented 376.30701, 376.30702 FS. History–New 4-17-05, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Deputy Secretary for Regulatory Programs and Energy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2006

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:	RULE TITLES:
62-782.220	Notices
62-782.900	Forms

PURPOSE AND EFFECT: Amend existing rule to incorporate additional noticing provisions enacted by the 2005 Florida Legislature (HB 937).

SUMMARY: Adds language to the rule to reflect legislative changes. Clarifies duties of school boards in providing notice to teachers and parents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule changes, which add additional notice requirements regarding contaminated sites for Persons Responsible for Site Rehabilitation (to notify lessees and tenants) and for school boards (to notify teachers and parents or guardians of students), are mandated by statutory changes adopted in 2005. The Department believes that the regulatory costs of notification have been minimized to the extent possible.

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

SPECIFIC AUTHORITY: 376.30702, 376.3078(4), 403.7255 FS.

LAW IMPLEMENTED: 376.30702, 376.3078(4), 403.7255 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: Brian Dougherty, (850)245-7503, Brian.Dougherty@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-782.220 Notices.

- (1) No change.
- (2) Initial Notice of Contamination Beyond Property Boundaries. At any time during site rehabilitation conducted pursuant to this chapter, if the PRSR, its authorized agent, or other representative discovers from laboratory analytical results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C., that contamination [as defined in subsection 62-782.200(9), F.A.C.] exists in any medium beyond the boundaries of the property at which site rehabilitation was initiated pursuant to this chapter, the PRSR shall give actual notice as soon as possible, but no later than 10 days from such discovery, to the Division of Waste Management at the Department’s Tallahassee Office. The actual notice shall be provided on Form 62-782.900(1) titled “Initial Notice of Contamination Beyond Property Boundaries,” effective date, hereby adopted and incorporated by reference. Copies of this form are available from the Department of Environmental Protection, Bureau of Waste Cleanup, MS 4505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. The form shall be and mailed to the Department by “Certified Mail, Return Receipt Requested.” A copy of such notice shall be mailed simultaneously to the appropriate Department District Office, and to the County Health Department and to all known lessees and tenants of the property at which site rehabilitation was initiated. The notice shall include the following information:

- (a) The location of the property at which site rehabilitation was initiated pursuant to this chapter and contact information for the PRSR, its authorized agent, or other representative;
- (b) A listing of all record owners of any real property, other than the property at which site rehabilitation was initiated pursuant to this chapter, at which contamination has been discovered; the parcel identification number for any such real property; the owner’s address listed in the current county property tax office records; and the owner’s telephone number.

This paragraph does not apply to notice provided to the lessees and tenants of the property at which site rehabilitation was initiated pursuant to this chapter:

(c) Separate table(s) by medium (groundwater, soil, surface water, or sediment) that list all the sampling locations; sampling date(s); names of contaminants detected above CTLs; their corresponding CTLs; the contaminant concentration(s); and whether the CTL is based on health or nuisance, organoleptic, or aesthetic concerns; and

(d) A vicinity map that shows all the sampling locations with corresponding laboratory analytical results and the date(s) on which the sample(s) was (were) collected, and that identifies the property boundaries of the property at which site rehabilitation was initiated pursuant to this chapter and the other property(ies) at which contamination has been discovered during such site rehabilitation.

(3) through (5) No change.

(6) Notice Requirements for Schools. If the property at which contamination has been discovered is the site of a school as defined in Section 1003.01, F.S., regardless of whether the school property is the site at which site rehabilitation was initiated, then the school board of the district in which the property is located shall provide actual notice of the contamination to teachers and parents or guardians of students attending the school during the period of site rehabilitation. Such notice must be provided within 30 days of discovery or receipt of notification from the Department, whichever is earlier, and shall conform to the requirements in paragraphs 62-782.220(2)(a), (c) and (d), F.A.C. At least annually during the period of site rehabilitation, the school board of the district in which the property is located shall continue to provide such actual notice of the contamination, updated as appropriate, to teachers and parents or guardians of students attending the school. A representative copy of all notices shall be submitted to the Department at the time the notice is provided to the teachers and parents or guardians.

Specific Authority 376.30702, 376.3078(4), 403.7255 FS. Law Implemented 376.30702, 376.3078(4), 403.7255 FS. History—New 4-17-05, Amended \_\_\_\_\_.

62-782.900 Forms.

The forms used by the Department in the Drycleaning Solvent Cleanup Program are adopted and incorporated by reference in this rule. Each form is listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Waste Cleanup, 2600 Blair Stone Road, Tallahassee, FL 32399-2400; or to the applicable local district office of the Department.

(1) Form 62-782.900(1), Initial Notice of Contamination Beyond Property Boundaries (effective \_\_\_\_\_ April 17, 2005).

(2) through (5) No change.

Specific Authority 376.30702, 376.3078(4) FS. Law Implemented 376.30702, 376.3078(4) FS. History—New 8-5-99, Amended 4-17-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Deputy Secretary for Regulatory Programs and Energy

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2006

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

RULE NOS.:                      RULE TITLES:

62-785.220                      Notices

62-785.900                      Forms

PURPOSE AND EFFECT: Amend existing rule to incorporate additional noticing provisions enacted by the 2005 Florida Legislature (HB 937).

SUMMARY: Adds language to the rule to reflect legislative changes. Clarifies duties of school boards in providing notice to teachers and parents.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The proposed rule changes, which add additional notice requirements regarding contaminated sites for Persons Responsible for Site Rehabilitation (to notify lessees and tenants) and for school boards (to notify teachers and parents or guardians of students), are mandated by statutory changes adopted in 2005. The Department believes that the regulatory costs of notification have been minimized to the extent possible.

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

SPECIFIC AUTHORITY: 376.30702, 376.81, 403.7255 FS.

LAW IMPLEMENTED: 376.30702, 376.81, 403.7255 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: Brian Dougherty, (850)245-7503, Brian.Dougherty@dep.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

62-785.220 Notices.

(1) No change.

(2) Initial Notice of Contamination Beyond Property Boundaries. At any time during site rehabilitation conducted pursuant to this chapter, if the PRFBSR, its authorized agent, or other representative discovers from laboratory analytical

results that comply with appropriate quality assurance protocols pursuant to Chapter 62-160, F.A.C., that contamination [as defined in subsection 62-785.200(13), F.A.C.] exists in any medium beyond the boundaries of the property at which site rehabilitation was initiated pursuant to this chapter, the PRFBSR shall give actual notice as soon as possible, but no later than 10 days from such discovery, to the Division of Waste Management at the Department's Tallahassee Office. The actual notice shall be provided on Form 62-785.900(3) titled "Initial Notice of Contamination Beyond Property Boundaries," effective date \_\_\_\_\_, hereby adopted and incorporated by reference. Copies of this form are available from the Department of Environmental Protection, Bureau of Waste Cleanup, MS 4505, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400. The form shall be ~~and~~ mailed to the Department by "Certified Mail, Return Receipt Requested." A copy of such notice shall be mailed simultaneously to the appropriate Department District Office, ~~and~~ to the County Health Department and to all known lessees and tenants of the property at which site rehabilitation was initiated. The notice shall include the following information:

(a) The location of the property at which site rehabilitation was initiated pursuant to this chapter and contact information for the PRFBSR, its authorized agent, or other representative;

(b) A listing of all record owners of any real property, other than the property at which site rehabilitation was initiated pursuant to this chapter, at which contamination has been discovered; the parcel identification number for any such real property; the owner's address listed in the current county property tax office records; and the owner's telephone number. This paragraph does not apply to notice provided to the lessees and tenants of the property at which site rehabilitation was initiated pursuant to this chapter.

(c) Separate table(s) by medium (groundwater, soil, surface water, or sediment) that list all the sampling locations; sampling date(s); names of contaminants detected above CTLs; their corresponding CTLs; the contaminant concentration(s); and whether the CTL is based on health or nuisance, organoleptic, or aesthetic concerns; and

(d) A vicinity map that shows all of the sampling locations with corresponding laboratory analytical results and the date(s) on which the sample(s) was (were) collected, and that identifies the property boundaries of the property at which site rehabilitation was initiated pursuant to this chapter and the other property(ies) at which contamination has been discovered during such site rehabilitation.

(3) through (5) No change.

(6) Notice Requirements for Schools. If the property at which contamination has been discovered is the site of a school as defined in Section 1003.01, F.S., regardless of whether the school property is the site at which site rehabilitation was initiated, then the school board of the district in which the property is located shall provide actual notice of the contamination to teachers and parents or guardians of students

attending the school during the period of site rehabilitation. Such notice must be provided within 30 days of discovery or receipt of notification from the Department, whichever is earlier, and shall conform to the requirements in paragraphs 62-785.220(2)(a), (c) and (d), F.A.C. At least annually during the period of site rehabilitation, the school board of the district in which the property is located shall continue to provide such actual notice of the contamination, updated as appropriate, to teachers and parents or guardians of students attending the school. A representative copy of all notices shall be submitted to the Department at the time the notice is provided to the teachers and parents or guardians.

Specific Authority 376.30702, 376.81, 403.7255 FS. Law Implemented 376.30702, 376.81, 403.7255 FS. History--New 4-17-05, Amended \_\_\_\_\_.

62-785.900 Forms.

The forms used by the Department or by the delegated local program in the Brownfields Cleanup Criteria program are adopted and incorporated by reference in this rule. Each form is listed by rule number, which is also the form number, and with the subject, title, and effective date. Copies of forms may be obtained by writing to the Department of Environmental Protection, Bureau of Waste Cleanup, MS 4505, 2600 Blair Stone Road, Tallahassee, FL 32399-2400; to the applicable local district office of the Department; or to the applicable delegated local program.

(1) through (2) No change.

(3) Form 62-785.900(3), Initial Notice of Contamination Beyond Property Boundaries (effective ~~April 17, 2005~~).

(4) through (5) No change.

Specific Authority 376.30702, 376.81 FS. Law Implemented 376.30702, 376.81 FS. History--New 7-6-98, Amended 8-5-99, 4-17-05, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Mary Jean Yon, Director, Division of Waste Management  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mimi A. Drew, Deputy Secretary for Regulatory Programs and Energy  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 20, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: May 26, 2006

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-11.004  
 RULE TITLE: Special Purpose Examination Passing Score

PURPOSE AND EFFECT: The purpose and effect is to adopt a passing score for the National Board of Chiropractic Examiners Special Purpose Examination for chiropractic.

SUMMARY: Establishes a passing score for the National Board of Chiropractic Examiners Special Purpose Examination for chiropractic.

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

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

SPECIFIC AUTHORITY: 460.406(1)(f) FS.

LAW IMPLEMENTED: 460.406(1)(f) 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: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-11.004 Special Purpose Examination Passing Score. The Board adopts a passing score as set by the National Board of Chiropractic Examiners for the National Board of Chiropractic Examiners Special Purpose Examination for chiropractic.

Specific Authority 460.406(1)(f) FS. Law Implemented 460.406(1)(f) FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2007

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-12.012  
 RULE TITLE: Medical Faculty Certificate Fee

PURPOSE AND EFFECT: The purpose and effect is to establish Medical Faculty Certificate Fees.

SUMMARY: Medical Faculty Certificate Fees are established. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: No Statement of Estimated Regulatory Cost was prepared.

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

SPECIFIC AUTHORITY: 456.013(2), 460.405, 460.4062(1), (3) FS.

LAW IMPLEMENTED: 456.013(2), 460.4062(1), (3) 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: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-12.012 Medical Faculty Certificate Fees.  
(1) The application fee shall be \$100.00.  
(2) The initial license fee shall be \$100.00.  
(3) The fee for biennial renewal of a medical faculty certificate shall be \$100.00.

Specific Authority 456.013(2), 460.405, 460.4062(1), (3) FS. Law Implemented 456.013(2), 460.4062(1), (3) FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2007

**DEPARTMENT OF HEALTH**

**Board of Chiropractic**

RULE NO.: 64B2-13.007  
 RULE TITLE: Continuing Education During Initial Licensure Period

PURPOSE AND EFFECT: The purpose and effect of this rule amendment is to add additional required continuing education that initial licensees must complete during the first twelve (12) months of licensure.

SUMMARY: Specifies additional required continuing education that initial licensees must complete during the first twelve (12) months of licensure.

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

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

SPECIFIC AUTHORITY: 456.013(6), 460.405, 460.408 FS.

LAW IMPLEMENTED: 456.013(6), 460.408 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: Joe Baker, Jr., Executive Director, Board of Chiropractic Medicine, 4052 Bald Cypress Way, Bin C07, Tallahassee, Florida 32399-3259

THE FULL TEXT OF THE PROPOSED RULE IS:

64B2-13.007 Continuing Education During Initial Licensure Period.

(1) During the first twelve (12) months after initial licensure, practitioners are required to attend one (1) full day at a Florida Board of Chiropractic Medicine meeting at which disciplinary hearings are conducted as provided in subsection 64B2-13.004(8), F.A.C. Beginning April 1, 2008, practitioners are required to attend six (6) hours of record keeping/documentation and coding and two (2) hours in the area of ethics and boundaries. Once the hours required by Rule 64B2-13.0045, F.A.C., have been met, licensed practitioners shall not be required to complete any other continuing education requirements during the biennium in which they receive initial licensure.

(2) No change.

Specific Authority 456.013(6), 460.405, 460.408 FS. Law Implemented 456.013(6), 460.408 FS. History—New 1-25-88, Formerly 21D-13.007, 61F2-13.007, 59N-13.007, Amended 11-13-01, 5-4-03, 6-28-04, 11-9-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Chiropractic Medicine

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Chiropractic Medicine

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 24, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 24, 2007

**DEPARTMENT OF HEALTH**

**Board of Dentistry**

RULE NO.: 64B5-2.013  
 RULE TITLE: Dental Examination Requirements and Grading

PURPOSE AND EFFECT: The Board proposes the rule amendment to revise some of the procedures and requirements that are part of the Florida Dental Examination.

- 1. Class II Amalgam and Class III Composite on a Patient 30%
  - a. Preparation ~~2~~/~~3~~
  - b. Restoration ~~1~~/~~3~~
- 2. Demonstration of Periodontal Skills on a Patient: 20%
  - Definitive debridement (root planing, deep scaling/removal of subgingival calculus, and removal of plaque, stain and supragingival calculus)

SUMMARY: The rule amendment will revise some of the procedures and requirements that are part of the Florida Dental Examination.

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

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

SPECIFIC AUTHORITY: 456.017(1)(b), 466.004(4) FS.

LAW IMPLEMENTED: 456.017(1)(b), (2), 466.006(4), 466.009 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: Sue Foster, Executive Director, Board of Dentistry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B5-2.013 Dental Examination Requirements and Grading.

(1) through (2) No change.

(3) PRACTICAL OR CLINICAL EXAMINATION:

(a) To take the Practical or Clinical Examination, it is the applicant’s responsibility to provide a patient who is at least 18 years of age and whose medical history is consistent with that prescribed by the board in order for patients to qualify as a patient for the examination. An applicant will be allowed no more than two ~~three~~ attempts to qualify a patient during the specified check-in period for each restorative procedure requiring a patient and one attempt to qualify a patient during the specified check-in period of the Periodontal part. Candidates for the state dental practical or clinical examination may assess patients for suitability as board patients at any dental office under the direct supervision of a Florida licensed dentist, or at any accredited dental school under direct supervision of a school faculty member.

(b) No change.

(c) The Practical or Clinical Examination for dental licensure shall consist of the following four (4) seven (7) parts and each part shall be passed with a grade of at least 75% be graded as to each part as follows:

3. Restoration of Class II Composite Resin with Cusp Replacement on Specified Tooth	10%
<del>3.4. Demonstration of Endodontic Skills on Specified Teeth</del>	<del>10%</del>
<del>4.5. Demonstration of Prosthetics Skills:</del>	<del>20%</del>
Preparation for a 3-unit fixed partial denture on a specified model and Preparation of an Anterior Crown on a Specified Model	
<del>6. Class IV Composite Restoration on a Specified Tooth</del>	<del>5%</del>
<del>7. Class II Amalgam Restoration with a Cusp Replacement on a Specified Tooth</del>	<del>5%</del>

(d) The Practical or Clinical Examination shall include the following parts and procedures and be graded on criteria as described below each examination part or procedure. Listed criteria are to be accorded equal importance in grading. Equal importance does not mean that each criterion has a numerical or point value but means that any one of the criteria, if missed to a severe enough degree so as to render the completed part or procedure potentially useless or harmful to the patient in the judgment of the examiner, could result in a failing grade on the part or procedure. ~~The criteria do not have assigned numerical or point value but are utilized in making a holistic evaluation of the part or procedure.~~

1. No change.

(I) Outline form – all prepared surfaces smooth and acceptable extensions without weakening tooth surfaces.

(II) through (IV) No change.

(VI) Management of soft tissue is considered adequate in the absence of trauma or mutilation. Additionally, a grade of zero (0) is mandatory if a criteria is missed to a severe enough degree so as to render the completed part or procedure potentially useless or harmful to the patient in the judgment of at least two examiners. Examples of such instances are caries remaining in a completed preparation; if gross overcutting occurs; if mechanical exposure occurs; if the preparation is prepared or attempted on the wrong tooth or wrong surface; or if the candidate fails to attempt or complete the procedure.

b. No change.

(I) Functional anatomy – appropriate occlusal and interproximal anatomy.

(II) through (V) No change.

(VI) Management of soft tissue – is considered adequate in the absence of trauma or mutilation. Additionally, a grade of zero (0) is mandatory if a criteria is missed to a severe enough degree so as to render the completed part or procedure potentially useless or harmful to the patient in the judgment of at least two examiners. Examples of such instances are there is a total lack of contact; gross overhang; tissues grossly mutilated (may require suturing or surgical intervention); if the preparation for the restoration is prepared or attempted to be prepared on the wrong tooth or wrong surface; or there is a failure to attempt or complete the procedure.

2. Demonstration of Periodontal Skills on a Patient. Must be performed on a minimum of ~~6-8~~ 5 teeth, none of which shall have a full crown restoration, ~~three each~~ three of which shall have pockets at least 4 mm. in depth, twelve surfaces with obvious subgingival calculus detectable by visual or tactile means must

be identified and treated by the candidate (no more than four surfaces may be on incisors); and radiographic evidence of osseous destruction; at least one tooth shall be a multi-rooted molar which shall be in proximal contact with at least one other tooth; three surfaces must be on interproximal surfaces of posterior teeth, i.e. molars or premolars; none of the ~~6-8~~ 5 teeth shall be primary teeth. All calculus appearing on radiographs must be detectable by visual or tactile means. The periodontal exercise shall be a definitive debridement (root planing, deep scale of subgingival calculus, and plaque, stain and supragingival calculus removal). Six pocket depth measurements on each of one anterior and one posterior tooth selected by the examiners must be made by the candidate. The teeth selected by the examiner must not be among the 6-8 teeth chosen by the candidate for treatment. The following areas will be assessed in determining a grade.

a. through e. No change.

f. Accuracy of pocket depth measurements.

g.f. Management of soft tissue is considered adequate in the absence of trauma or mutilation. Additionally, a grade of zero (0) is mandatory if there is gross mutilation of gingival tissue or if the candidate fails to attempt or complete the part.

~~3. Restoration of a Class II Composite Resin with Cusp Replacement on a Specified Tooth. The following areas will be assessed in determining a grade for this part:~~

~~a. Functional anatomy – appropriate occlusal, and interproximal anatomy.~~

~~b. Proximal contour and contact – contact is considered present if there is definite, but not excessive, resistance to the passage of dental floss through the contact area.~~

~~e. Margins – suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation.~~

~~d. Gingival overhang – overhang is considered to be excess composite resin in either a proximal or gingival direction at the gingival cavosurface margin.~~

~~e. Proper handling of material including but not limited to condensing, curing, and finishing.~~

~~f. Re-establishment of correct tooth morphology.~~

~~g. Management of soft tissue is considered appropriate in the absence of trauma or mutilation.~~

~~h. Mutilation of adjacent tooth structure or restoration during finishing procedures.~~

Additionally, a grade of zero (0) is mandatory if the restoration is completed or is attempted to be completed on the wrong tooth or wrong surface; if there is a lack of contact; gross overhang; or if the candidate fails to attempt to complete the part.

3.4. Demonstration of Endodontic Skills on Specified Teeth. The following areas will be assessed in determining a grade for this part:

a. through d. No change.

Additionally, a grade of zero (0) is mandatory if a criteria is missed to a severe enough degree so as to render the completed part or procedure potentially useless or harmful to the patient in the judgment of at least 2 examiners. Examples of such instances are the occurrence of: a perforation occurs, the candidate fails to retrieve, or fails to successfully instrument around a broken instrument, the preparation is prepared or attempted to be prepared on the wrong tooth, or the candidate fails to attempt or complete the part.

4.5. Demonstration of Prosthetics Skills – Preparation for a 3-unit fixed partial denture and a single-unit Anterior Ceramic Crown on a specified model. The following areas will be assessed in determining a grade for this part:

a. through e. No change.

f. Management of soft tissue is considered adequate in the absence of trauma or mutilation. Additionally, a grade of zero (0) is mandatory if a criteria is missed to a severe enough degree so as to render the completed part or procedure potentially useless or harmful to the patient in the judgment of at least 2 examiners. Examples of such instances are if the preparation is prepared or is attempted to be prepared on the wrong tooth or wrong surface; if the wrong type of preparation is performed or attempted to be performed, or if the candidate fails to attempt or complete the procedure.

6. Class IV Composite Restoration on a Specified Tooth— The following areas will be assessed in determining a grade for this part:

a. Functional anatomy—appropriate occlusal, incisal and interproximal anatomy.

b. Proximal contour and contact—contact is considered present if there is definite, but not excessive, resistance with dental floss through the contact area.

e. Margins—suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation.

d. Gingival overhang—overhang is considered to be excess amalgam in either a proximal or gingival direction at the gingival cavosurface margin.

e. Proper handling of material including but not limited to condensing, curing, and finishing.

f. Re-establishment of correct tooth morphology.

g. Management of soft tissue is considered adequate in the absence of trauma or mutilation.

h. Mutilation of adjacent tooth structure or restoration during finishing procedures.

Additionally, a grade of zero (0) is mandatory if the preparation for the Class IV lesion is prepared or attempted to be prepared or the restoration is completed or attempted to be completed on the wrong tooth or wrong surface; if the interproximal contact has not been re-established, or if the candidate fails to attempt or complete the part.

7. Class II Amalgam Restoration with a Cusp Replacement on a Specified Tooth. The following areas will be assessed in determining a grade for this part:

a. Functional anatomy—acceptable occlusal and interproximal anatomy.

b. Proximal contour and contact—contact is considered present if there is definite, but not excessive resistance to the passage of dental floss through the contact area.

e. Margins—suitable continuity with the cavosurface margin should be smooth with the absence of trauma or mutilation.

d. Gingival overhang—overhang is considered to be excess amalgam in either a proximal or gingival direction at the gingival cavosurface margin.

e. Proper handling of material including but not limited to condensing and finishing.

f. Management of soft tissue is considered adequate in the absence of trauma or mutilation. Additionally, a grade of zero (0) is mandatory if there is lack of contact; gross overhang; if the restoration is completed or attempted to be completed on the wrong tooth or wrong surface; or if the candidate fails to attempt or complete the part.

(e) The grading system used during the Practical or Clinical Examination is as follows:

The quality of a candidate's work on the four parts of the Clinical or Practical Examination is graded in accordance with a detailed analytic scoring guide and specific scoring criteria for each component of each task. The examiners use four competency levels to rate clinical skills on the four parts of the Clinical or Practical Examination:

Mandatory 0 – Complete failure and critically deficient

Marginally Substandard – Below minimal acceptable dental treatment

Minimally Acceptable – Minimal acceptable dental treatment

Satisfactory – Optimal dental treatment

Three examiners independently evaluate all rated treatment criteria for each part of the Clinical or Practical Examination and the median competency level in each category (criteria) is determined. These median competency levels are translated into a numerical score. Candidates must earn at least 75% of the maximum possible raw score on each part to pass that part.

Critical errors (Mandatory 0) are given special consideration. Critical errors are errors of commission or omission that would be serious enough to endanger a patient's oral or general health, or could lead to patient injury or may jeopardize the overall treatment of the patient. A corroborated critical error, such as perforation while preparing an access opening for an endodontic procedure will result in failure of the Endodontic part of the Clinical or Practical Examination even though other rated treatment criteria for the Endodontic part are acceptably completed.

A candidate's score on a part of the Clinical or Practical Examination may also be affected by certain conduct or errors that warrant a penalty deduction from the total score on that part. An example of a penalty deduction on a part is the loss of all points if two treatment selections for either the Amalgam or the Composite procedure are not acceptable or a second treatment selection is not presented if the first treatment selection is rejected.

- 0 Complete failure
- 1 Unacceptable dental treatment
- 2 Below minimal acceptable dental treatment
- 3 Minimal acceptable dental treatment
- 4 Better than minimally acceptable dental treatment
- 5 Outstanding dental treatment

(f) A final grade of 75% 3 or better, as a general average is required on each of the four (4) parts of ~~to pass~~ the Practical or Clinical Examination to pass the Practical or Clinical Examination.

(g) If an applicant fails to achieve a final grade of 75% 3 or better on each of the four (4) parts of, as a general average, ~~on the Practical or Clinical Examination because of a failing grade on just one part,~~ the applicant shall be required to retake only that part(s) that the applicant has failed (i.e. scored below 75%). On any such retake, the applicant shall be required to obtain a passing grade on the part(s) that is/are retaken. ~~A failing grade on the retaken part shall not be averaged to obtain a passing score on the Practical or Clinical Examination.~~

~~(h) If an applicant fails to achieve a final grade of 3 or better, as a general average, on the Practical or Clinical Examination because of a failing grade on more than one part, the applicant shall be required to retake the entire Practical or Clinical Examination.~~

(h)(i) Whenever an applicant is repeating only one part of the Practical or Clinical Examination and that part requires the use of a patient, that candidate shall be allowed the same amount of time to complete the part that is allowed candidates currently taking the part for the first time. Whenever a candidate is repeating only one part of the Practical or Clinical Examination and that part is performed on a mannequin, that candidate shall be allowed 3 hours to complete the part.

~~(i)(j)~~ As provided in Section 466.006(4)(b)3., F.S., if an applicant fails to pass the Practical or Clinical Examination in three (3) attempts, the applicant shall not be eligible for reexamination unless she or he completes additional educational requirements as specified by the Board.

(j) Any of the parts of the Practical or Clinical Examination utilizing a patient may be terminated in the interest of Patient Safety.

(4) No change.

THIS RULE SHALL TAKE EFFECT AUGUST 1, 2008.

Specific Authority 456.017(1)(b), 466.004(4), ~~466.006(4)~~ FS. Law Implemented 456.017(1)(b), (2), 466.006(4), 466.009 FS. History—New 10-8-79, Amended 6-22-80, 12-3-81, 12-6-82, 5-24-83, 12-12-83, 5-2-84, 5-27-84, Formerly 21G-2.13, Amended 12-8-85, 12-31-86, 5-10-87, 10-19-87, 12-10-89, 12-24-91, 2-1-93, Formerly 21G-2.013, 61F5-2.013, Amended 1-9-95, 2-7-96, 7-16-97, Formerly 59Q-2.013, Amended 8-25-98, 3-25-99, 11-15-99, 8-3-05, 7-17-07, 8-1-08.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Dentistry

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 14, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 17, 2007

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE NO.: 64F-17.001  
 RULE TITLE: Materials Incorporated by Reference  
 PURPOSE AND EFFECT: To incorporate a Department manual by reference and to update references to other materials incorporated by reference.

SUMMARY: The Procedure Manual for Sponsors of Day Care Homes is being incorporated by reference.

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

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

SPECIFIC AUTHORITY: 383.011(2)(c) FS.

LAW IMPLEMENTED: 383.011(1)(i) 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: Julia P. Forrester, Department of Health Office of the General Counsel, 4052 Bald Cypress Way, Bin #A-02, Tallahassee, FL 32399-1703

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-17.001 Materials Incorporated by Reference.

(1) Title 7 Code of Federal Regulations, Part 226, as published January 1, 2007~~6~~, and Title 7 Code of Federal Regulations, Parts 3015 and 3016, as published January 1, 2007~~6~~, are incorporated by reference.

(2) The Department of Health’s publications entitled “Procedure Manual for Sponsors of Unaffiliated Centers,” dated August 1, 2006, the “Procedure Manual for Sponsors of Day Care Homes,” dated April 1, 2007, and the “Procedure Manual for Sponsors of Affiliated Child Care Centers,” dated September, 2007 ~~are~~ is incorporated by reference.

(3) Copies of materials incorporated by reference may be obtained from www.doh.state.fl.us/ccfp or by writing to the Department of Health, 4052 Bald Cypress Way, Bin #A-17, Tallahassee, Florida 32399-1727.

Specific Authority 383.011(2)(c) FS. Law Implemented 383.011(1)(i) FS. History—New 7-22-99, Amended 2-20-04, 4-10-07, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Philip Reeves

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Annette Phelps

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 8, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE NOS.:	RULE TITLES:
64F-19.001	Definitions
64F-19.002	Eligibility
64F-19.003	Certification and Authorization
64F-19.004	Enrollment Period
64F-19.005	Waiver Program Enrollment Process
64F-19.006	Management of Minors
64F-19.007	Non-Covered Services
64F-19.008	Continuation of Services
64F-19.009	Termination of Services
64F-19.010	Due Process for Waiver Applicants and Clients
64F-19.011	Approved Form; Incorporation

PURPOSE AND EFFECT: The Department proposes to amend the existing language in this chapter.

SUMMARY: Each rule was updated to recognize changes in definitions or terminology and modifying the application process so that it is more efficient.

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

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

SPECIFIC AUTHORITY: 154.011(5), 383.0011(13), 381.0051(7), 409.919 FS.

LAW IMPLEMENTED: 154.011, 381.0051, 383.011, 383.103, 409.9121, 409.9122 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: Marie Melton, Infant Maternal and Reproductive Health, 4052 Bald Cypress Way, Bin A-13, Tallahassee, Florida 32399

THE FULL TEXT OF THE PROPOSED RULES IS:

64F-19.001 Definitions.

For the purpose of this rule chapter, the following definitions will apply:

(1) “CHD” means County Health Department.

(2) “Client” means a woman who has been approved and is presently enrolled in the Program.

(3) “Continuation of Services” means the amount of time the Program is funded, based on availability of funds.

(4) “CPT Codes” means the codes used within the FMMIS System.

(5) “Eligibility Determination” means the process of determining if a woman meets the qualifications for enrollment in the Program.

(6) “Enrollment” means the process of being registered in the Program as a client for one (1) calendar year.

(7) “Family Planning Services” means for the purpose of the Program:

(a) Counseling and supply visits;

(b) Initial and annual family planning visits;

(c) Laboratory services;

(d) ~~Other~~ Family Planning Services as prescribed in subsection 59G-1.010(86), F.A.C. and Section 409.905(3), F.S.; and

(e) Treatment of abnormal laboratory results.

(8) “FMMIS” means the Florida Medical Management Information System.

~~(9) “HMO” means a health maintenance organization.~~

~~(9)(10)~~ “Non-Covered Services” means services that are not covered under this waiver.

~~(10)(11)~~ “The Program” means the Family Planning Waiver Program implemented pursuant to section 1115(a) of the Social Security Act and 42 U.S.C.A §1315(a).

~~(11)(12)~~ “Waiver Applicant” means a woman who applied for the Program but has neither been approved nor denied.

Specific Authority 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.002 Eligibility.

In order to be eligible for family planning services under the Program:

(1) ~~The waiver applicant must have lost full Medicaid eligibility. Client must have had a Medicaid financed pregnancy related claim twenty four (24) months prior to losing Medicaid eligibility.~~

(2) ~~The waiver applicant Client~~ must be eligible for the Program on or after December 1, 2006~~3~~;

(3) ~~The waiver applicant Client~~ must be actively seeking family planning services;

(4) ~~The waiver applicant Client~~ must self-declare that she is not pregnant;

(5) ~~The waiver applicant Client~~ must not have had a tubal ligation, hysterectomy or other evidence of permanent sterilization;

(6) ~~The waiver applicant Client~~ must have an income at or below 185% of the current federal poverty level;

(7) ~~The waiver applicant must be a female between age 14 and 55;~~

(8)~~(7)~~ ~~The waiver applicant Client~~ shall be required to sign a self-declaration statement of income, and provide proof of specifying all gross income available to the client’s household;

(9)~~(8)~~ The self-declaration statement shall include a signed acknowledgement that the statement is true and correct; ~~at the time it is made;~~

(10)~~(9)~~ ~~The waiver applicant Clients~~ whose labor and delivery was paid for as an emergency service under Medicaid or who did not qualify for Medicaid after the Presumptive Eligibility for Pregnant Women period are not eligible for this Program.

(11) Waiver applicants losing the SOBRA Medicaid categories of MMP, MMT, MRMP or MRMT are passively enrolled in the Program for the first year of eligibility and will need to actively complete an application for the second year of eligibility.

Specific Authority 154.011(5), 381.0011(13), 381.0051(7), 409.919 FS. Law Implemented 154.011 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.003 Certification and Authorization.

(1) Waiver applicants Client shall give written consent before the CHD can obtain or authorize the release of financial and medical information for the purpose of determining Program eligibility. Eligibility information will be obtained by filling out form DOH 3212 as referenced in Rule 64F-19.011, F.A.C.

(2) Signed consent forms of eligibility for DOH 3212, as referenced in Rule 64F-19.011, F.A.C., must be kept in an administrative file at the CHD that enrolled the client in the Program for a minimum of six (6) years.

Specific Authority 381.0011(13), 381.0051(7), 409.919 FS., 42 CFR 491.10. Law Implemented 409.9121, 409.9122 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.004 Enrollment Period.

The Program covers only family planning services and consensual outpatient surgical sterilization up through twenty-four (24) months subsequent to the loss of full Medicaid to twenty-four (24) months subsequent to any Medicaid financed pregnancy related service.

Specific Authority 381.0011(13), 381.0051(7) FS., Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.005 Waiver Program Enrollment Process.

(1) The waiver applicant client must self-declare that she is not pregnant at the time of application.

(2) The waiver-applicant client must be actively seeking family planning services.

(3) The waiver applicant must not have had a tubal ligation or a hysterectomy. The application shall include the following information and the client shall meet the following criteria:

(a) ~~The client has lost Medicaid.~~

(b) ~~The FMMIS or subsequent system identifies that a Medicaid pregnancy related service occurred and is tracked through CPT codes within the last two (2) years; and~~

(c) ~~Clients who were enrolled in a Medicaid HMO must present proof of having had a pregnancy or the provision of pregnancy related services within the two years prior to losing Medicaid.~~

(4) The waiver applicant must provide proof of citizenship and identity. Only county health department staff who have completed training in the Program eligibility process will determine eligibility for this Program.

(5) The waiver applicant must have an income at or below 185% of the current federal poverty level. Applications for the Program may be mailed or hand delivered by the client.

(6) The waiver applicant must complete and sign the application. A face-to-face interview for eligibility determination is not required.

(7) The waiver applicant must have lost full Medicaid and the FMMIS or subsequent system verifies this loss of full Medicaid. A supervisor within the CHD will verify the application and its approval or denial.

(8) The waiver applicant must be age 14 to 55. Approval/denial letters, with a description of the appeal process, must be provided to the applicant by the county health department staff.

~~(9) Only county health department staff who have completed training in the Program eligibility process will determine eligibility for this Program. Once the client is approved, the client will also receive primary care referral information. She is not required to see a health care professional at the CHD.~~

~~(10) Applications for the Program may be mailed or hand delivered by the client to the CHD. Eligibility for this Program must be re-determined annually.~~

~~(11) A face-to-face interview for eligibility determination is not required.~~

~~(12) A supervisor within the CHD will verify the application and its approval or denial.~~

~~(13) Approval/denial letters, with a description of the appeal process, must be provided to the applicant by the county health department staff.~~

~~(14) The client who is approved for the program will receive primary care referral information. The client is not required to see a health care professional at the CHD.~~

~~(15) Eligibility for this Program must be re-determined annually.~~

Specific Authority 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.006 Management of Minors.

Minors, under age 18, will not receive a notice of eligibility and will have to meet the eligibility determination as outlined under Rule 64F-19.002, F.A.C.

~~(+) Minors will request to apply if they have lost Medicaid eligibility be required to show proof of a Medicaid financed pregnancy related service.~~

~~(2) CHD staff can view the FMMIS system or birth certificates as proof of the pregnancy related service(s).~~

Specific Authority 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.007 Non-Covered Services.

For the purposes of the Program the following services are not covered:

- (1) Infertility services; and
- (2) Abortion services; and
- (3) Vasectomies.

Specific Authority 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.008 Continuation of Services.

(1) During the maximum two (2) year eligibility period, a client must reapply at the end of the first twelve (12) month period in order to receive benefits for the second twelve (12) month period, ~~retroactive from December 1, 2003.~~

(2) A client shall become eligible for the Program after she loses Medicaid eligibility more than once if more than one pregnancy occurs.

Specific Authority 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.009 Termination of Services.

(1) Clients who fail to reapply annually will be automatically terminated from the Program.

(2) If a service provider is required to reduce or withhold services to clients due to limitations in resources, the provider must give clients thirty (30) days written notice and provide information and referral services to clients for other Medicaid family planning providers.

(3) The client shall ~~also~~ lose eligibility and be terminated from the Program if:

- (a) She becomes pregnant;
- (b) She is surgically sterilized;
- (c) The client’s household income changes and the new income exceeds 185% of the poverty level at the time of enrollment; or
- (d) She becomes eligible for Medicaid.

Specific Authority 154.011(5) FS. Law Implemented 154.011 FS. History–New 8-9-04, Amended \_\_\_\_\_.

64F-19.010 Due Process for Waiver Applicants and Clients.

(1) Waiver applicants will be afforded fair hearing due process as outlined in 42 CFR 431.200-246.

(2) Waiver applicants and clients shall receive written notice when a decision is made to deny or approve services under the Program. Written notice shall include at a minimum:

- (a) A description of the action the agency intends to take;
- (b) The reasons for the intended action;
- (c) Information about the waiver applicants or clients’ rights to request a hearing;
- (d) An explanation of the circumstances under which Medicaid services will continue if a hearing is requested;
- (e) A statement that requests for a hearing must be filed with the agency clerk within twenty-one (21) days of receipt of the written notice of agency action;
- (f) A statement that the hearing shall occur within ninety (90) days of the request; and
- (g) A statement that the final order shall be entered within sixty (60) days of the hearing.

(3) The hearings shall be conducted by ~~t~~The Department of Children and Families as outlined in Section 120.80(15), F.S.

(4) Clients suspected of probable fraud shall have their period of advanced notice shortened to five (5) days before the date of action as prescribed in 42 CFR 431.214.

Specific Authority 120.80(15), 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended.

64F-19.011 Approved Form; Incorporation.

The following form used by the Department in its dealings with the public is listed as follows and is hereby adopted and incorporated by reference, and can be obtained from the Department office by writing to the Department of Health, Family Health Services, 4052 Bald Cypress Way, Bin #A-13, Tallahassee, FL 32399. DH 3212, entitled “Health Insurance Application for Extended Family Planning Benefits,” (11/06), ~~(05/04)~~.

Specific Authority 120.55(1)(a), 120.55(1)(a), (4), 381.0011(13), 381.0051(7) FS. Law Implemented 381.0051, 383.011, 383.013 FS. History–New 8-9-04, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Marie Melton

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Janet Temkin

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 27, 2007

**DEPARTMENT OF CHILDREN AND FAMILY SERVICES**

**Agency for Persons with Disabilities**

RULE NOS.:	RULE TITLES:
65G-7.001	Definitions
65G-7.002	Determination Need for Assistance; Informed Consent Requirement
65G-7.003	Medication Administration Training Course
65G-7.004	Validation Requirements
65G-7.005	Medication Administration Procedures
65G-7.006	Medication Errors
65G-7.007	Storage Requirements
65G-7.008	Documentation and Record Keeping
65G-7.009	Off-site Medication Administration

PURPOSE AND EFFECT: To establish standards and procedures for training direct service providers to provide agency clients with medication administration assistance or assistance with self-administration of medication. The rule also provides requirements for labeling medication, documentation and recordkeeping, storage and disposal of medication, instructions concerning the safe administration of medication or supervision of self-administered medication, informed consent requirements, records, and training curriculum.

SUMMARY: The proposed rules comply with legislative directive for rulemaking on the above subject matter areas, per Section 393.506(5), Florida Statutes.

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

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

SPECIFIC AUTHORITY: 393.501 FS.

LAW IMPLEMENTED: 393.506(5) FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least three days before the workshop/meeting by contacting: If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Michelle Ledbetter, 4030 Esplanade Way, Tallahassee, Florida 32399-0950; telephone (850)488-4879

THE FULL TEXT OF THE PROPOSED RULES IS:

MEDICATION ADMINISTRATION

65G-7.001 Definitions.

The terms and phrases used in this chapter shall have the meanings defined below:

(1) “Administration of medication” means the obtaining and giving of one or more doses of medicinal drugs by a legally authorized person to an Agency client for his or her consumption.

(2) “Area Office” is the local office responsible for managing one of the Agency’s fourteen service areas.

(3) “Advanced Registered Nurse Practitioner (ARNP)” means a registered nurse certified by the Florida Board of Nursing as an ARNP and who holds a valid and active license in full force and effect pursuant to Section 464.012, F.S., or the applicable licensing laws of the state in which the service is furnished.

(4) “Authorized representative” means the client’s parent if the client is a minor, the client’s authorized guardian, court-appointed guardian advocate, health care surrogate, or a health care proxy appointed in accordance with Chapter 765, F.S., or any other client advocate legally authorized to make decisions on behalf of a client.

(5) “Central Office” is the Agency’s headquarters, situated at 4030 Esplanade Way, Suite 380, Tallahassee, FL 32399-0950; main phone number (850)488-4257.

(6) “Client’s record” means a file maintained for each client that contains the client’s name and date of birth, written authorization for routine medical/dental care from the client or guardian and medical summary, the name address and telephone of the client’s physician and dentist, a record of the client’s illnesses and accidents, the legal status of the client, current services and implementation plan, and client financial documentation.

(7) “Controlled medication” means any substance enumerated in Schedules I, II, III, IV, and V in Section 893.03, F.S.

(8) “Corrective Action Plan,” for purpose of this rule, means a written plan of action developed by the Agency for the purpose of correcting cited deficiencies in compliance with this rule chapter.

(9) “Enteral medication” means medication delivered by tube via the body’s gastrointestinal system.

(10) “Facility” means a residential facility licensed under Chapter 393, F.S., or other facility staffed by direct service providers where Agency clients receive training, respite care, or other services on a regularly scheduled basis.

(11) “Inhaled medication” means the delivery of medication droplets or moisture suspended in a gas, such as oxygen, by inhalation through the nose or mouth.

(12) “Medical Case Manager” means a registered nurse or ARNP employed by the Agency to provide nursing consultation and technical assistance to an Area office regarding the medical care of Agency clients.

(13) “Medication Administration Record” or “MAR” means the daily record maintained for each client that documents medication information as required by this rule chapter.

(14) “Medication Assistance Provider” means a direct service provider not otherwise licensed to administer medication who has successfully completed an agency-approved training course and has current validation to provide clients with medication administration or to assist clients with self-administration of medication.

(15) “Nebulizer” means an atomizer equipped to produce an extremely fine spray for deep penetration of the lungs.

(16) “Over-the-counter (OTC) medication” means a medication for general distribution and use without a prescription in the treatment of human illnesses, ailments, or injuries.

(17) “Ophthalmic medication” means a solution or ointment to be instilled into the eye or applied on or around the eyelid.

(18) “Oral medication” means any medication in tablet, capsule, or liquid form introduced into the gastrointestinal tract by mouth.

(19) “Otic medication” means solutions or ointments to be placed in the outer ear canal or applied around the outer ear.

(20) “Parenteral” means injected into the body through some route other than the alimentary canal.

(21) “Physician” means a doctor of medicine or osteopathy who holds a valid and active license in full force and effect pursuant to the provisions of Chapter 458 or 459, F.S., or the applicable laws of the state in which the service is furnished.

(22) “Prescribed medication” means simple or compound substances or mixtures of substances that are prescribed for the cure, mitigation, or prevention of disease or for health maintenance and that are prescribed by a licensed practitioner authorized by the laws of the state to prescribe such substances, dispensed by a licensed pharmacist or licensed dispensing practitioner in accordance with the laws of the state in which the practitioner is licensed, and dispensed on a prescription that is recorded in and retrievable from the pharmacist’s or practitioner’s records.

(23) “Prescription” means any order for drugs, medical supplies, equipment, appliances, devices, or treatments written or transmitted by any means of communication by a licensed practitioner authorized by the laws of the state to prescribe such drugs, supplies, equipment, appliances, devices, or treatments, or by the lawfully designated agent of such practitioner, and intended to be filled, compounded, dispensed or furnished by a person authorized by the laws of the state to do so.

(24) “PRN” (“pro re nata”) means the administration of medication on an as-needed basis rather than according to a prescribed schedule.

(25) “Provider” means a person or entity that has a provider agreement in effect with the Agency to deliver approved medical or allied services, goods, care, to Agency developmental disability clients.

(26) “Rectal medication” means any prescribed medication, capsule, enema or suppository to be administered via the rectum.

(27) “Registered Nurse (RN)” means a graduate of an approved formal program of study in professional nursing who holds a valid and active license in full force and effect pursuant to provisions of Chapter 464, F.S., or the applicable laws of the state in which the service is furnished.

(28) “Supported living services” means the provision of supports necessary for an adult who has a developmental disability to establish, live in, and maintain his or her own household in the community.

(29) “Supervised self-administered medication” means direct, face-to-face observation of a client during the client’s self-administration of medication and includes instruction or other assistance necessary to ensure correct self-administration of the medication.

(30) “Topical medication” means a salve, lotion, ointment, cream, shampoo or solution applied locally to a body part.

(31) “Transdermal patch” means an adhesive patch containing a pre-measured amount of topical medication that is absorbed into the body via the epidermis (outer layer of skin) at a fixed rate.

(32) “Unlicensed” means, for purposes of this rule, not authorized, certified, or otherwise permitted by other Florida law to administer medication or to supervise self-administration of medication.

(33) “Validation” means an unlicensed direct service provider’s demonstration of competency in administering or supervising self-administration of a medication to a client, certified by a licensed, registered nurse or licensed physician following the provider’s successful completion of an Agency-approved medication administration training course.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History–New \_\_\_\_\_.

65G-7.002 Determining Need for Assistance: Informed Consent Requirement.

(1) An Agency client’s need for assistance with medication administration or ability to self-administer medication without supervision must be documented by the client’s physician, physician assistant, or ARNP on an “Authorization for Medication Administration,” APD Form 65G7-01, (00/00/00).

(2) A client who is authorized, as provided above, to self-administer medication without supervision shall be encouraged to do so. The medication assistance provider shall assist the client by making the medication available and reminding the client to take medication at appropriate times.

(3) The medication assistance provider must maintain a current Authorization in the client’s MAR, reviewed by the client’s physician, physician assistant, or ARNP at least annually and upon any significant change to the client’s medical condition or self-sufficiency.

(4) An unlicensed direct service provider is not authorized to administer medication or assist a client with self-administration of medication unless he or she has successfully completed an Agency-approved medication administration training course and has obtained a current validation.

(5) In addition to an executed Authorization for Medication Administration, the medication assistance provider must also obtain from the client or the client’s authorized representative an “Informed Consent for Medication Administration” APD Form 65G7-02 (00/00/00), before providing a client with medication administration assistance. The Informed Consent will contain a description of the medication routes and procedures that the medication assistance provider is authorized to supervise or administer.

(6) The medication assistance provider may not also act as the client’s health care surrogate or proxy, or sign the Medication Administration Informed Consent form referenced above. Direct service providers or other facility staff may witness the execution of the form.

(7) A medication assistance provider will limit his or her assistance to the minimum necessary to ensure proper administration or self-administration of the medication while preserving the client’s independence.

(8) The requirements of this rule chapter do not apply to the following:

(a) Health care practitioners whose professional licenses include administration of medication;

(b) Client family members or friends who provide medication assistance without compensation, as permitted by Section 464.022(1), F.S.;

(c) Unlicensed direct service providers employed by or under contract with intermediate care facilities for the developmentally disabled, licensed home health agencies, assisted living facilities, hospices, or health care service pools; and

(d) Clients authorized to self-administer medication without assistance or supervision, as documented by an executed Authorization, APD Form 65G7-01 (00/00/00).

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History–New \_\_\_\_\_.

65G-7.003 Medication Administration Training Course.

(1) Medication administration training courses not offered through the Agency must be approved by the Agency in order to provide qualification for validation. To obtain Agency approval, a course provider must submit an application on a “Medication Administration Provider/Course Approval Form,” APD Form 65G7-03 (00/00/00).

(2) The application must include the following information: the total number of training course hours; a course syllabus; a detailed outline of the contents of the course; minimum instructor qualifications; and the names, qualifications, and license numbers of all proposed instructors known at the time of the application.

(3) If the Agency denies an application for course approval, it will identify the reasons for the denial in writing. A course may be resubmitted to the Agency with modifications.

(4) Only licensed registered nurses or ARNPs may conduct training courses for medication administration assistance certification.

(5) Medication administration training courses must provide training curriculum and step-by-step procedures covering, at a minimum, the following subjects:

(a) Safe storage, handling, and disposal of medications;

(b) Comprehensive understanding of and compliance with medication instructions on a prescription label, a health care practitioner’s order, and a MAR;

(c) The medical indications and purposes for commonly used medications, their common side effects, and symptoms of adverse reactions;

(d) The proper administration of oral, transdermal, ophthalmic, otic, rectal, inhaled or topical medications;

(e) Safety and sanitation practices while administering medication;

(f) Medication administration documentation and record-keeping requirements;

(g) Medical errors and medical error reporting;

(h) Determinations of need for medication administration assistance and informed consent requirements;

(i) Procedural arrangements for clients who require medication offsite; and

(j) Validation procedures for medication administration assistance.

(6) Medication administration courses may be administered either through web-based distance learning or in a traditional classroom setting, utilizing an Agency or Agency-approved medication administration training curriculum.

(7) A course provider applying for Agency approval of web-based distance learning must submit documentation indicating the following:

(a) The means by which the course will demonstrate interactivity between the student and course provider within a maximum of 24 hours, which interactivity promotes student involvement and demonstrates that the course measures learning and addresses comprehension of content at regular intervals;

(b) The means by which the course provider is able to monitor student enrollment, participation, and course completion;

(c) The means by which the course provider will be able to satisfactorily demonstrate that stated course hours are consistent with the actual hours spent by the student to complete the course;

(d) The means by which the provider will assure qualified instructors will be available to answer questions and provide students with necessary support during the course; and

(e) A requirement that the student complete a statement at the end of the course indicating that he/she personally completed each module/session of instruction.

(8) Each medication administration course must consist of a minimum of four hours of instruction and classroom courses must be limited to no more than 20 participants for each class.

(9) Any material change to an approved course curriculum or protocol requires new agency approval for that course.

(10) The Agency shall assign to approved courses a course number that the course provider must display in the course syllabus and all other materials used in connection with the course.

(11) The Agency may deny or withdraw course approval for any of the following acts or omissions:

(a) Obtaining or attempting to obtain course approval through fraud, deceit, false statements, or misrepresentation of material facts, whether such statements are made knowingly or negligently;

(b) Failure to provide complete and accurate information in the initial application for approval or in any notification of change in information;

(c) Failure to notify the Agency within six weeks of a change in the information required for course approval;

(d) Falsification of any records regarding the course conducted by the provider or persons attending the course;

(e) Failure to maintain any required records regarding the course conducted by the provider or persons who attended the course;

(f) Failure to maintain the course curriculum in the format and content approved by the Agency;

(g) Advertisement or administration of the course before the date it is approved by the Agency;

(h) Administration of the course training by unqualified instructors;

(i) Failure to maintain records of course administration and attendance.

(12) As a prerequisite to validation as a medication assistance provider, the applicant must achieve a score of at least 80% on an agency provided or agency-approved medication administration training course exam. Upon successful completion of the examination, the course provider shall issue the examinee a certificate containing the name of the provider, the course number, date(s) of course administration, name of the student and, for classroom-based courses, the name and signature of the course instructor.

(13) Medication assistance providers must maintain proof of certification and validation. Employers of medication administration assistance providers also must maintain a copy of the certificate and proof of current validation for each direct service employee providing medication assistance.

Specific Authority 393.501 FS, Law Implemented 393.506 FS, History—New \_\_\_\_\_.

#### 65G-7.004 Validation Requirements.

(1) An unlicensed direct service provider applying for validation as a medication assistance provider must be assessed and validated at least annually, through demonstration, as competent to administer medication or to supervise the self-administration of medication. Successful completion of an Agency-approved medication administration course is a prerequisite to an assessment of competency validation.

(2) Only a registered nurse licensed pursuant to Chapter 464 or a physician licensed pursuant to Chapter 458 or 459, F.S., may validate the competency of an unlicensed direct service provider to provide medication administration assistance.

(3) The applicant for validation must complete an on-site assessment with 100% competency documented on a "Validation Certificate," APD Form 65G7-004 (00/00/00). The form must contain the following information:

(a) The name and address of the applicant being validated and, if an employee, the name of the employing entity;

(b) The date of assessment and validation;

(c) A description of the medication routes and procedures that the applicant is authorized to supervise or administer;

(d) Any limitations on the applicant's validation to administer medication, such as limitations on validated routes of medication administration;

(e) The printed name and original signature of the validating nurse or physician as it appears on his or her license; and

(f) The validating nurse or physician's license number and license expiration date.

(4) Successful assessment and validation requires that the applicant demonstrate in an actual on-site client setting his or her capability to correctly administer medication and supervise the self-administration of medications in a safe and sanitary manner as required by this rule chapter, including a demonstration of the following proficiencies:

(a) The ability to comprehend and follow medication instructions on a prescription label, physician's order, and a MAR;

(c) The ability to administer medication by oral, transdermal, ophthalmic, otic, rectal, inhaled, or topical administration routes;

(d) The ability to obtain pertinent medication information, including the purpose of the medication, its common side effects, and symptoms of adverse reactions to the medication, either from the package insert that comes from the pharmacy, or a Physician's Desk Reference or other professionally recognized medication resource, and maintaining this information for easy access and future reference;

(e) The ability to write legibly, convey accurate information, and comply with medication administration record-keeping requirements;

(f) Knowledge of the proper storage and handling of medications;

(g) Knowledge of proper disposal of expired or unused medications;

(h) Knowledge of special requirements relating to storage and disposal of controlled medications;

(i) Requirements for obtaining authorizations for assistance with medication administration, authorization for self-administration of medication without supervision, and informed consent for medication assistance; and

(j) Adequate training on the correct positioning and use of any adaptive equipment or use of special techniques required for the proper administration of medication.

(5) When a client is prescribed a medication requiring an administration route for which the medication assistance provider has not been validated, the provider must obtain an assessment and validation for that specific administration route before administering the medication to the client.

(6) A medication assistance provider must be re-validated annually at least 60 days before the expiration of his or her current validation. An unlicensed direct service provider may not under any circumstances administer or supervise the self-administration of medication before receiving validation or following expiration of an annual validation.

(7) Medication assistance providers who fail to acquire re-validation before the expiration of the current validation must retake the medication administration training course and obtain current validation before assisting with the administration or self-administration of medication.

(8) Any employer or contractor who offers medication assistance provider services is responsible for maintaining a record of the provider's training certification and annual validation and for making such records available for Agency review upon request.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History—New \_\_\_\_\_.

#### 65G-7.005 Medication Administration Procedures.

(1) Upon certification and validation as provided by this rule chapter, unlicensed direct service providers are authorized to assist with the administration of prescribed medications via the following medication routes:

(a) Oral;

(b) Transdermal;

(c) Ophthalmic;

(d) Otic;

(e) Rectal;

(f) Inhaled; and

(g) Topical.

(2) A validated medication assistance provider must comply with the following requirements:

(a) Before providing any medication assistance, become familiar with the client's medical history and medication background and locate the name and contact numbers of the client's prescribing practitioner for consultation regarding the prescribed medications;

(b) Perform appropriate hand sanitation measures before providing medication assistance, with repeated sanitization as needed during medication administration;

(c) Assist only one client at a time with medication administration in a quiet location free from distraction;

(d) Following medication administration or assistance with self-administration, return each client's medication to its portable or permanent medication storage location before assisting another client;

(e) Limit administration, or assist in administration, to medications prescribed in writing by the client's health care practitioner and properly labeled and dispensed in accordance with Chapters 465 and 499, F.S.;

(f) Immediately report torn, damaged, illegible, or mislabeled prescription labels to the dispensing pharmacist or health care practitioner and, if a client is residing in a residential facility, notify the facility supervisor;

(g) Check the directions and expiration date of each medication to ensure that expired prescription medications or those no longer prescribed are not administered;

(h) Verify that the correct medication is administered to the correct client, at the correct time, with the correct dosage, by the correct route, and for the correct reason, as prescribed by the health care practitioner;

(i) Observe complete ingestion of oral medication before leaving the client and before recording or documenting the administration of the medication on the MAR;

(j) Record the date, time, dosage, and name of each medication in the MAR immediately following administration and sign the entries;

(k) Observe the client directly for a minimum of 20 minutes following the first three doses of a new or PRN medication in order to detect and respond immediately to potential side effects, unless ordered differently by the prescribing health care practitioner, and review the MAR for any special instructions by the prescribing practitioner regarding required observations.

(3) A medication assistance provider may not assist with the administration of any OTC medication or medication samples without a written order by the client's primary care physician or ARNP.

(4) Medications may not be crushed, diluted, or mixed without written instructions from the prescribing health care practitioner in the MAR.

(5) The medication assistance provider is responsible for ensuring that the prescription for that medication is promptly refilled so that a client does not miss a prescribed dosage of medication.

(6) The medication assistance provider may not assist with PRN medications, including OTC medications, unless a health care practitioner has provided written directions for the

medication. The provider must attach to the client's MAR a copy of the prescription or order legibly displaying the following information:

(a) The name of the medication;

(b) The prescription number;

(c) The prescribed dosage; and

(d) Specific directions for use, including the medical basis for the medication, the time intervals for administration, the maximum number of doses, the maximum number of days that the medication should be administered, and conditions under which the health care practitioner should be notified.

(7) A medication assistance provider may not perform the following acts of assistance:

(a) Prepare syringes for a client's use during the self-administration of medication via a subcutaneous, intra-dermal, intra-muscular or intravenous route;

(b) Administer, or supervise self-administration of, medications that are inserted vaginally, administered enterally, or administered via a tracheostomy;

(c) Mix or pour medications administered through intermittent positive pressure breathing machines or nebulizers, unless the medication assistance provider and client who self-administers medication with supervision have received one-on-one, step-by-step, training in the proper use and maintenance of such equipment from a certified equipment technician, respiratory therapist, or a registered nurse, with documentation in the client's file of the date of training, the name and qualifications of the persons providing the training, and a description of the breathing equipment that was the subject of the training;

(d) Administer medications via a subcutaneous, intra-dermal, intra-muscular or intravenous route;

(e) Perform irrigation of partial or full thickness wounds (such as vascular ulcers, diabetic ulcers, pressure ulcers, surgical wounds) or apply agents used in the debridement of necrotic tissues in wounds of any type; and

(f) Assist a client with medications for which the health care provider's prescription does not specify the medication schedule, medication amount, dosage, route of administration, purpose for the medication, or with medication which would require professional medical judgment by the medication assistance provider.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History—New \_\_\_\_\_.

#### 65G-7.006 Medication Errors.

(1) A "medication error" is any of the following actions:

(a) Administration of a wrong medication;

(b) Administration of a wrong dose;

(c) Administration of medication via the wrong route;

(d) Administration of medication for any symptom, illness, or reason other than the one for which the medication was prescribed;

(e) Failure to administer medication or assist with self-administration within 60 minutes of the prescribed dosage time;

(f) Administration of a medication, or the provision of a self-administered medication, to the wrong client;

(g) Failure to immediately and accurately document administration on the MAR;

(h) Failure to fill newly prescribed medications within twenty-four hours of receipt of the prescription;

(i) Failure to promptly refill current medications, resulting in one or more missed doses of medication;

(j) Administration or assistance with self-administration of an expired or improperly labeled medication; and

(k) Failure to conduct an accurate medication count for controlled medications.

(2) Immediately following a medication error, the medication assistance provider or facility administrator must take the following steps:

(a) Notify any supervisory personnel;

(b) In the case of administration of a wrong medication or a wrong dosage, observe the client closely for a minimum period of 20 minutes after the medication was administered or self-administered, immediately report any observed changes in the client's condition to the prescribing health care practitioner, and call 911 to request emergency services if the client exhibits respiratory difficulty or other potentially life-threatening symptoms;

(c) Notify the client's prescribing health care practitioner of any omitted doses of medication, request that the practitioner prepare and fax a medication directive addressing the medication omission to the client's home, facility, or pharmacy and document the client's health care practitioner's response; and

(d) Fully document all observations and contacts made regarding a medication error in a "Medication Error Report," APD Form 65G7-05 (00/00/00), and place a copy of the Report in the client's file.

(3) If a medication error occurs in a facility, the medication assistance provider must submit copies of the Report to the facility administrator and to the Agency area office within 24 hours of discovering the error.

(4) If a medication error occurs in a client's home and the medication assistance provider committed the error, the provider must submit a Medication Error Report to the Agency area office within 24 hours of the discovering the error and maintain a copy of the report in the client's file or other location easily accessible for review.

(5) Following a medication count, the medication assistance provider must report a discrepancy in the accounting of controlled substances by 5:00 p.m. of the next business day following discovery of the error to the Area office and, if applicable, to the facility supervisor.

(6) If the Agency Medical Case Manager determines that a medication assistance provider's medication error justifies corrective action, including additional training, the Area Office will notify the provider in writing of the necessary corrective action plan, including a specific and reasonable timeframe for completion of the corrective action plan. If the medication assistance provider fails to comply with the corrective action plan, the Agency will revoke the medication assistance provider's validation, subject to the provisions of Chapter 120, Florida Statutes.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History--New \_\_\_\_\_.

#### 65G-7.007 Storage Requirements.

(1) Medication assistance providers must observe the following medication storage requirements:

(a) Store each medication at the temperature appropriate for that medication, including refrigeration if required;

(b) Destroy any prescription medication that has expired or is no longer prescribed and document the medication disposal on a "Medication Destruction Record," APD 65G7-06 (00/00/00), and sign the Record before a third-party witness;

(c) Maintain medication samples in their original containers labeled by the dispensing health care practitioner with the client's name, the practitioner's name, and the directions for administering the medication. The medication assistance provider must initial and add to the label the date the medication is opened.

(d) Maintain OTC medications in their original stock containers.

(2) A residential facility or supported living client who does not require medication assistance or supervised self-administration may store his or her medication in secure, locked place within his or her room. However, a client's medications must be centrally stored and retrieved by the medication assistance provider if:

(a) The client's physician documents in the client's file that leaving the medication in the personal possession of the client would constitute a threat to the health, safety, or welfare of the client or others;

(b) The client fails to securely maintain the medication in a locked place;

(c) The medication assistance provider, facility administrator, or Agency determines that, based on the home's physical arrangements or the habits of other residents, the client's personal possession of medication poses a threat to the safety of others; or

(d) The client or the client's authorized representative requests that the client's medication be centrally stored.

(3) If the client requiring medication assistance is residing or receiving services in a facility setting, the medications must be centrally stored in a locked container in a secured enclosure.

(4) Either a licensed health care practitioner or medication assistance provider must securely maintain keys to the locked containers and storage enclosures containing controlled medications, and provide written procedural provisions for accessibility to medications in cases of emergency.

(5) Stored medications must be organized and maintained in a manner that ensures their safe retrieval and minimizes medication errors.

(6) Medications requiring refrigeration must be stored in a refrigerator in their original containers within a locked storage container clearly labeled as containing medications.

(7) Each medication must be returned to its portable or permanent storage unit immediately following medication administration assistance.

(8) Controlled medication storage requires the following additional safeguards:

(a) The medications must be stored separately from other prescription and OTC medications in a locked container within a locked enclosure.

(b) For facilities operating in shifts, a medication assistance provider must perform controlled medication counts for each incoming and outgoing personnel shift, as follows:

1. The medication count must be performed by a medication assistance provider and witnessed by another medication assistance provider;

2. Both providers must verify count accuracy by documenting the amount of medication present and comparing that amount to both the previous count and number of doses administered between counts;

3. The providers must record the medication count on a "Controlled Medication Form," APD Form 65G7-007 (00/00/00), signed and dated by the providers verifying the count; and

4. Immediately document and report any medication discrepancies to the facility supervisor.

(e) For facilities with only one medication assistance provider per shift, the medication assistance provider must conduct, document, and sign a daily medication count on the Controlled Medication Form; and

(f) For facilities with no shifts, the medication assistance provider must conduct, document, and sign a controlled medication count at least once each day on the Controlled Medication Form, using the same counting and documentation technique described above.

Specific Authority 393.501 FS, Law Implemented 393.506 FS, History--New\_\_\_\_\_.

#### 65G-7.008 Documentation and Record Keeping.

(1) An up-to-date MAR shall be maintained for each client requiring assistance with medication administration, except when the client is off-site. The medication assistance provider must document the administration of medication or supervision of self-administered medication immediately on the MAR. Each MAR page must include the following information:

(a) The client's name;

(b) Any client food or medication allergies;

(c) The name of each medication prescribed for the client;

(d) The medication strength (i.e., 5mg/ tsp);

(e) The prescribing health care practitioner for each medication;

(f) The date that the medication was ordered and any date the medication was changed (including D/C date);

(g) Prescribed dosage for each medication;

(h) Scheduled time of administration for each medication;

(i) Prescribed route of administration for each medication;

(j) Prescribed instructions for crushing, mixing or diluting of specific medications, if applicable;

(k) The dates each medication was administered;

(l) The initials and signature of the medication assistance provider who assisted with medication administration;

(m) A record of any medication dosage refused or missed, documented by the medication assistance provider responsible for administering the scheduled dosage, by drawing a circle around the appropriate space on the MAR and initialing it; and

(n) The reasons for not administering a medication, annotated and initialed by the medication assistance provider in the comments section of the MAR using the following system, or a comparable numbering and coding system containing the same information: 1 – home, 2 – work, 3 – ER/hospital, 4 – refused, 5 – medication not available (explain on back of MAR), 6 – held by MD (explain on back of MAR), 7 – other (explain on back of MAR).

(2) Each client's central record must contain the following medication documentation readily available to the medication assistance provider and for Agency review upon request:

(a) Completed MAR pages;

(b) A list of potential side effects, adverse reactions, and drug interactions for each medication;

(c) A record of drug counts for each controlled medication;

(d) Written determination by the client's physician that the client requires assistance with the administration of his or her medications; and

(e) The original Informed Consent form permitting a medication assistance provider to assist with the administration of medication.

(7) The validated medication assistance provider or the provider’s employer must maintain documentation that the medication assistance provider has completed an approved medication administration course and is currently validated as competent to assist with the administration of medication.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History–New \_\_\_\_\_.

65G-7.009 Off-site Medication Administration.

(1) If a client will be away from a licensed residential facility or supported living home and requires during that time administration of medication by persons other than the medication assistance provider, the medication assistance provider must comply with the following requirements to assure that the client has appropriate medications during his or her absence:

(a) Provide an adequate amount of medication for administration of all dosages the client requires while away;

(b) Perform a count of the medication amounts provided to the client for administration during the absence and a second count of the medication amounts received upon the client’s return;

(c) Record both medication counts in a “Off-site Medication Form,” APD Form 65G7-08 (00/00/00).

(2) Medication may not be transferred from its original container to a weekly pill organizer or otherwise co-mingled unless the client’s primary care provider determines that the client is able to self-administer that medication without supervision; in that case, only the client, the client’s family member, or a legal guardian may transfer the medications from the original container.

(3) The medication assistance provider must provide the name and telephone number of a contact person and the name and telephone number of the client’s prescribing practitioner to the person who will assist the client with medication administration while the client is offsite.

Specific Authority 393.501 FS. Law Implemented 393.506 FS. History–New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Becky Maguire, Chief, Residential and Clinical Supports  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Jane E. Johnson, Director  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: September 26, 2007  
DATE NOTICES OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: March 2, 2007 and June 1, 2007

**DEPARTMENT OF FINANCIAL SERVICES**

**Finance**

RULE NOS.:                   RULE TITLES:  
69V-40.001                   Definitions  
69V-40.002                   Adoption of Forms

69V-40.008	Fees and Commissions
69V-40.015	Payment of Guaranty Fund Claims
69V-40.020	Changes of Address
69V-40.021	Fictitious Name Registration
69V-40.022	Quarterly Report Filing Requirements
69V-40.025	Mortgage Broker Examination
69V-40.027	Mortgage Broker Pre-licensing Education Requirement
69V-40.0271	Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives
69V-40.028	Permit for Mortgage Business School
69V-40.0281	Mortgage Business Schools Prohibited Practices and Advertising/Publicity
69V-40.029	Mortgage Business School Permit Renewal
69V-40.031	Application Procedure for Mortgage Broker License
69V-40.043	Mortgage Broker License Renewal and Reactivation
69V-40.051	Application Procedure for Mortgage Brokerage Business License
69V-40.053	Mortgage Brokerage Business License and Branch Office License Renewal and Reactivation
69V-40.058	Application Procedure for Mortgage Brokerage Business Branch Office License
69V-40.099	Amendments, Change of Name, Change of Entity and Change in Control or Ownership
69V-40.100	Application Procedure for Change in Ownership or Control of Saving Clause Mortgage Lender
69V-40.105	Branch Office License for Transfer in Ownership or Control of Saving Clause Mortgage Lender
69V-40.156	Third-party Fee Accounts
69V-40.160	Principal Brokers
69V-40.165	Branch Brokers
69V-40.170	Books and Records
69V-40.177	Mortgage Brokerage and Lending Transaction Journal
69V-40.200	Application Procedure for Mortgage Lender License
69V-40.205	Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation

69V-40.220	Application Procedure for Correspondent Mortgage Lender License
69V-40.225	Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation
69V-40.240	Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License
69V-40.242	Principal Representative
69V-40.265	Mortgage Brokerage and Lending Transaction Journal
69V-40.270	Financial Guaranty in Lieu of Uniform Single Audit
69V-40.285	Noninstitutional Investor Funds Account

**PURPOSE AND EFFECT:** Chapter 2006-213, Laws of Florida, contains amendments to chapter 494, Florida Statutes, relating to mortgage brokering and lending. The proposed rules implement and reflect the statutory changes, which pertain to the licensing and regulation of mortgage brokers, mortgage broker businesses, mortgage lenders, and mortgage business schools.

**SUMMARY:** Chapter 2006-213, Laws of Florida, contains amendments to chapter 494, Florida Statutes, relating to mortgage brokering and lending. The proposed rules implement and reflect the statutory changes, which pertain to the licensing and regulation of mortgage brokers, mortgage broker businesses, mortgage lenders, and mortgage business schools. The proposed rules mandate electronic filing of forms, fees, and reports; specify the process to be followed when a person or group of persons proposes to acquire a controlling interest in a licensee; require certain persons associated with the applicant or licensee to submit biographical and fingerprint information to the Office of Financial Regulation; provide that if an application is withdrawn or denied, all fees are nonrefundable; provide that if the information contained in any application form, or in any amendment thereto, becomes inaccurate for any reason, the applicant/licensee shall file an amendment correcting such information within thirty (30) days; require mortgage business schools that are applying for a permit to submit their training materials to the Office for review; and streamline and specify other provisions relating to the licensing/permitting process. The proposed rules also authorize the Office to collect an additional \$19.25 from applicants to cover the cost of performing a national criminal history background check. Outdated provisions relating to the Guaranty Fund are repealed.

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

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

**SPECIFIC AUTHORITY:** 215.405, 494.0011, 494.00016, 494.0029, 494.0031, 494.0032, 494.0033, 494.0034, 494.0035, 494.0036, 494.0061, 494.0062, 494.0064, 494.0065, 494.0076 FS.

**LAW IMPLEMENTED:** 120.595, 120.60, 120.695, 494.001, 494.0011, 494.0016, 494.0017, 494.0025, 494.0029, 494.00295, 494.0031, 494.0032, 494.0033, 494.0034, 494.0035, 494.0036, 494.0038, 494.0039, 494.00331, 494.00311, 494.004, 494.0041, 494.0042, 494.0043, 494.0061, 494.0062, 494.064, 494.065, 494.066, 494.0067, 494.0072 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:** Greg Oaks, Bureau Chief, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, FL 32399-0375, (850)410-9805

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

**69V-40.001 Definitions.**

The definitions provided in Section 494.001, F.S., and the following defined terms, shall apply to this rule chapter and shall serve as the Office of Financial Regulation's interpretation unless the language of the rule indicates to the contrary:

(1) through (10) No change.

~~(11) "Moral Turpitude" shall be defined as follows: "Moral turpitude involves duties owed by persons to society as well as acts contrary to justice, honesty, principle or good morals." This includes, but is not limited to, theft, extortion, use of the mail to obtain property under false pretenses, tax evasion, and the sale of (or intent to sell) controlled substances.~~

~~(11)(12)~~ For purposes of Rules 69V-40.100, 69V-40.200, 69V-40.220, and 69V-40.242, F.A.C.:

(a) "Operate" shall mean to exercise power or influence over the business operations.

(b) "Exercise" shall mean the discharge of an official duty or function.

(c) "Control" shall mean to have the influence and power to make decisions for the business.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.001, 494.004(1), 494.0041(2)(a), (i), 494.0043, 494.0061(2), (8), 494.0062(2), (11), 494.0067(5), 494.0072(2)(i) FS. History—Revised 9-23-65, Renumbered from 3-3.01 to 3D-40.01 on 9-8-75, Formerly 3D-40.01, Amended 12-7-89, 6-23-91, 8-24-92, 2-11-93, 11-17-93, 4-14-94, 9-7-94, 5-14-95, 7-25-96, 12-12-99, 12-8-02, Formerly 3D-40.001, Amended.

69V-40.002 Adoption of Forms.

(1) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rule Chapter 69V-40.001-.290, Florida Administrative Code:

(a) Application for Mortgage Brokerage Business and Lender License, Form OFR-494-01, effective XX/XX/2007;

(b) Application for Branch Office License, Form OFR-494-02, effective XX/XX/2007;

(c) Application for Licensure as a Mortgage Broker, Form OFR-494-03, effective XX/XX/2007;

(d) Application for a Mortgage Business School Permit, Form OFR-494-04, effective XX/XX/2007;

(e) Mortgage Brokerage and Mortgage Lending Act Surety Bond, Form OFR-494-05, effective XX/XX/2007;

(f) Mortgage Lender License Renewal and Reactivation Form, Form OFR-494-06, effective XX/XX/2007;

(g) Mortgage Broker License Renewal and Reactivation Form, Form OFR-494-07, effective XX/XX/2007;

(h) Quarterly Report Form, Form OFR-494-08, effective XX/XX/2007;

(i) Mortgage Brokerage Deposit Account Form, Form OFR-494-09, effective XX/XX/2007;

(j) Mortgage Brokerage Transaction and Lending Journal, Form OFR-494-10, effective XX/XX/2007;

(k) Calculation of Aggregate Value of Mortgage Loans Serviced, Form OFR-494-11, effective XX/XX/2007;

(l) Non-Institutional Investor's Funds Account Form, Form OFR-494-12, effective XX/XX/2007.

(m) FL921050Z, Florida Fingerprint Card, effective XX/XX/2007.

(2) All forms adopted by this rule are available on the Office's website at [www.flofr.com](http://www.flofr.com) and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Specific Authority 494.0011(2) FS. Law Implemented 494.0025, 494.0041, 494.0042 FS. History—New \_\_\_\_\_.

69V-40.008 Fees and Commissions.

(1) No change.

(2)(a) In determining the total mortgage brokerage fee, all compensation for the following services, by whatever name called, shall be included:

1. Arranging for a conditional mortgage loan commitment between a borrower and a lender;

2. Taking an application, assembling information and preparing all paperwork and documentation necessary for a conditional mortgage loan commitment;

3. Reviewing, analyzing, and evaluating a borrower's financial statements, income, and credit history; and

4. Incidental services utilized in arranging for and procuring a conditional loan commitment, such as, courier services, express mailings, and long distance telephone charges, except as provided in subparagraph (3)(a)12., below.

5. Premiums and other charges for insurance written in connection with a loan, except as provided in subparagraph (3)(a)5. paragraph (5) below.

(b) The total mortgage brokerage fee shall include all compensation for the services described in paragraph (2)(a), whether or not the compensation is to be received by the licensee, a co-broker, an affiliate, or an independent third party.

(c) A good faith estimate does not supplant or substitute for the agreement required by Section 494.0038(1), Florida Statutes.

(3)(a) In addition to stating the total mortgage brokerage fee, the licensee shall provide a good faith estimate of costs for services or products that may be incurred or expended on behalf of the borrower in arranging for the loan. Services or products for which costs shall be estimated, but which are not required to be included in the mortgage brokerage fee include the following:

1. through 4. No change.

5. Charges for title insurance as defined in Section 624.608, F.S., abstract of title, title search fee, and fees for an attorney's title opinion. A licensee may not receive or accept any monetary consideration or inducement in connection with the issuance of a title insurance policy in a transaction in which he was involved;

6. through 11. No change.

12. Incidental fees, such as, courier services and express mailings if pre-authorized in writing by the borrower;

13. through 17. No change.

(b) The costs enumerated in paragraph (3)(a) may be charged and collected provided they are itemized and supported by an actual expenditure.

(4) through (10) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.0025, 494.0041, 494.0042 FS. History—Revised 9-23-65, Amended 9-1-67, 5-8-68, Renumbered from 3-3.08 to 3D-40.08 on 9-8-75, Amended 9-29-75, 4-27-77, Joint Administrative Procedures Committee Objection Filed – See FAW Vol. 2, No. 19, May 7, 1976, Joint Administrative Procedures Committee Objection Withdrawn—See FAW Vol. 3, No. 30, July 29, 1977, Amended 7-6-78, 2-5-80, 8-17-83, Formerly 3D-40.08, Amended 1-5-87, 5-24-89, 8-24-92, Formerly 3D-40.008, Amended \_\_\_\_\_.

69V-40.015 Payment of Guaranty Fund Claims.

~~(1)(a) Subsequent to the expiration of two (2) years from the date the first complete and valid notice was received by the Office of Financial Regulation, the Office of Financial Regulation shall determine which claims have met the conditions prescribed in former subsection 494.042(2) and Section 494.043, F.S.~~

(b)1. The Office of Financial Regulation shall use the following formula for claims that have satisfied the requirements of former Sections 494.042 and 494.043, F.S., prior to the expiration of two years from the date the first complete and valid notice was received by certified mail by the Office of Financial Regulation:

2. The ratio of the Aggregate Amount to the Total Claim Amount shall never exceed one hundred (100) percent.

(2)(a) After taking into account claims that have satisfied the requirements of former subsection 494.042(2) and Section 494.043, F.S., prior to the expiration of two years from the date the first complete and valid notice was received by certified mail by the Office of Financial Regulation, the Office of Financial Regulation shall pay Individual Claim Amounts which have satisfied former subsection 494.042(2) and Section 494.043, F.S., in the order that certified mail notices required by former subsection 494.043(1)(e) or 494.043(2), F.S., were filed with the Office of Financial Regulation.

(b) The total amount of all claims paid shall not exceed the applicable Aggregate Amount.

(3) Claims filed by persons as tenants by the entirety shall be treated as the claim of one eligible claimant with respect to payment from the fund.

(4) Obtaining a lien pursuant to the Florida Enforcement of Foreign Judgments Act, Sections 55.501-.509, F.S., shall be deemed to satisfy the requirements of obtaining a judgment from a Florida court of competent jurisdiction codified in former subsection 494.042(2), F.S., and former subsection 494.043(1)(a), F.S.

(5)(a) In the event that the licensee or registrant is subject to bankruptcy proceedings, in order to obtain payment from the fund, all claimants file with the Office of Financial Regulation a copy of such claimant's proof of claim by certified mail as required by former subsection 494.043(2), F.S.

(b) In the event that a claimant complies with former subsection 494.043(1)(e), F.S., and thereafter the licensee or registrant becomes subject to the provisions of the bankruptcy code, the former subsection 494.043(1)(e), F.S., notice shall be used to determine:

1. The date the two-year period referred in former subsection 494.044(1), F.S., expires; and

<del>Aggregate Amount</del>	<del>Individual</del>	<del>Amount</del>
<del>Total Claim</del>	<del>x Claim</del>	<del>= of</del>
<del>Amount</del>	<del>Amount</del>	<del>Payment</del>

2. The priority of payments with respect to such claimant should such claimant fail to satisfy the statutory requirements for payments prior to the expiration of the two-year period referred in former subsection 494.044(1), F.S.

(6) Any person who has met all requirements of former Section 494.042, F.S., and former Section 494.043, F.S., shall assign such right, title, and interest in the judgment, to the

extent of their recovery from the fund to the Office of Financial Regulation using the Mortgage Brokerage Guaranty Fund Assignment, Form OFR-MBGF-002, effective 6-23-91, which is hereby incorporated by reference, available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(7) Payment or disbursement from the fund shall be in accordance with Section 216.331, F.S., and shall be paid by warrant to any person who has been determined by a Florida court of competent jurisdiction to have suffered monetary damages as a result of any violation of this chapter by a licensee or registrant.

(8) In the event that sufficient funds are not available to pay claims which have been approved for payment, guaranty fund payments shall be made in the order that such claims were filed with the Office of Financial Regulation; provided that, claims approved by final order which have been appealed or are otherwise subject to further pending proceedings shall not be considered until such appeal or other proceedings have been completed.

Specific Authority 494.0011(2) FS. Law Implemented 494.0017 FS. History-New 6-23-91, Amended 11-17-93, 7-25-96, Formerly 3D-40.015, Repealed.

69V-40.020 Changes of Address.

All licensees shall notify the Office of Financial Regulation of any change of address in writing to the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

Specific Authority 494.0011(2) FS. Law Implemented 494.0031, 494.0032, 494.0033, 494.0034, 494.0036, 494.0039, 494.0061, 494.0062, 494.0064, 494.0065, 494.0066, 494.0067 FS. History-New 10-1-91, Amended 8-24-93, 7-25-96, 12-12-99, Formerly 3D-40.020, Repealed.

69V-40.021 Fictitious Name Registration.

No mortgage business school, mortgage brokerage business or lender person having a license or permit pursuant to Chapter 494, F.S., will be permitted to use a fictitious name unless they have provided evidence to the Office of Financial Regulation that such fictitious name is duly registered with the Florida Secretary of State, pursuant to Section 865.09, F.S.

Specific Authority 494.0011(2) FS. Law Implemented 494.0029(3)(e), 494.0031(3)(e), 494.0041(2)(q), 494.0072(2)(q), 865.09 FS. History-New 8-7-97, Formerly 3D-40.021, Amended.

69V-40.022 Quarterly Report Filing Requirements.

(1) through (2) No change.

(3) The report shall may be filed electronically on Form OFR-494-08 OFR-MX-QR-E by accessing the Office of Financial Regulation's website at [www.dbf.state.fl.us/flofr.com](http://www.dbf.state.fl.us/flofr.com) or the report may be filed on Form OFR-MX-QR in a typed format. Forms OFR-MX-QR and OFR-MX-QR-E are hereby

incorporated by reference and are available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(a) Any person may petition for a waiver of the requirement of electronic filing of quarterly reports by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the quarterly report in a paper format. Such petitions are timely filed if received by the office by the quarterly report filing deadline.

(b) Any person granted a waiver pursuant to paragraph (3)(a) above will be provided a copy of Form OFR-494-08.

(4) All reports, ~~written or electronic~~, shall be filed with ~~received by~~ the Office of Financial Regulation ~~in Tallahassee~~ within thirty (30) days after the last day of each calendar quarter. If the 30th day falls on a weekend or official holiday such reports will be considered timely filed ~~received~~ on the next business day.

(5) No change.

(6) Form OFR-494-08 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.004(7)(6), 494.0067(9) FS. Law Implemented 494.0011(2), 494.004(7)(6), 494.0067(9) FS. History—New 11-7-00, Formerly 3D-40.022, Amended \_\_\_\_\_.

69V-40.025 Mortgage Broker Examination.

(1) ~~Form and Grading.~~ The Office of Financial Regulation or its designee shall be responsible for the administration and grade notification of the Mortgage Broker Examination. The Office of Financial Regulation or its designee shall notify each applicant of the time, place and date of the examination(s) ~~and shall provide the applicant with an official admission notice which shall be required for admission to sit for the examination. Information contained on the official admission notice shall supersede any other information at the assigned examination location.~~

(2) ~~Examination Proctors.~~ All examinations shall be administered and supervised by proctors who are Office of Financial Regulation employees or its designees. During the examination the examinees shall abide by the instructions of the proctors.

Specific instructions for completion of the examination shall be communicated prior to the examination ~~read by the proctor(s)~~ and the examinees shall be permitted to ask reasonable questions relating to the instructions. The Office of Financial Regulation or its designee shall be responsible for determining that the student taking the examination is the actual person authorized to take the examination. Examinees shall not give or receive help from other examinees. There shall be no talking or communication between the examinees while the exam is in progress. Reference materials shall not be permitted in the examination room unless specifically authorized in the instructions.

(3) Cheating on an examination or violating test center or examination procedures published orally, in writing, or electronically at the test site by Office of Financial Regulation employees or its designees shall be grounds for denial of licensure by the Office of Financial Regulation. Admission after examination has commenced. Candidates arriving at the assigned examination location after the designated starting time shall be permitted to sit for the examination only after signing a statement clearly specifying the late arrival time and agreeing that they shall have only the time remaining in the examination period to complete the examination. Any candidate that refuses to sign such statement shall be disqualified from the examination and will be rescheduled for the next available examination date if that date is within the candidate's ninety (90) day application period. However, no candidate shall be admitted to the examination if any other candidate has completed the examination and left the examination room.

(4) Conduct which is grounds for exclusion. The following behavior(s) by any candidate is grounds for exclusion, anyone of which shall result in immediate removal from the examination room:

(a) Unnecessary noise or other disturbance that interferes with the examination process.

(b) Cheating or attempting to cheat.

(c) Observing the examination questions or answers of those candidates being tested.

(d) Removal of any examination materials from the examination room.

Conduct from candidates resulting in the exclusion from an examination may result in denial of licensure by the Office of Financial Regulation.

(5) ~~Review procedures.~~ Candidates failing the examination will be notified of the review procedures and will automatically be rescheduled for the next examination date provided that date is within their ninety (90) day application period. Candidates who fail the examination may review their examination one time, for a fee, and must do so at the time and place designated. Candidates reviewing shall have the right to have access to the examination questions, booklet a copy of their examination responses, answer sheet and the correct answers grading key. Rules of examinee conduct during the review are the same as those for the examination.

(6) ~~Examination content.~~ Examinations will be written and composed of 100 multiple choice questions. Examinations will be written according to the weight content area as provided in the candidate Study Guide. The following conditions shall apply:

(a) Candidates must use a number 2 lead pencil to mark their choices on the answer sheet provided.

(b) The examination will be scored on the basis of 100 points ~~for a perfect examination.~~

(c) An applicant who receives a grade of 75 points or higher shall be passed. A passing score will be valid for a period of 2 years ~~365 days~~ from the date of passing the examination.

(d) Candidates will be allowed 3 hours to complete the examination, provided the candidate was not admitted to the examination late in which case the candidate will be limited to the time remaining in the original 3 hour period.

(e) Candidates may use a non-programmable hand held or battery type calculator.

(f) ~~Test scores will be derived from the number of correct responses. Only those answers indicated by the candidate on the answer sheet will be used in computing the examination score.~~

(g) Candidates will not be permitted to refer to any notes, books or memoranda.

(7) Candidates will be allowed 3 hours to complete the examination, provided the candidate was not admitted to the examination late in which case the candidate will be limited to the time remaining in the original 3 hour period. Candidates will be permitted to may use a non-programmable hand held or battery type calculator.

~~(8)~~(7) Notification of results. The applicant will be notified of the results of the examination by the Office of Financial Regulation or its designee. ~~Said notification will be sent via U.S. mail within 10 business days of the examination date.~~

Specific Authority 494.0011(2) FS. Law Implemented 494.0033(2)(b) FS. History–New 10-1-91, Amended 6-8-92, Formerly 3D-40.025, Amended \_\_\_\_\_.

69V-40.027 Mortgage Broker Pre-licensing Education Requirement.

(1) through (3) No change.

(4) Within five (5) days of completion of each twenty-four (24) hour mortgage broker course, ~~each the~~ school shall submit to the Office of Financial Regulation the full name of the student, the social security number of each student, the school's name, the school's license number, if applicable, and the completion date ~~a typed list of all students who successfully completed the course. Each~~ ~~In lieu of the typed list, the school shall~~ ~~may~~ submit the required information on list on a 3.5" diskette, by e-mail, or by accessing the Office of Financial Regulation's website at [www.flofr.com](http://www.flofr.com) [www.dbf.state.fl.us](http://www.dbf.state.fl.us). The list shall include the full name of the student, the social security number of each student, the school's name, the school's license number, and the completion date. Each mortgage business school shall maintain student completion records for at least three (3) years from the completion dates.

(5) An instructor of a school who teaches a pre-licensing course ~~that teaches the 24 hours of pre-licensing education~~ may use the course toward the satisfactory completion of the pre-licensing education requirement.

Specific Authority 494.0011(2), 494.0016 FS. Law Implemented 494.0016, 494.00295, 494.0033 FS. History–New 7-5-92, Amended 11-5-95, 11-24-97, 8-22-99, 12-9-01, Formerly 3D-40.027, Amended \_\_\_\_\_.

69V-40.0271 Professional Continuing Education Requirements for Mortgage Brokers, Loan Originators, and Principal Representatives.

(1) ~~Effective October 1, 2001,~~ All persons licensed as a mortgage broker shall satisfactorily complete fourteen (14) hours of professional continuing education (~~“continuing education”~~) covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V-40, F.A.C.

(2) ~~Effective October 1, 2002,~~ The principal representative, and each loan originators, and associates of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause shall satisfactorily complete fourteen (14) hours of professional continuing education covering primary and subordinate financing transactions and appropriate laws and regulations governing such transactions. The course of study shall include at least four (4) hours on the laws in Chapter 494, F.S., and the rules in Chapter 69V-40, F.A.C.

(3) Qualifying hours may be obtained by attendance at a duly permitted and accredited Mortgage Business School or an accredited college, university, community college, or area vocational-technical school in this State which offers the fourteen (14) hour professional continuing education course(s). Qualifying hours of at least 4 hours may be obtained by attending training courses covering the provisions of Chapter 494, F.S., and Chapter 69V-40, F.A.C., that are conducted by the Office of Financial Regulation or its Regional Offices.

(4) For the purpose of this rule, the following definitions will apply:

(a) “Hour” shall mean 60 minutes of class time, of which 50 minutes shall be instruction, with a maximum of 10 minutes of break per hour.

(b) “School” shall mean any duly permitted and accredited Mortgage Business School and any accredited college, university, community college, or area vocational-technical school in this State, which offers the fourteen (14) hour professional continuing education course.

(c) “Student” shall mean all persons licensed as a mortgage broker, the principal representative, and loan originators of a mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause.

(d) "Good Cause" means an incident or occurrence which is beyond the control of the student and which prevents attendance. Examples of good cause include, but are not limited to, disabling accident, illness, call to military duty, or declared national emergency.

(5) The fourteen (14) hours of professional continuing education can be taken in one or more courses at one or more schools.

(6) Schools shall not issue certificates of completion to students who do not attend or complete the scheduled hours for any professional continuing education course.

(a) Schools shall be responsible for determining that the student attending or completing the professional continuing education course is the actual person scheduled to complete the class or session.

(b) At the discretion of the school, students may miss a class or session and attend a make-up class or session to complete the attendance requirements upon showing good cause.

(c) The school may hold makeup classes or sessions to accommodate the student.

(7) An instructor of a school who teaches a professional continuing education course may use the course toward the satisfactory completion of the professional continuing education requirement.

(8) Neither students nor instructors may earn professional continuing education credit for attending or instructing at any subsequent offering of the same professional continuing education course during any two (2) year period.

~~(9) The continuing education requirements are waived for the license renewal of the mortgage broker, for the biennial license period in which the individual became licensed as a mortgage broker.~~

~~(10) The continuing education requirements for the principal representative are waived for the license renewal of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the savings clause, for the biennial license period in which the principal representative completes the 24 hours of classroom education in accordance with Rule 69V 40.027, F.A.C., and also passed a written test in accordance with Rule 69V 40.025, F.A.C., in order to qualify to be designated as a principal representative.~~

(9)(11) The professional continuing education courses may be offered through classroom instruction, electronic transmission ("Internet"), or distance education ("correspondence course").

(10)(12) The professional continuing education courses taught by using the Internet and correspondence courses shall have:

(a) Course subject matter, assignment work, scholastic standards and other related requirements substantially similar to the course offered by classroom instruction, having due regard however, to the different methods of presentation.

(b) Shall provide students with instructions on how to contact an instructor to answer inquiries. The school shall also disclose to the student when the instructor will be available, however the instructor shall respond within 2 business days to the student's inquiries.

(c) When the course is in the form of a video tape or CD-Rom, the presentation must be of a quality that permits the student to view and listen to the presentation without interfering with the learning process.

~~(11)(13) Within five (5) days of completion of each professional continuing education course, each permitted the school shall submit to the student a certificate of completion indicating successful completion of the course, and the number of hours that course consisted of. Within five (5) days of completion of each professional continuing education course, each permitted school shall submit to the Office of Financial Regulation the full name and mortgage broker license number or social security number of each student, the school's name and license number, the number of hours completed by the student, and the completion date for individuals licensed as mortgage brokers. Each permitted school shall submit the required information on the Office of Financial Regulation's website at www.flofr.com. The schools are not to submit copies of the continuing education requirement certificates to the Office of Financial Regulation.~~ Each mortgage business school shall maintain all student course completion records for at least ~~four (4) three (3)~~ years from the completion dates.

Specific Authority 494.0011(2), 494.00295(3) FS. Law Implemented 494.0016, 494.0029, 494.00295, 494.0034, 494.0064, 494.0067 FS. History--New 12-9-01, Formerly 3D-40.027, Amended \_\_\_\_\_.

69V-40.028 Permit for Mortgage Business School.

(1) Application Process. Each person, school, or institution desiring to obtain a permit for a Mortgage Business School shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Business School Permit, Form OFR-494-04MBS-101, revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(b) A nonrefundable application fee of \$500 which shall be the permit fee for the annual period beginning October 1 of each year or any part thereof.

(c) A \$400 nonrefundable accreditation fee which shall be for the annual period beginning October 1 of each year or any part thereof.

(d) for schools teaching the 24-hour pre-licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand-outs, audio/video materials, computer disks/cd's, and any computer based training.

(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within thirty (30) days from the date of the request. Failure to respond to the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application, and the application shall be denied pursuant to subsection 120.60(1), F.S.

(3) Amendments to Pending Applications. If the information contained in any application for a permit for a Mortgage Business School or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-04. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. Requests to make changes which are material to the application may be deemed by the Office to be grounds for denial and a new application, accompanied by the appropriate filing fees, may be required.

~~(3) Refunds. If the application is withdrawn or denied, the application fee is nonrefundable. The accreditation fee shall be refunded when the application is withdrawn prior to a decision being rendered by the Office of Financial Regulation.~~

~~(4) Withdrawal of Application. An application may be withdrawn if the applicant submits a written request for same that is approved by the Office of Financial Regulation before the application is approved or denied.~~

~~(5) Valid Period of Permit. Upon approval of an application, a permit will be issued for the remainder of the annual license period, which ends each September 30th. The permit will be valid for this period unless the Office of Financial Regulation takes administrative action against it or unless the permit is terminated by the holder.~~

(4) Withdrawal of Application. An application may be withdrawn if the applicant submits a written request for same that is approved by the Office of Financial Regulation before the application is approved or denied. Withdrawals will be deemed effective upon receipt by the Office.

(5) Refunds. If the application is withdrawn or denied, all fees are non-refundable.

(6) Valid Period of Permit. Upon approval of an application, a permit will be issued for the remainder of the annual license period, which ends each September 30th. The permit will be valid for this period unless the Office of Financial Regulation takes administrative action against it or unless the permit is terminated by the holder.

(7) Form OFR-494-04 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0029(1), (3)(b) FS. Law Implemented 120.60(1), 494.0029 FS. History—New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.028, Amended.

69V-40.0281 Mortgage Business Schools Prohibited Practices and Advertising/Publicity.

(1) The following practices are prohibited from being used in any publicity or advertising done by mortgage business schools and will be considered a violation of subsections 494.0029(2)(3)(c) and (d), F.S.:

(a) Making any reference or comparison to another school (named or unnamed).

(b) Any type of guarantee of non-measurable outcomes, such as, but not limited to, “satisfaction guaranteed.”

(c) Any claim to being the only, largest, best, less expensive, or other such comparison.

(d) Any claim or reference as to a school’s knowledge of the State of Florida Mortgage Broker Test questions and answers.

(2) No change.

(3) Pass/Fail Ratio as used in subsection 494.0029(2)(3)(f), F.S., shall be defined as any reference to how a student or any group of students performed on the State Mortgage Broker Examination. No reference shall be made to any comparative superlatives such as, but not limited to, “excellent passing ratio” or “better than average results.”

(4) No change.

Specific Authority 494.0011(2) FS. Law Implemented 494.0025, 494.0029, 494.00295 FS. History—New 8-14-97, Amended 12-9-01, Formerly 3D-40.0281, Amended.

69V-40.029 Mortgage Business School Permit Renewal.

(1) Each active Mortgage Business School permit shall be renewed for the annual period beginning October 1 of each year upon submission of the following:

(a) A permit renewal fee of \$500, ~~and a completed renewal form, Form OFR MBS 202, Mortgage Business School Renewal Form, revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

(b) A recertification accreditation fee of \$400 for the school; and

(c) For schools teaching the 24-hour pre-licensing course, all training materials that the applicant plans to distribute to course participants including a copy of all teaching aids, such as flash cards, hand-outs, audio/video materials, computer disks/cd’s, and any computer based training.

(2) Renewal fees shall be sent directly to the Office of Financial Regulation or may be paid electronically by the following the applicable instructions on the Office of Financial Regulation's website at www.flofr.com. The Office of Financial Regulation shall deem a renewal received upon receipt of the requisite fees and training materials at such time as it has been dated stamped by the Cashier's Office of the Department of Financial Services or the date the renewal process has been completed on the Office's website. All renewal fees and training materials must be received by September 30 of the year in which the permit expires. If September 30 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received.

~~(3)(2)~~ Failure to submit the fees and training materials ~~renewal form~~ required in subsection (1) prior to October 1 or each renewal year shall automatically result in the permit becoming expired. After the license has expired, there is no provision for reinstatement. A new application for a permit must be submitted as described in Rule 69V-40.028, F.A.C.

Specific Authority 494.0011(2), 494.0029(1), (3)(b) FS. Law Implemented 494.0029 FS. History--New 11-5-95, Amended 8-22-99, 12-9-01, Formerly 3D-40.029, Amended \_\_\_\_\_.

69V-40.031 Application Procedure for Mortgage Broker License.

(1) Each person desiring to obtain licensure as a mortgage broker shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Licensure as a Mortgage Broker, Form OFR-494-03 ~~OFR MB 101, revised 03/05, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. The application must be completed and signed within thirty (30) days prior to receipt by the Office;~~

(b) The statutory nonrefundable application fee required by Section 494.0033, F.S., which shall be the fee for the biennial period beginning September 1 of each odd-numbered year or any part thereof;

(c) A completed fingerprint card (FL921050Z) mailed to the Office of Financial Regulation, 200 East Gaines St., Tallahassee, Florida 32399-0376; accompanied by a \$23 nonrefundable processing fee; and

(d) A nonrefundable fingerprint card processing fee of \$42.25;

~~(e)(d)~~ Evidence that the applicant has completed the mortgage broker education requirements of subsection 494.0033(3), F.S.; and

(f) Evidence that the applicant has passed the mortgage broker examination as defined in Rule 69V-40.025, F.A.C.

(2) Request for Additional Information. Any request for additional information, including a passing score on the Mortgage Broker Examination, will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

~~(3) Amendments to Pending Applications. Amendment of Application-~~ If the information contained in an Application for Licensure as a Mortgage Broker or any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed,~~ the applicant shall file an amendment ~~be responsible for~~ correcting such the inaccurate information within thirty (30) ten (10) days of the change on Form OFR-494-03 ~~occurring by following the procedures set forth in this subsection.~~ An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application ~~or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received~~ may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee(s) fee, may be required.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(5) Refunds. If the application is withdrawn or denied, the application fee and fingerprint processing fee are nonrefundable.

(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(7) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights~~

and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

(7) All applications, fees, data and forms required, except the fingerprint card, to be filed under this rule shall be filed electronically at [www.flofr.com](http://www.flofr.com). An application and fees submitted electronically on the Office's website shall be considered received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. A confirmation is issued by the Office upon successful submission of an application and payment of all fees.

(8) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format.

(9) Form OFR-494-03 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2) FS. Law Implemented 120.60(1), 494.0033 FS. History—New 10-30-86, Amended 1-30-89, 5-23-89, 11-28-89, 10-1-91, 6-8-92, 6-3-93, 6-6-93, 4-25-94, 5-14-95, 9-3-95, 11-24-97, 8-22-99, 12-12-99, 12-11-03, Formerly 3D-40.031, Amended 5-24-05.

69V-40.043 Mortgage Broker License Renewal and Reactivation.

(1) Each active mortgage broker license shall be renewed for the biennial period beginning September 1 of each odd-numbered year upon submission of the statutory renewal fee required by Section 494.0034, F.S., certification of compliance with the continuing education requirements of Section 494.00295, F.S., and a completed renewal form, Form OFR-494-07MB-103, Mortgage Broker License Renewal and Reactivation Form, revised 10/01, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(2) through (5) No change.

(6) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.flofr.com](http://www.flofr.com).

(7) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format. If the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(9) Form OFR-494-07 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0034(2) FS. Law Implemented 494.001(3), 494.00295, 494.00331(1), 494.0034 FS. History—New 11-2-86, Amended 6-23-91, 11-12-91, 9-3-95, 12-12-99, 2-5-01, 12-9-01, Formerly 3D-40.043, Amended.

69V-40.051 Application Procedure for Mortgage Brokerage Business License.

(1) Each person desiring to obtain licensure as a mortgage brokerage business shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Licensure as a Mortgage Brokerage Business and Lender License, Form OFR-494-01MB-201, revised 10/01, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) through (c) No change.

(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, the chief executive officer and each director of an entity applying for licensure as a mortgage brokerage business, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from; Form OFR-494-01MBB-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a \$42.25 \$23 nonrefundable processing fee. Form OFR-MBB-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(a) Any entity that is a wholly-owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).

(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the operation of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.

(a)(e) If any ultimate equitable owner of 10% or greater interest, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, the individual owner, director, control person, member, partner, joint venturer, of the applicant or chief executive officer, holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

~~(b)(4)~~ If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of ~~25~~50% or more of the ownership interest or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

~~(c)(e)~~ Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) ~~Amendments to Pending of Applications.~~ If the information contained in an Application for Licensure as a Mortgage Brokerage Business or in any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment be responsible for correcting such the inaccurate information within thirty (30) ten (10) days of the change on Form OFR-494-01 occurring by following the procedures set forth in ~~this subsection~~. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application ~~or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received~~ may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the application fees are is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(8) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(8) Form OFR-494-01 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0031(2) FS. Law Implemented 494.0031, 494.0035 FS. History—New 10-30-86, Amended 1-30-89, 11-28-89, 10-1-91, 6-6-93, 5-14-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-11-03, Formerly 3D-40.051, Amended

69V-40.053 Mortgage Brokerage Business License and Branch Office License Renewal and Reactivation.

(1) Each active mortgage brokerage business license shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0032, F.S., ~~and a completed renewal form. Form OFR MB 707, Mortgage Brokerage Business License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) A mortgage brokerage business license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S., ~~and submission of a completed reactivation form.~~ If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) Each active mortgage brokerage business branch office license shall be renewed in conjunction with the mortgage brokerage business license renewal upon submission of the statutory renewal fee required by Section 494.0032, F.S., ~~and a completed renewal form. Form OFR-MB-708, Mortgage Brokerage Business Branch Office License Renewal and Reactivation Form, revised 10/99, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(4) A mortgage brokerage business branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert from active to inactive status. An inactive branch office license may be renewed within six (6) months after becoming inactive upon

payment of the statutory renewal and reactivation fees required by Section 494.0032, F.S., ~~and submission of a completed reactivation form.~~ If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(5) A mortgage brokerage business license and branch office license that is not renewed within six months after the end of the biennial period automatically expires.

~~(6) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment. Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the internet.~~

~~(7) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at www.flofr.com.~~

~~(8) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the application, fees, data or form in a paper format. In the event the renewal payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.~~

Specific Authority 494.0011(2), 494.0032(2),~~(3)~~, 494.0036(2) FS. Law Implemented ~~494.001(7), 494.0011(2), 494.0031(1), 494.0032, 494.0036~~ FS. History—New 11-2-86, Amended 2-8-90, 10-1-91, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.053, Amended \_\_\_\_\_.

69V-40.058 Application Procedure for Mortgage Brokerage Business Branch Office License.

(1) Every mortgage brokerage business which conducts mortgage brokerage business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) A completed Application for ~~Mortgage Brokerage Business Branch Office License, Form OFR-494-02MB-301, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;~~

(b) The statutory, nonrefundable license fee required by Section 494.0036, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year of any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

~~(4) Amendments to Pending of Applications.~~ If the information contained in an Application for Mortgage Brokerage Business Branch Office License or in any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed,~~ the applicant shall file an amendment ~~be responsible for~~ correcting such ~~the inaccurate~~ information within thirty (30) ten (10) days of the change on Form OFR-494-02 ~~occurring by following the procedures set forth in this subsection.~~ An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application ~~or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received~~ may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the license fees are ~~is~~ nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0036(2) FS. Law Implemented 494.0036 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 8-22-99, 12-12-99, Formerly 3D-40.058, Amended \_\_\_\_\_.

69V-40.099 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed as a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender, or permitted mortgage business school which proposes to change its name, form of business organization, or any other information contained in any initial application form or any amendment thereto, must file an amendment pursuant to Sections 494.004(6) and 494.0067(4), F.S., not later than thirty-days (30) after the effective date of the change on Form OFR-494-01 for Mortgage Brokerage Businesses and Lenders, Form OFR-494-02 for Branch Offices, Form OFR-494-03 for Mortgage Brokers, and Form OFR-494-04 for Mortgage Business Schools changes her or his name of record, as filed with the initial application for licensure, or any subsequent change on file and acknowledged by the Office of Financial Regulation thereafter, shall notify the Office of Financial Regulation, in writing, of the name change and shall provide documentation authorizing such name change within thirty (30) days of the date effecting such change. Any licensee pursuant to Sections 494.0061 or 494.0062, F.S., shall additionally provide a completed surety bond, on Form OFR-494-05ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, which is hereby incorporated by reference (effective 10/94), executed in the new name of the licensee as documented by the requirements of this subsection. The form is available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensed mortgage brokerage business, mortgage lender, or correspondent mortgage lender which proposes to change any personnel described in Sections 494.004 and 494.0067, F.S., listed in any initial application form or any amendment thereto must file an amendment not later than thirty-days (30) prior to the effective date of the change or within two (2) business days after the date the licensee first received notice of the change on Form OFR-494-01 for Mortgage Brokerage Businesses and Lenders. In the event the change in personnel in Sections 494.004 and 494.0067, F.S., listed in any initial application or any amendment thereto results in the addition of anyone referenced in this subsection, such persons must comply with Subsections 494.0031(2)(c) & (d), 494.0061(2)(g) & (h), 494.0062(2)(g) & (h), or 494.0065(5)(e) & (f), F.S. unless such person has previously complied with an entity currently licensed under this chapter and the person is currently affiliated with such entity the entity licensed with the Office of Financial Regulation shall file a new application for licensure pursuant to Section 494.0031, 494.0061, or 494.0062, F.S. Application forms are available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(3) Applications for licensure as Any person or persons, who directly or indirectly, seeks to own, control, or hold with power to vote, or holds proxies representing 50 percent or greater of any class of equity securities or ultimate equitable ownership of a mortgage brokerage business, mortgage lender or correspondent mortgage lender required as a result of an acquisition of a controlling interest in a licensee pursuant to Subsection 494.004(6) & 494.0067(4), F.S., must be filed in a timely manner as to allow the Office to complete its review of the application prior to the effective date of the acquisition, but no later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with shall file a new application for licensure pursuant to Section 494.0031, 494.0061, or 494.0062, F.S., prior to the effective date of the change in ownership or control interest.

(4) Any person who is subjected to the requirements of subsection (2) or (3) herein, and who seeks to own, control, or hold power to vote of a mortgage lender licensed pursuant to the Saving Clause, Section 494.0065, F.S., is subjected to the net worth requirements as specified in subsection 494.0065(1)(a)2., F.S., when reapplying for licensure as required in subsections (2) and (3) above. An application for licensure under this subsection shall be submitted in accordance with Rule 69V-40.100, F.A.C.

(5) The office shall waive the requirement for a licensee to file a new application pursuant to subsections 494.004(6) & 494.0067(4), F.S.:

(a) when a person or group of persons proposing to purchase or acquire a controlling interest in a licensee has previously filed the information with the Office required in Subsections 494.0031(2)(c) & (d), 494.0061(2)(g) & (h), 494.0062(2)(g) & (h), or 494.0065(5)(e) & (f), F.S., with a mortgage brokerage business or lender currently licensed to the office, provided that such person is currently affiliated with the mortgage brokerage business or lender licensee; or

(b) when the acquirer is currently licensed with the office as a mortgage broker, mortgage brokerage business or lender.

(6) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection 5 of this rule, the licensee must file an amendment as prescribed in subsection 2 of this rule to report the change in controlling interest.

(5) Restoration of Civil Rights:

(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.

(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.

(6) Upon approval of an application, a letter informing the applicant of the Office of Financial Regulation's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Office of Financial Regulation's receipt of the original license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued, effective the later of the date of closing or the date of notice of intent to approve, for the remainder of the biennial licensure period. Failure to respond to the Office of Financial Regulation's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.

(7) Form OFR-494-01, Form OFR-494-02, Form OFR-494-03, Form 494-04, and Form 494-05 are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0031, 494.0061, 494.0062, 494.0065 FS. History—New 1-10-93, Amended 5-14-95, 9-3-95, 12-12-99, 11-1-00, Formerly 3D-40.099, Amended \_\_\_\_\_.

69V-40.100 Application Procedure for Transfer Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person who seeks to obtain a controlling ownership or voting interest in a mortgage lender licensed pursuant to the saving clause shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Lender License application form Change in Ownership or Control of Saving Clause Mortgage Lender, Form OFR-494-01MLST, revised 9/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) A nonrefundable application fee of \$500, which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, then an audited statement from the previous fiscal year end is acceptable.

(d) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 1, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V-40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the~~

24-hour classroom education and testing requirements of this section. Each mortgage lender applicant pursuant to the saving clause transfer shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, the chief executive officer and each director, control person, member, partner, or joint venturer of an entity applying for licensure as a mortgage lender licensed pursuant to the savings clause, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary from Form OFR-494-01, ~~Form OFR ML BIO 1 (revised 10/99)~~, to the Office of Financial Regulation along with a ~~\$42.25~~ \$23 nonrefundable processing fee. ~~Form ML BIO 1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(a) ~~Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).~~

(b) ~~For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.~~

(a)(e) If the individual owner, director, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, principal representative, control person, member, partner, or joint venturer or ~~chief executive officer~~ holds an active mortgage broker's license with the Office of Financial Regulation, he or she is exempt from the provisions of subsection (2).

(b)(d) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of ~~2550%~~ 25% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(c)(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90)

days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in any application for a license for a Saving Clause Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-01. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office. Otherwise, the application may be amended only with prior written permission from the Office. Requests to make changes which are material to the application may be deemed by the Office to be grounds for denial and a new application, accompanied by the appropriate filing fees, may be required.

~~(a) An applicant shall notify the Office of Financial Regulation within ten (10) days of the occurrence of any change in the information reported on the application.~~

~~(b) An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within (30) days from its receipt for filing. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.~~

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all the application fees are is nonrefundable.

(7) Form OFR-494-01 and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C. Upon approval of an application, a letter informing the applicant of the Office of Financial Regulation's intent to approve the application will be sent to the applicant's mailing address as indicated on the application. Upon the Office of Financial Regulation's receipt of the original MLS license issued to the former owners, notification that the change in ownership or control has been finalized and the effective date of closing, a license will be issued effective, the later of the date of closing or the date of notice of intent to approve, for the

~~remainder of the biennial licensure period. Failure to respond to the Office of Financial Regulation's notice of intent to approve within thirty (30) days of the date of that letter will result in the application being withdrawn.~~

Specific Authority 494.0011(2), 494.0061(3), (8), (10), 494.0065(3) FS. Law Implemented 120.60, 494.001(30)(29), 494.0061(1), (3), (8), 494.0065 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.100, Amended \_\_\_\_\_.

69V-40.105 Branch Office License for Transfer Change in Ownership or Control of Saving Clause Mortgage Lender.

(1) Each person applying for a transfer change in ownership or control of a saving clause mortgage lender, who also wishes to operate branch offices of that saving clause mortgage lender shall apply to the Office of Financial Regulation for a license to operate each branch office by submitting the following:

(a) A completed Application for ~~Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License. Form OFR-494-02ML-222B, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in Subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in any application for a license for a branch office of a Savings Clause Mortgage Lender or any amendment thereto, becomes inaccurate for any reason, the application shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-494-02. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within (30) days from receipt of the application by the Office its receipt for filing. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to

the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) through (7) No change.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0065, 494.0066 FS. History—New 8-24-93, Amended 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.105, Amended \_\_\_\_\_.

69V-40.156 Third-party Fee Accounts.

(1) All third-party fees and refundable application fees received by a mortgage brokerage business shall immediately be deposited in a segregated account in a federally insured financial institution located in Florida. The account shall be in the name of the mortgage brokerage business and shall provide for withdrawal of funds without notice. The account shall be used exclusively for third-party fees and refundable application fees. The licensee shall maintain an updated and accurate record of account activity on Form OFR-494-09MX-999, Mortgage Brokerage Deposit Account Form (effective 12/91), which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375, or on a format which is substantially similar to Form OFR-494-09MX-999.

(2) through (3) No change.

(4) Form OFR-494-09 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.0038(5), 494.0041(2)(e), 494.0068(3), 494.0072(2)(e) FS. History—New 12-3-91, Amended 7-25-96, 12-12-99, Formerly 3D-40.156, Amended \_\_\_\_\_.

69V-40.160 Principal Brokers.

(1) Each mortgage brokerage business shall designate a licensed mortgage broker as the principal broker and the individual designated shall accept responsibility by completing the Principal Broker/Representative Designation section of, Form OFR-494-01MB-PB, effective 10/91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(2) Upon any change of principal broker, the licensee and the newly designated principal broker shall amend complete the Principal Broker/Representative Designation section of,

Form OFR-494-01MB-PB pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-01MB-PB shall be maintained at the principal office of the mortgage brokerage business, and a copy shall be mailed to the Office of Financial Regulation at the above address or electronically transmitted to the Office of Financial Regulation's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation. Anyone being designated as a principal broker on or after October 1, 2001, must have been actively licensed as a mortgage broker pursuant to Section 494.0033, F.S., for at least one year, or has demonstrated to the satisfaction of the Office of Financial Regulation that the designated principal broker has been actively engaged in a mortgage-related business for at least one year, as defined in Rule 69V-40.051, F.A.C.

(3) The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01MB-PB shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01MB-PB is intentional, the penalty shall be a fine of \$5,000.

(4) Each licensee principal broker shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375 in writing, within thirty (30) days, of the termination or resignation of a principal broker status.

(5) Form OFR-494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0035 FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035 FS. History—New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.160, Amended \_\_\_\_\_.

69V-40.165 Branch Brokers.

(1) Each mortgage brokerage business shall designate a licensed mortgage broker as the branch broker of the branch office, and the individual shall accept such responsibility by completing the Branch Broker/Employee in Charge Designation, section of Form OFR-494-02MB-BB (effective 10/91), which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(2) Upon any change of Branch Broker, the licensee and the newly designated branch broker shall complete the Branch Broker/Employee in Charge Designation, section of Form OFR-494-02MB-BB pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-02MB-BB shall be maintained at the applicable branch office of the mortgage brokerage business, and a copy shall be mailed to the Office of Financial Regulation at the above address or electronically transmitted to

the Office of Financial Regulation's website at [www.dbf.state.fl.us](http://www.dbf.state.fl.us) on the Internet within thirty (30) days of said designation or change in designation.

(3) The penalty for failure to maintain Form OFR-494-02MB-BB shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation OFR-494-02MB-BB is intentional, the penalty shall be a fine of \$5,000.

(4) Each licensee branch broker shall notify the Office of Financial Regulation in writing, within thirty (30) days, of termination or resignation of a branch broker status.

(5) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0035(2) FS. Law Implemented 120.695, 494.0011(2), 494.0016, 494.0035(2) FS. History-New 10-7-91, Amended 7-25-96, 12-12-99, 12-9-01, Formerly 3D-40.165, Amended \_\_\_\_\_.

69V-40.170 Books and Records.

(1) No change.

(2)(a) A licensee may maintain required books, accounts, and records at a location other than the principal place of business. The licensee must notify the Office of Financial Regulation in writing prior to said books, accounts, and records being maintained in any place other than the designated principal place of business. Such notification shall be submitted to the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

(b) No change.

(3) through (6) No change.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.595, 494.0016, 494.0041(2) FS. History-New 2-16-92, Amended 7-25-96, 12-12-99, 1-16-03, Formerly 3D-40.170, Amended \_\_\_\_\_.

69V-40.177 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage brokerage business and lender acting in the capacity of a mortgage brokerage business shall maintain a journal of mortgage brokerage transactions, which shall include, at least, the following information:

(a) Name of applicant;

(b) Date applicant applied for the mortgage loan;

(c) Disposition of the mortgage loan application. The Mortgage Brokerage and Lending Transaction Journal shall indicate the result of the brokerage transaction. The disposition of the case shall be categorized as one of the following: loan funded, loan denied, application withdrawn, or other (with explanation);

(d) Name of lender, if applicable.

(2) The journal shall be maintained in a format which is substantially similar to Form OFR-494-10MX-888, Mortgage Brokerage and Lending Transaction Journal, revised 7-25-96,

which is hereby incorporated by reference and is available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(3) through (4) No change.

(5) Form OFR-494-10 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.0041 FS. History-New 2-16-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.177, Amended \_\_\_\_\_.

69V-40.200 Application Procedure for Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a mortgage lender shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Licensure as a Mortgage Lender License, Form OFR-494-01ML-222, revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) The statutory, nonrefundable fee required by Section 494.0061, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$250,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;

(d) A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR-494-05ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, effective 10-1-91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(e) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V-40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section.~~ Each mortgage lender applicant shall include as part of

the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, ~~principal representative, the~~ chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary ~~from~~, Form OFR-494-01ML-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a ~~\$42.25~~ \$23 nonrefundable processing fee. ~~Form OFR-ML-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(a) Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).~~

~~(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.~~

~~(a)(e) If any ultimate equitable owner of 10% or greater interest, principal representative, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, or the individual owner, director of the applicant, or chief executive officer holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).~~

(d) If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of 25~~50~~% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

(e) Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond to the request within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in an Application for Licensure as a Mortgage Lender or in any amendment thereto becomes inaccurate for any reason ~~before the applicant becomes licensed,~~ the applicant shall file an amendment ~~be responsible for correcting such the inaccurate~~ information within thirty (30) ~~ten (10)~~ days of the change on Form OFR-494-01ML-222 ~~occurring by following the procedures set forth in this subsection.~~ An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office ~~its receipt for filing.~~ Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application ~~or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received~~ may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are ~~the fee is~~ nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(8) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

(8) Form OFR-494-01, Form 494-05, and Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0061(3), (8), (10) FS. Law Implemented 120.60, 494.001(29), 494.0061 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.200, Amended.

69V-40.205 Mortgage Lender License, Mortgage Lender License Pursuant to Saving Clause, and Branch Office License Renewal and Reactivation.

(1)(a) Each active mortgage lender license and mortgage lender license pursuant to the saving clause shall be renewed for the biennial period beginning September 1 of each even-numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form. Form OFR-494-06ML-R, Mortgage Lender License Renewal and Reactivation Form, revised 7/1/2004, and Form OFR-ML-RS, Mortgage Lender License Pursuant to Saving Clause Renewal and Reactivation Form, revised 7/1/2004, are hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of:

1. \$25,000 or more imposed by Section 494.0065, F.S.; or
2. \$250,000 or more imposed by Section 494.0061, F.S.

Upon request of the Office, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) A license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) Each active mortgage lender branch office license shall be renewed in conjunction with the mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed branch office license renewal form. Form OFR-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 7/1/2004, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(4) A mortgage lender branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed license reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(5) A mortgage lender license and branch office license that is not renewed within six months after the end of the biennial period automatically expires.

(6) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.floft.com](http://www.floft.com). Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet. The licensee shall certify that it has continuously maintained the net worth requirements of Section 494.0061 or 494.0065, F.S.

(7) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the applications, fees, data and form in paper format. In the event the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.

(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.

(9) Form OFR-494-06 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0064(2), 494.0065(3) FS. Law Implemented 494.001(4), 494.0011(2), 494.0061(1), 494.0064, 494.0065 FS. History—New 10-1-91, Amended 9-3-95, 8-5-96, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.205, Amended 11-9-04, \_\_\_\_\_.

69V-40.220 Application Procedure for Correspondent Mortgage Lender License.

(1) Each corporation, general partnership, limited partnership, limited liability company, or other lawful entity desiring to obtain licensure as a correspondent mortgage lender shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Mortgage Brokerage Business and Licensure as a Correspondent Mortgage Lender License, Form OFR-494-01CL-333, revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;

(b) The statutory, nonrefundable fee required by Section 494.0062, F.S., which shall be the fee for the biennial period beginning September 1 of each even numbered year or any part thereof;

(c) Audited financial statements documenting a minimum net worth of \$25,000 as of the applicant's most recent fiscal year end. If the application is submitted within three (3) months of the most recent fiscal year end and an audited statement from the most recent fiscal year is not available, an audited statement from the previous fiscal year end is acceptable;

(d) A surety bond, issued by a bonding company or insurance company authorized to do business in this State, in the amount of \$10,000; and submitted on Form OFR-494-05ML-444, Mortgage Brokerage and Mortgage Lending Act Surety Bond, effective 10-1-91, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(e) Designate a principal representative who shall operate and exercise control over the licensee's business. ~~Beginning October 2, 2001, the principal representative must have completed 24 hours of classroom education in accordance with Rule 69V-40.027, F.A.C., and must also have passed a written test in accordance with Rule 69V-40.025, F.A.C., prior to the application being approved. If the designated principal representative holds an active mortgage broker license with the Office of Financial Regulation and was licensed as a mortgage broker on or after July 1, 1992, he or she will have satisfied the 24-hour classroom education and testing requirements of this section.~~ Each correspondent mortgage lender applicant shall include as part of the application a statement that the principal representative will operate and exercise control over the business as defined in subsection 69V-40.001(12), F.A.C.

(2) Each ultimate equitable owner of 10% or greater interest, principal representative, each the chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure as a correspondent mortgage lender, shall submit a completed fingerprint card (FL921050Z) and Biographical Summary ~~from~~; Form OFR-494-01CL-BIO-1 (revised 10/99), to the Office of Financial Regulation along with a ~~\$42.25~~ \$23 nonrefundable processing fee. ~~Form OFR-CL-BIO-1 is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

~~(a) Any entity that is a wholly owned subsidiary of a state or federally approved financial institution is exempt from the provisions of subsection (2).~~

~~(b) For purposes of this rule, "chief executive officer" means the person primarily responsible for the overall activities of the business, and a "financial institution" means a state or federal association, bank, trust company, international bank agency, or credit union.~~

~~(a)(e)~~ If the individual principal representative, owner, director, or chief executive officer holds an active mortgage broker's license with the Office of Financial Regulation, they are exempt from the provisions of subsection (2).

~~(b)(d)~~ If an entity holds an active license under Chapter 494, F.S., with the Office of Financial Regulation, it is exempt from the provisions of subsection (2) when it applies for a different type of license under Chapter 494, F.S., unless there has been a change of control of ~~25%~~ 50% or more of the ownership or in controlling interest since the time its initial license was approved by the Office of Financial Regulation.

~~(c)(e)~~ Any claim to any of the above exemptions shall be supported by attaching evidence of the exemption with the application for license.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within ninety (90) days from the date of the request. Failure to respond within ninety (90) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to subsection 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in an Application for Licensure as a Correspondent Mortgage Lender or in any amendment thereto, becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment ~~be responsible for~~ correcting such ~~the inaccurate~~ information within thirty (30) ten (10) days of the change on Form OFR-494-01 ~~occurring by following the procedures set forth in this subsection.~~ An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office ~~its receipt for filing~~. Otherwise, the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) Refunds. If the application is withdrawn or denied, all fees are the fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

~~(8) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the mortgage industry, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction is directly related to the mortgage industry, the applicant shall provide evidence of restoration of civil rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

~~(8) Form OFR-494-01, Form OFR-494-05, Form FL921050Z are incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

Specific Authority 215.405, 494.0011(2), 494.0062(3), (8), (11), (13) FS. Law Implemented 494.0062 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 11-5-95, 7-14-96, 11-24-97, 8-22-99, 12-12-99, 12-9-01, 12-8-02, 12-11-03, Formerly 3D-40.220, Amended \_\_\_\_\_.

69V-40.225 Correspondent Mortgage Lender License and Branch Office License Renewal and Reactivation.

(1)(a) Each active correspondent mortgage lender license shall be renewed for the biennial period beginning September 1 of each even numbered year upon submission of the statutory renewal fee required by Section 494.0064, F.S., and a completed renewal form. ~~Form OFR-494-06CL-R, Correspondent Mortgage Lender License Renewal and Reactivation Form, revised 7/1/2004, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(b) In lieu of submitting audited financial statements, the licensee shall certify that it has continuously maintained the net worth requirements of \$25,000 or more imposed by Section 494.0062, F.S. Upon request of the Office, the licensee shall provide a copy of its most recent audited financial statements that substantiate its net worth.

(2) A correspondent mortgage lender license that is not renewed as required in subsection (1) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be reactivated within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0064, F.S., and submission of a completed reactivation form. If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(3) Each active correspondent mortgage lender branch office license shall be renewed in conjunction with the correspondent mortgage lender license renewal upon submission of the statutory renewal fee required by Section 494.0064, F.S., ~~and a completed branch office license renewal form. Form OFR-ML-RB, Mortgage Lender and Correspondent Mortgage Lender Branch Office License Renewal and Reactivation Form, revised 7/1/2004, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(4) A correspondence mortgage lender branch office license that is not renewed as required in subsection (3) prior to September 1 of the renewal year shall revert to inactive status. An inactive license may be renewed within six (6) months after becoming inactive upon payment of the statutory renewal and reactivation late fees required by Section 494.0064, F.S., ~~and submission of a completed license reactivation form.~~ If August 31 of the year is on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., then the renewals received on the next business day will be considered timely received.

(5) A correspondent mortgage lender license and branch office license that is not renewed within six (6) months after the end of the biennial period automatically expires.

~~(6) All applications, fees, data and forms required to be filed under this rule shall be filed electronically at [www.flofr.com](http://www.flofr.com). Renewal via the Internet. In lieu of filing the paper version of any of the foregoing renewal forms, a licensee may renew its license electronically by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet. The licensee shall certify that it has continuously maintained the net worth requirements of Section 494.0062, F.S.~~

~~(7) Any person may petition for waiver of the requirement of electronic submission of applications, fees, data and forms by filing a petition pursuant to Rule 28-106.301, Florida Administrative Code. Such petition shall demonstrate a technological or financial hardship that entitles the person to file the applications, fees, data and form in paper format. In the event the payment is received in a paper format, the received date shall be the date stamped on the payment when received by the Department of Financial Services' Cashier's Office in Tallahassee, Florida.~~

~~(8) A renewal fee filed electronically on the Office's website shall be considered received on the date the Office issues a confirmation of payment to the licensee via the Office's website. A confirmation is issued by the Office upon successful submission of your renewal payment.~~

~~(9) Form OFR-494-06 is incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

Specific Authority 494.0011(2), 494.0064(2) FS. Law Implemented ~~494.001(7), 494.0011(2), 494.0062(1), 494.0064~~ FS. History—New 10-1-91, Amended 9-3-95, 7-25-96, 12-12-99, 11-1-00, 2-5-01, Formerly 3D-40.225, Amended 11-9-04, \_\_\_\_\_.

69V-40.240 Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License.

(1) Every mortgage lender or correspondent mortgage lender which conducts mortgage lending business in this state from a branch office shall apply to the Office of Financial Regulation for a license to operate a branch office by submitting the following:

(a) A completed Application for ~~Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License, Form OFR-494-02ML-222B, revised 10/99, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375;~~

(b) The statutory, nonrefundable license fee required by Section 494.0066, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(2) Any office or location shall be deemed to be a branch office if it meets the definition in subsection 494.001(7), F.S.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for denial for failure to complete the application and the application shall be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending of Applications. If the information contained in an Application for Mortgage Lender Branch Office or Correspondent Mortgage Lender Branch Office License or in any amendment thereto, becomes inaccurate for any reason ~~before the applicant becomes licensed~~, the applicant shall file an amendment be responsible for correcting such the inaccurate information within thirty (30) ten (10) days of the change on Form OFR-494-02 occurring by following the procedures set forth in this subsection. An applicant may amend the application as to those factors generally within the control or selection of the applicant once, as a matter of course, at any time within thirty (30) days from receipt of the application by the Office its receipt for filing. Otherwise the application may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the application ~~or to the Office of Financial Regulation's evaluation of the application filed at any time after the application has been received~~ may be deemed by the Office of

Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office of Financial Regulation by submitting a written request that the application be withdrawn. Withdrawals will be deemed effective upon receipt by the Office.

(6) through (7) No change.

(8) Form OFR-494-02 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 494.0066 FS. History—New 10-1-91, Amended 6-6-93, 5-14-95, 9-3-95, 8-22-99, 12-12-99, Formerly 3D-40.240, Amended \_\_\_\_\_.

69V-40.242 Principal Representative.

(1) ~~Effective October 1, 2001, Each~~ mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall designate a principal representative who operates and exercises control over the business and the individual so designated shall accept responsibility by completing the Principal Broker/Representative Designation section of; Form OFR-494-01ML/CL-PR, ~~revised 09/02, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) Each mortgage lender, correspondent mortgage lender, and mortgage lender pursuant to the saving clause shall maintain the a Principal Broker/Representative Designation section of Form; OFR-494-01ML/CL-PR, ~~revised 09/02~~, which includes a statement notifying the licensee that the principal representative is required by statute to operate and exercise control over the business as defined in subsection 69V-40.001(12), F.A.C.

(3) Upon any change of principal representative, the licensee and the newly designated principal representative shall amend complete the Principal Broker/Representative Designation section of; Form OFR-494-01ML/CL-PR, ~~revised 09/02~~ pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-01ML/CL-PR, ~~revised 09/02~~, shall be maintained at the principal office of the mortgage lender, correspondent mortgage lender, or mortgage lender pursuant to the saving clause, ~~and a copy shall be mailed to the Office of Financial Regulation at the above address or electronically transmitted to the Office of Financial Regulation's website at www.dbf.state.fl.us on the Internet within thirty (30) days of said designation or change in designation.~~

(4) ~~Anyone being designated as a principal representative or any change in the principal representative after October 1, 2001, must submit evidence that he or she was originally licensed as a mortgage broker pursuant to Section 494.0033, F.S., on or after July 1, 1992, or has completed 24 hours of~~

classroom education in accordance with Rule 69V-40.027, F.A.C., and has passed a written test in accordance with Rule 69V-40.025, F.A.C.

~~(4)(5)~~ The penalty for failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01ML/CL-PR shall be the issuance of a "notice of noncompliance" for a first offense. Any subsequent finding of a violation of this rule during an examination or investigation shall be a fine of \$500. In cases where the failure to maintain the Principal Broker/Representative Designation section of Form OFR-494-01ML/CL-PR is intentional, the penalty shall be a fine of \$5,000.

~~(5)(6)~~ Each licensee principal representative shall notify the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376~~5~~ in writing, within thirty (30) days, of the termination or resignation of its his or her principal representative status.

(6) Form OFR-494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0016(4), 494.0061(1), (3), (8), 494.0062(3), (11) FS. Law Implemented 120.60, 120.695, 494.001(29), 494.0016(1), 494.0061, 494.0062, 494.0067, 494.0072 FS. History--New 1-27-02, Amended 12-8-02, Formerly 3D-40.242, Amended \_\_\_\_\_.

69V-40.265 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage lender or correspondent mortgage lender shall maintain a Mortgage Brokerage and Lending Transaction Journal, which shall include, at least, the following information:

(a) Name of applicant;

(b) Date applicant applied for the mortgage loan;

(c) Disposition of the mortgage loan application. The journal shall indicate the result of the lending transaction. The disposition of the transaction shall be categorized as one of the following: loan funded, loan denied, or application withdrawn.

(d) Name of lender, if applicable.

(2) The journal shall be maintained on Form ~~OFR-494-10MX-888~~, Mortgage Brokerage and Lending Transaction Journal, or a form substantially similar. ~~Form OFR-MX-888 (revised 7-25-96) is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(3) In lieu of maintaining Form ~~OFR-494-10MX-888~~, each mortgage lender or correspondent mortgage lender may maintain the Home Mortgage Disclosure Act loan/application register, Form FR HMDA-LAR, found at 12 C.F.R., part 203, Appendix A, if all lending transactions are recorded on this form. The form is hereby incorporated by reference. The effective date of the form is 1-10-93.

(4) through (5) No change.

(6) Form OFR-494-10 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.0072(2) FS. History--New 1-10-93, Amended 7-25-96, 12-12-99, Formerly 3D-40.265, Amended \_\_\_\_\_.

69V-40.270 Financial Guaranty in Lieu of Uniform Single Audit.

(1) No change.

(2) A mortgage lender electing to provide a financial guaranty in lieu of the single line audit shall document (monthly) the aggregate value of mortgage loans serviced on Form ~~OFR-494-11MX-887, Calculation of Aggregate Value of Mortgage Loans Serviced~~ or a form substantially the same. ~~Form OFR-MX-887, Calculation of Aggregate Value of Mortgage Loans Serviced, effective 2-16-92, is incorporated by reference and available by writing, Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~ The lender shall maintain work-papers substantiating the aggregate value documented.

(3) The minimum amount of the financial guaranty for each fiscal year shall be determined by calculating the amount of payments (including payoffs) received monthly by the servicer for the previous twelve (12) month period, then averaging the three (3) highest months. A lender electing to provide a financial guaranty in lieu of the single line audit shall document (monthly) the amount serviced on Form ~~OFR-494-11MX-887~~.

(4) through (5) No change.

(6) Form OFR-494-11 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2), 494.0076(2)(b) FS. Law Implemented 120.695, 494.0072, 494.0076 FS. History--New 2-16-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.270, Amended \_\_\_\_\_.

69V-40.285 Noninstitutional Investor Funds Account.

(1) All money received by a mortgage lender or correspondent mortgage lender from a noninstitutional investor for disbursement at a mortgage loan closing shall be deposited in a trust account in a federally insured financial institution within seven business days of receipt of the funds unless otherwise directed, in writing, by the noninstitutional investor. Such trust account may be used for more than one noninstitutional investor's funds. Noninstitutional funds may not be commingled with the licensee's operating account or funds. The account shall be in the name of the mortgage lender or correspondent mortgage lender and shall provide for withdrawal of funds without notice. The licensee shall maintain an updated and accurate record of account activity on Form ~~OFR-494-12 MX-555, (effective 8/92), which is hereby incorporated by reference and available by mail from the~~



agency and accompanied by a non-refundable \$42.25 \$47 processing fee. Form (FL921250Z), Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

- (c) No change.
- (2) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), (10), 517.1205 FS. History--New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, 12-11-03, Formerly 3E-600.002, Amended 3-16-06, 5-15-07,\_\_\_\_\_.

**69W-600.006 Associated Persons' Fingerprints.**

Fingerprints filed in accordance with Section 517.12(7), Florida Statutes, shall be on fingerprint cards supplied by the Office of Financial Regulation taken by an authorized law enforcement agency, and accompanied by a non-refundable \$42.25 \$47 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C. The fingerprint card requirement is waived for those associated persons requesting registration with a dealer which is registered with a national securities exchange or national securities association or the Securities and Exchange Commission, provided that fingerprints have been processed for such persons pursuant to the provisions of SEC. rule 17f-2 (17 C.F.R. 240.17f-2 2006), which is hereby incorporated by reference, by said person's current employer.

Specific Authority 517.03 FS. Law Implemented 517.12(7) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-600.06, Amended 8-1-91, Formerly 3E-600.006, Amended 5-15-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Pam Epting, Bureau Chief, Office of Financial Regulation, The Fletcher Building, 200 East Gaines Street, Tallahassee, Florida 32399, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

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

**DEPARTMENT OF STATE**

**Division of Elections**

RULE NO.:	RULE TITLE:
1S-2.042	Third-Party Voter Registration Organizations

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 32, No. 8, February 24, 2006 issue of the Florida Administrative Weekly has been withdrawn.

**BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND**

Notices for the Board of Trustees of the Internal Improvement Trust Fund between December 28, 2001 and June 30, 2006, go to <http://www.dep.state.fl.us/> under the link or button titled "Official Notices."

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-4.051	Exemptions

**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. 33, No. 27, July 6, 2007 issue of the Florida Administrative Weekly.

in addition to the change published in Vol. 33, No. 36, September 7, 2007 issue of the Florida Administrative Weekly: A paragraph is being added before subsection 40D-4.051(1), F.A.C., to address the District's authority in granting exemptions. The proposed rule language approved by the Southwest Florida Water Management Governing Board on September 25, 2007 is as follows:

The District will exempt from regulation under Section 373, Part IV, F.S., those activities that the District determines will have only minimal or insignificant individual or cumulative adverse impacts on the water resources of the District.

- (1) through (14) No change.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-8.041	Minimum Flows

**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. 33, No. 20, May 18, 2007 issue of the Florida Administrative Weekly. The location for the public hearing requested by Tampa Bay Water pursuant to paragraph 120.54(3)(c), F.S., regarding the District's notice of proposed rules to establish minimum flows for the freshwater segment of the Alafia River has been changed. The hearing will be held October 30, 2007, 9:00 a.m., at the Southwest Florida Water Management District Service Office, 6750 Fruitville Road, Sarasota, FL.