

**Section I**  
**Notices of Development of Proposed Rules**  
**and Negotiated Rulemaking**

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NOS.:	RULE TITLES:
6A-4.0081	Florida School Principal Certification
6A-4.0082	Specialization Requirements for Certification in Educational Leadership – Administrative Class
6A-4.0083	School Principal – Administrative Class
6A-4.0085	Provisions for Persons Certified in Administration, Supervision, or Administration and Supervision

**PURPOSE AND EFFECT:** The purpose of the rule development is to review the requirements for certification of school leaders and determine if the requirements are consistent with statute and current programs.

**SUBJECT AREA TO BE ADDRESSED:** Certification requirements for school leaders.

**SPECIFIC AUTHORITY:** 1001.02, 1012.32, 1012.55, 1012.56 FS.

**LAW IMPLEMENTED:** 1001.02, 1012.32, 1012.55, 1012.56 FS.

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

**DATE AND TIME:** April 2, 2007, 2:00 p.m.

**PLACE:** Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Beverly Gregory, Bureau of Educator Certification, 325 West Gaines Street, Room 201, Tallahassee, FL 32399-0400. After reviewing the proposed text, you may also submit comments to [beverly.gregory@fldoe.org](mailto:beverly.gregory@fldoe.org)

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

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-5.081	School Leadership Development Programs

**PURPOSE AND EFFECT:** Development of this rule is needed to implement Section 1012.986, Florida Statutes by instituting the approval requirements and processes for programs that prepare school leaders, including assistant principals and principals, and programs that further the effectiveness of

existing school leaders. Such programs are provided by Florida’s colleges, universities and public school districts and lead to certification in Educational Leadership and School Principal.

**SUBJECT AREA TO BE ADDRESSED:** School Leadership Development Programs.

**SPECIFIC AUTHORITY:** 1012.986 FS.

**LAW IMPLEMENTED:** 1012.986, 1012.56 FS.

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

**DATE AND TIME:** April 2, 2007, 2:00 p.m.

**PLACE:** Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Kathy Hebda, Chief, Bureau of Educator Recruitment, Development and Retention, Florida Department of Education, 325 West Gaines Street, Room 126, Tallahassee, Florida 32399-0400 or [Kathy.hebda@fldoe.org](mailto:Kathy.hebda@fldoe.org)

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

**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.”

**PUBLIC SERVICE COMMISSION**

RULE NO.:	RULE TITLE:
25-4.036	Design and Construction of Plant

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendments is to incorporate the most recent edition of the National Electrical Safety Code. As Rule 25-4.036, F.A.C., is incorporated by reference into Rules 25-24.585, 25-24.740 and 25-24.835, F.A.C., the draft amendments to Rule 25-4.036, F.A.C., also effect shared tenant service companies, alternative access vendor service companies, and competitive local exchange companies. Undocketed.

**SUBJECT AREA TO BE ADDRESSED:** National Electric Safety Code standards pertaining to the design and construction of telecommunications facilities by incumbent local exchange companies, shared tenant service companies, alternative access vendor service companies, and competitive local exchange companies.

**SPECIFIC AUTHORITY:** 350.127(2) FS.

**LAW IMPLEMENTED:** 364.01(4), 364.03 FS.

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

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 48 hours before the workshop/meeting by contacting: Paul Vickery, (850)413-6592. The workshop request must be submitted in writing by March 30, 2007 to Kira Scott, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Paul Vickery, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6592

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-4.036 Design and Construction of Plant.

(1) The plant and facilities of the utility shall be designed, constructed, installed, maintained and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-2007~~2002~~) and the National Electrical Code (NFPA 70-2005), which is incorporated herein by reference, pertaining to the construction of telecommunications facilities.

(2) No change.

Specific Authority 350.127(2) FS. Law Implemented 364.01(4), 364.03 FS. History-Revised 12-1-68, Amended 4-19-77, Formerly 25-4.36, Amended 2-5-86, 3-26-91, 5-3-94, 12-23-02, 12-29-05, \_\_\_\_\_.

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-24.515 RULE TITLE: Pay Telephone Service

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to incorporate the most recent edition of the National Electrical Safety Code. As Rule 25-4.036, F.A.C., is incorporated by reference into Rules 25-24.585, 25-24.740 and 25-24.835, F.A.C., the draft amendments to Rule 25-4.036, F.A.C., also effect shared tenant service companies, alternative access vendor service companies, and competitive local exchange companies. Undocketed.

SUBJECT AREA TO BE ADDRESSED: National Electric Safety Code standards pertaining to the design and construction of telecommunications facilities by incumbent

local exchange companies, shared tenant service companies, alternative access vendor service companies, and competitive local exchange companies.

SPECIFIC AUTHORITY: 350.127(2) FS.

LAW IMPLEMENTED: 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345 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.

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 48 hours before the workshop/meeting by contacting: The workshop request must be submitted in writing by March 30, 2007 to: Kira Scott, Office of the General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Paul Vickery, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6592

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

25-24.515 Pay Telephone Service.

(1) through (22) No change.

(23) Pay telephone facilities shall be designed, constructed, installed, maintained and operated in accordance with provisions of the National Electrical Safety Code (IEEE C2-2007~~2002~~) and the National Electrical Code (NEPA 70-2005), which are incorporated by reference.

Specific Authority 350.127(2) FS. Law Implemented 364.03, 364.035, 364.063, 364.337, 364.3375, 364.345 FS. History-New 1-5-87, Amended 4-14-92, 12-21-92, 2-3-93, 10-10-94, 12-27-94, 9-5-95, 2-1-99, 12-23-02, 4-5-05, 12-29-05, \_\_\_\_\_.

**DEPARTMENT OF CORRECTIONS**

RULE NO.: 33-103.019 RULE TITLE: Inmate Grievances – Forms

PURPOSE AND EFFECT: The purpose and effect of the proposed rule is to modify Form DC2-901, Training Attendance Report, to add a column for an employee identification number.

SUBJECT AREA TO BE ADDRESSED: Inmate grievance forms.

SPECIFIC AUTHORITY: 944.09 FS.

LAW IMPLEMENTED: 944.09 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Dorothy M. Ridgway, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

33-103.019 Inmate Grievances - Forms.

The following forms relevant to this chapter are hereby incorporated by reference. A copy of any of these forms is available from the Bureau of Inmate Grievance Appeals, 2601 Blair Stone Road, Tallahassee, Florida 32399-2500.

- (1) Form DC1-303, Request for Administrative Remedy or Appeal, effective 2-9-05;
- (2) Form DC6-236, Inmate Request, effective 8-1-00.
- (3) Form DC1-306, Grievance Approval Action Form, effective 8-1-00.
- (4) Form DC2-901, Training Attendance Report, effective 12-17-06.
- (5) Form DC1-307, Acknowledgement of Receipt of Grievance Orientation, effective 10-11-00.

Specific Authority 944.09 FS. Law Implemented 944.09 FS. History—New 10-12-89, 4-10-95, 12-7-97, Formerly 33-29.018, Amended 8-1-00, 10-11-00, 2-9-05, 12-17-06, \_\_\_\_\_.

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.:	RULE TITLE:
40D-2.091	Publications Incorporated by Reference

PURPOSE AND EFFECT: To amend Chapter 40D-2, Florida Administrative Code, and the Basis of Review for Water Use Permit Applications, incorporated by reference in Rule 40D-2.091, to expand public supply permittee per capita water use-related requirements to those areas of the District not already subject to them.

SUBJECT AREA TO BE ADDRESSED: Public supply permittee per capita water use-related requirements. Permittees affected are primarily public water supply utilities. The requirements include: required calculation of per capita water use according to the recently adopted Southern Water Use Caution Area rules, including the new service area population estimation methodology (affects all areas outside of the Southern Water Use Caution Area); required submission of the annual per capita water use report and associated data via the annual Public Supply Survey (affects all areas outside of

existing Water Use Caution Areas); compliance with a per capita daily water use standard (affects all areas outside of existing Water Use Caution Areas).

District staff will present a brief overview of the requirements, solicit input and describe those activities underway to assist permittees with complying with the population estimation methodology requirements. District staff will also be seeking input on other requirements in place in the Northern Tampa Bay and Southern Water Use Caution Areas such as: water conserving water rate structures; water billing information to be provided to customers; reclaimed water use and connections reporting; and water service area delineation and submission.

One or more members of the Governing Board may attend. SPECIFIC AUTHORITY: 373.044, 373.113, 373.118, 373.171 FS.

LAW IMPLEMENTED: 373.036, 373.0361, 373.042, 373.0421, 373.0831, 373.116, 373.117, 373.118, 373.149, 373.171, 373.1963, 373.216, 373.219, 373.223, 373.229, 373.239, 373.243 FS.

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

DATE AND TIME: April 10, 2007, 1:00 p.m. – 4:30 p.m.  
 PLACE: Governing Board Room, Southwest Florida Water Management District Headquarters, 2379 Broad Street, Brooksville, Florida 34604-6899

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 2 days before the workshop/meeting by contacting: Dianne Lee, (352)796-7211, ext. 4658. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Jay Yingling, Senior Economist, Planning Department, 2379 Broad Street, Brooksville, Florida 34604-6899, (352)796-7211, extension 4406

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

**LAND AND WATER ADJUDICATORY COMMISSION**

**Twin Creeks Community Development District**

RULE NOS.:	RULE TITLES:
42DDD-1.001	Establishment
42DDD-1.002	Boundary
42DDD-1.003	Supervisors

PURPOSE AND EFFECT: The purpose of this proposed rule is to establish a community development district (“CDD”), the Twin Creeks Community Development District (“District”), pursuant to Chapter 190, F.S. The petition (amended during the February 13, 2006, local public hearing) filed by

Eh/Transeastern, LLC, requests the Commission establish a community development district located within St. Johns County, Florida. A Notice of Receipt of Petition for the Twin Creeks Community Development District was published in the January 27, 2006, edition of the Florida Administrative Weekly. The land area proposed to be served by the District comprises approximately 3,050 acres. A general location map is contained as Exhibit 1 to the petition, as amended, to establish the District. The site is generally located south of Durbin Creek, west of U.S. 1, east of Interstate 95, and on both sides of County Road 210 in St. Johns County, Florida. There are no parcels within the external boundaries of the proposed District which are to be excluded from the District. The Petitioner has obtained written consent to establish the District from the landowners of one hundred percent (100%) of the non-governmental real property located within the proposed District. The development plan for the proposed lands within the District includes the construction of approximately 5,000 units of single family detached units, single family attached units, multi-family housing along with 900,000 square feet of commercial mixed and 2,000,000 square feet of flexible industrial use space. Additional development plans include a 175 room hotel and a multiplex movie center. The District, if established, plans to finance certain master infrastructure improvements within the District boundaries. The improvements include complete construction of the basic infrastructure connecting and serving neighborhoods, including but not limited to: clearing, earthwork, water, sewer, and reclaimed utilities, internal roadways, and sodding/grassing. Master infrastructure also includes a community recreation center. Also included will be stormwater management facilities consisting of treatment ponds, outfalls, land to construct the retention and compensating storage areas, and wetland mitigation to serve the District in accordance with permitting agencies. Other District improvements include school facilities and substantial off-site improvements related to County Road 210 and US 1. All of the land in the proposed District is part of the Twin Creeks Development of Regional Impact.

**SUBJECT AREA TO BE ADDRESSED:** Establishment of the Twin Creeks Community Development District.

**SPECIFIC AUTHORITY:** 190.005 FS.

**LAW IMPLEMENTED:** 190.004, 190.005 FS.

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

**DATE AND TIME:** Wednesday, April 4, 2007, 10:00 a.m.

**PLACE:** Room 2103, The Capitol, Tallahassee, Florida 32399-0001

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 two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS:** Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

**TWIN CREEKS COMMUNITY DEVELOPMENT DISTRICT**

**42DDD-1.001 Establishment.**

The Twin Creeks Community Development District is hereby established.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History--New \_\_\_\_\_.

**42DDD-1.002 Boundary.**

The boundaries of the District are as follows:

Subject Property South of C.R. 210

A portion of Sections 9, 10, 11, and 14, together with all of Section 15, all lying in Township 5 South, Range 28 East, St. Johns County, Florida, and being more particularly described as follows: For a Point of Beginning, commence at the corner common to Sections 15, 16, 21, and 22 of said Township and Range; thence North 01°06'17" West, along the Westerly line of said Section 15, a distance of 2,655.18 feet to an angle in said Westerly line; thence North 00°50'08" West, continuing along said Westerly line, 2,702.59 feet to the Northwest corner of said Section 15; thence South 89°12'49" West, along the Southerly line of said Section 9, a distance of 496.47 feet to its intersection with the Southerly right-of-way line of County Road 210, a 150 foot right-of-way per St. Johns County Right-of-Way Map, dated August 15, 2002; thence along said Southerly line the following six (6) courses: (1) thence North 51°03'28" East, 6,410.43 feet to the point of curvature of a curve concave Southerly, having a radius of 243.31 feet; (2) thence Northeasterly, along the arc of said curve, through a central angle of 75°41'49", an arc distance of 321.45 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 88°54'23" East, 298.58 feet; (3) thence South 53°14'43" East, 2,494.87 feet to the point of curvature of a curve concave Northeasterly, having a radius of 1,029.93 feet; (4) thence Southeasterly, along the arc

of said curve, through a central angle of 15°27'40", an arc distance of 277.92 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 60°58'33" East, 277.08 feet; (5) thence South 68°42'23" East, 1,737.76 feet to the point of curvature of a curve concave Northerly, having a radius of 393.31 feet; (6) thence Northeasterly, along the arc of said curve, through a central angle of 57°26'31", an arc distance of 394.31 feet to its intersection with the Westerly right-of-way line of a Florida East Coast Railroad right-of-way, a variable width right-of-way per Florida East Coast Railway Company Right-of-Way Track Map, dated December 31, 1927, said arc being subtended by a chord bearing and distance of North 82°34'22" East, 378.01 feet; thence South 41°00'02" East, departing said Southerly right-of-way line and along said Westerly right-of-way line, 2,283.78 feet to a point lying on the Southerly line of said Section 11; thence North 89°28'59" East, continuing along said Westerly right-of-way line and along said Southerly line, 36.95 feet; thence South 41°02'31" East, departing said Southerly line and along said Westerly right-of-way line, 253.73 feet to its intersection with the Easterly line of said Section 14; thence South 01°04'11" East, departing said Westerly right-of-way line and along said Easterly line, 5,180.32 feet to the Southeasterly corner of said Section 14; thence South 89°33'57" West, along the Southerly line of said Section 14, a distance of 5,363.20 feet to the Southwest corner of said Section 14, said point also being the Southeast corner of said Section 15, thence South 89°33'51" West, along the Southerly line of said Section 15, a distance of 5,368.24 feet to the Point of Beginning. Containing 1,857.26 acres, more or less.

Subject Property North of C.R. 210

A portion of Sections 2, 3, 4, 9, 10, 11, and 16, together with a portion of Section 46, the Joseph Peavett Grant, all lying in Township 5 South, Range 28 East, St. Johns County, Florida, and being more particularly described as follows: For a Point of Reference, commence at the corner common to said Sections 9, 10, 16 and Section 15 of said Township and Range, thence South 89°12'49" West, along the Southerly line of said Section 9, a distance of 739.26 feet to its intersection with the Northerly right-of-way line of County Road No. 210, a 150 foot right-of-way per St. Johns County Right-of-Way Map dated August 15, 2002, said point also being the Point of Beginning.

From said Point of Beginning, thence South 89°12'49" West, departing said Northerly right-of-way line and continuing along said Southerly line of Section 9, a distance of 1,953.73 feet; thence South 89°55'22" West continuing along said Southerly line 1,349.80 feet to its intersection with the Easterly line of Government Lot 7 of said Section 16; thence South 01°18'02" West, departing said Southerly line and long said Easterly line, 12.69 feet; thence South 89°00'03" West, departing said Easterly line, 589.15 feet to a point lying on the

Easterly limited access right-of-way line of Interstate Highway No. 95 (State Road No. 9), a 300 foot right-of-way per Florida Department of Transportation Right-of-Way Map Section No. 78080-2408 and Section No. 78080-2440, said point also lying on a curve; thence Northeasterly, along said Easterly limited access right-of-way line and along the arc of a curve concave Easterly, having a radius of 11,309.16 feet, through a central angle of 02°02'10", an arc distance of 401.88 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 02°58'05" East, 401.86 feet; thence North 03°59'10" East, 3,620 feet, more or less, to a point of intersection with the centerline of Durbin Creek, said point bearing South 03°59'10" West, 590 feet, more or less, from an angle point in said Easterly limited access right-of-way line, said point serving as Reference Point "A" for the purposes of this property description and bearing North 03°59'10" East, 4,208.87 feet from last said point of tangency, departing said Easterly limited access right-of-way line and along the meanderings of said centerline of Durbin Creek, 5,880 feet, more or less, to its intersection with the Southerly line of the Northwest one-quarter of the Southwest one-quarter of said Section 3, said line also being a Southerly line of those lands described and recorded in Official Records Book 60, page 689, of the Public Records of said county; thence North 89°30'48" East, along last said Southerly line, 510 feet, more or less, to the Southeasterly corner of the Northwest one-quarter of the Southwest one-quarter of said Section 3, said Southeasterly corner bearing North 68°19'26" East, 6,016.57 feet from said Reference Point "A"; thence North 00°18'06" West, along the Easterly line of said lands of Official Records Book 50, page 689, a distance of 240 feet, more or less, to its intersection with said centerline of Durbin Creek; thence Northeasterly, departing said Easterly line and along the meanderings of said centerline, 2,180 feet, more or less, to its intersection with a Southerly line of said lands of Official Records Book 60, page 689; thence North 89°29'16" East, along said Southerly line, 360 feet, more or less, to a point of intersection with the Westerly right-of-way line of a Florida East Coast Railroad right-of-way, a variable width right-of-way per Florida East Coast Railway Company Right-of-Way and Track Map, dated December 31, 1927, said point bearing North 57°49'04" East, 2,613.07 feet from said Southeast corner of the Northwest one-quarter of the Southwest one-quarter of Section 3; thence along said Westerly right-of-way line the following seven (7) courses: course one, thence South 41°00'02" East, 3,556.42 feet to a point lying on the Southerly line of said Section 2; course two, thence North 89°24'41" East, along said Southerly line, 26.27 feet; course three, thence South 41°00'02" East, departing said Southerly line, 1,807.93 feet; course four, thence South 48°39'58" West, 70.00 feet; course five, thence South 41°00'02" East, 1,745.00 feet; course six, thence North 89°16'33" East, 98.30 feet; course seven, thence South 41°00'02" East, 1,073.11 feet to an intersection with said Northerly right-of-way line of County

Road No. 210, said point also lying on a curve concave Northerly, having a radius of 243.31 feet; thence along said Northerly right-of-way line the following six (6) courses: course one, thence Southwesterly, along the arc of said curve, through a central angle of 54°26'06", an arc distance of 231.16 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 84°04'34" West, 222.57 feet; course two, thence North 68°42'23" West, 1,737.76 feet to the point of a curve concave Northeasterly, having a radius of 879.93 feet; course three, thence Northwesterly, along the arc of said curve, through a central angle of 15°27'40", an arc distance of 237.45 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of North 60°58'33" West, 236.73 feet; course four, thence North 53°14'43" West, 2,494.87 feet to the point of curvature of a curve concave Southerly, having a radius of 393.31 feet; course five, thence Southwesterly, along the arc of said curve, through a central angle of 75°41'49", an arc distance of 519.63 feet to the point of tangency of said curve, said arc being subtended by a chord bearing and distance of South 88°54'23" West, 482.65 feet; course six, thence South 51°03'28" West, 6,601.35 feet to an intersection with the Southerly line of Section 9 and the Point of Beginning. The above described lands being subject to any submerged sovereign lands of the State of Florida associated with Durbin and Sampson Creeks. Containing 1,193 acres, more or less.

LESS AND EXCEPT a portion of Section 11, Township 5 South, Range 28 East, St. Johns County, Florida, being more particularly described as follows: Commence at the southwest corner of Section 10, Township 5 South, Range 28 East, St. Johns County, Florida; thence North 00°48'41" West, along the westerly line of said Section 10, 377.21 feet, to an intersection a line lying 10.00 feet southeasterly of and parallel with the southeasterly right-of-way of County Road No. 210 (a 150.00 foot right-of-way per St. Johns County Right-of-Way Map dated 8-15-2002); thence North 51°03'28" East, along last said line and the northeasterly extension thereof, 7,759.46 feet to the southwesterly existing right-of-way line of Florida East Coast Railroad (a variable width right-of-way as shown on Florida East Coast Railway Company Right-of-Way and Track Map dated December 31, 1927); thence southeasterly, southwesterly and easterly, along said southwesterly existing right-of-way line run of the following six (6) courses and distances: Course No. 1: South 41°00'02" East, 1,524.26 feet; Course No. 2: South 48°59'58" West, 70.00 feet; Course No. 3: South 41°00'02" East, 1,295.55 feet to the Point of Beginning; Course No. 4: South 41°00'02" East, 449.45 feet; Course No. 5: North 89°16'33" East, 98.30 feet; Course No. 6: South 41°00'02" East, 862.54 feet; thence South 48°59'58" West, 225.55 feet to the northeasterly right-of-way of said County Road 210; thence North 68°42'23" West, along said northeasterly right-of-way, 922.85 feet; thence North 23°54'33" West, 70.96 feet; thence North 20°53'17" East,

132.02 feet to the point of curvature of a curve leading northerly; thence northerly along and around the arc of said curve, concave westerly, having a radius of 310.00 feet, an arc distance of 334.85 feet, said arc being subtended by a chord bearing and distance of North 10°03'22" West, 318.81 feet to a point of tangency of last said curve; thence North 41°00'02" West, 37.36 feet; thence North 41°31'41" West, 115.11 feet; thence North 48°28'19" East, 279.45 feet to the Point of Beginning. Containing 13.02 acres, more or less.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New \_\_\_\_\_.

42DDD-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Paul Leikert, Jason Eisner, Robert Krief, Mark Newton, and Wayne Janzik.

Specific Authority 190.005 FS. Law Implemented 190.004, 190.005 FS. History—New \_\_\_\_\_.

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Health Facility and Agency Licensing**

RULE NOS.:	RULE TITLES:
59A-4.103	Licensure, Administration and Fiscal Management
59A-4.106	Facility Policies
59A-4.107	Physician Services
59A-4.1075	Medical Director
59A-4.108	Nursing Services
59A-4.109	Resident Assessment and Care Plan
59A-4.110	Dietary Services
59A-4.112	Pharmacy Services
59A-4.118	Medical Records
59A-4.122	Physical Environment and Physical Plant Maintenance
59A-4.123	Risk Management and Quality Assurance
59A-4.1235	Liability Claims
59A-4.126	Disaster Preparedness
59A-4.128	Evaluation of Nursing Homes and Licensure Status
59A-4.1285	Respite Care
59A-4.1288	Exception
59A-4.1295	Additional Standards for Homes That Admit Children 0 Through 20 Years of Age
59A-4.130	Fire Protection, Life Safety, Systems Failure and External Emergency Communications
59A-4.133	Physical Plant Codes and Standards for Nursing Homes
59A-4.134	Plans Submission and Fee Requirements
59A-4.150	Geriatric Outpatient Nurse Clinic

59A-4.165 Nursing Home Guide  
 59A-4.166 Nursing Home Consumer Satisfaction Survey

**PURPOSE AND EFFECT:** The purpose of the proposed rule amendment is to incorporate changes in the authorizing statute and revise technical errors and update references throughout the Chapter.

**SUBJECT AREA TO BE ADDRESSED:** This proposed rule includes provisions for recent changes in licensure regulations and disaster preparedness, incorporates new laws regarding alternate bed placement and inactive licenses, reinstates provisions for respite care, abolishes the requirement for the Nursing Home Consumer Satisfaction Survey due to the repeal of the authorizing statute and amends technical errors and updates references throughout the Chapter.

**SPECIFIC AUTHORITY:** 400.23 FS.

**LAW IMPLEMENTED:** 400.111, 400.022, 400.141, 400.142, 400.23 FS.

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

**DATE AND TIME:** April 12, 2007, 10:00 a.m.

**PLACE:** 2727 Mahan Drive, Building 3, AHCA Conference Room B, Tallahassee, Florida 32308

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 7 days before the workshop/meeting by contacting: CaraLee Starnes at (850)488-5861. 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:** CaraLee Starnes at (850)488-5861

**THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:**

59A-4.103 Licensure, Administration and Fiscal Management.

(1) The licensee or applicant ~~must~~ ~~prospective licensee shall~~ make application for an initial, renewal or change of ownership license to operate a nursing home facility and ~~must shall~~ provide:

(a) ~~All~~ of the information required by this rule and Chapter 400, Part II, F.S., on AHCA Form 3110-6001, March 2007, "Health Care Licensing Application – Nursing Homes". ~~"Application for Nursing Home Licensure", and~~

(b) AHCA Form 3001-6001, September 2005, Instructions for Completing Application for Nursing Home Licensure, which is incorporated by reference, ~~and~~

(c) AHCA Forms 3110-0011, 3110-0011A, 3110-0011B, and 3110-0011C, and 3110-0011D, August 2001, "Controlling Interest Affidavit for Nursing Homes," which are incorporated by reference, ~~and~~

(d) AHCA Form 1332-0001, January 2002, "Proof of Financial Ability to Operate Schedule," which is incorporated by reference, available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(2) The licensure fee ~~must shall~~ be included with the application. A biennial ~~An annual~~ fee of \$100 is \$50 per bed is required as described in Section 400.062(3), Florida Statutes (F.S.), plus the resident protection fee of \$.50 ~~\$-.25~~ per bed and the Data Collection and Analysis Assessment of \$12.00 ~~\$6.00~~ per bed as authorized by Section 408.20(1)(b), F.S., Costs of Nursing Home Statistical Unit, March 9, 1994. The Data Collection and Analysis Assessment is waived for facilities having a certificate of authority under Chapter 651, F.S. A license for an initial or change of ownership application will not be issued until the application fee has been received by the Agency and all associated checks have cleared. If a check for the renewal licensure fee is dishonored and returned to the Agency, the licensee will have ten business days to pay the full amount plus any applicable fees as provided by law. Such payment must be made by cash, cashier's check, or money order. Failure to pay the licensure and processing fee will result in suspension of the license until all fees are paid in full.

(3) Single copies of AHCA forms incorporated by reference within this chapter may be obtained from the Agency for Health Care Administration, Long Term Care Section, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or web address: <http://ahca.myflorida.com/>. Information regarding the electronic submission of reports to the Agency may be found at: <http://ahca.myflorida.com/reporting/index.shtml>.

(4) A nursing home licensee may request an inactive license for part of a facility as specified in Section 400.0712, F.S., to use an unoccupied contiguous portion of the facility for an alternative use to meet the needs of elderly persons. Prior to providing alternative services, the facility must submit a written request to the Agency. A request may be submitted at any time during the licensure period and must include:

(a) The intended use of the inactive portion;

(b) A schematic drawing of the floor plan of the building identifying the inactive area;

(c) The total number of inactive beds and the prospective date the beds will become inactive.

1. Upon receipt of the written approval by the Agency to continue with the plan for the partial inactive, the licensee must submit to the Agency AHCA Form 3110-6001, September 2005, "Application for Nursing Home Licensure," within 60 days of the approval and a bed change request form for beds certified through the Centers for Medicare and Medicaid

Services. The appropriate licensure application for the alternative use must accompany this application, unless the space will be utilized for services authorized under the existing nursing home license.

2. If the alternative service license is approved, a partial inactive license will be issued concurrently with the issuance of the license for the alternative use. The expiration date of the partial inactive license will coincide with the licensee's nursing home renewal. The licensee must indicate the intent to continue the partial inactive license at each nursing home licensure renewal. Licensure fees will remain at the standard rate for nursing home beds, whether active or inactive, at the time of renewal and will not be assessed for another Agency license requested for the alternative use of the inactive beds.

3. Notification to reactivate the inactive portion of the building must be submitted to the Agency at least 30 days prior to the planned date to admit residents to the previously inactive beds. The inactive portion will be reactivated upon the satisfactory completion of an onsite inspection.

~~(5)(4)~~ Administration.

(a) The nursing home licensee shall have full legal authority and responsibility for the operation of the facility.

(b) The licensee of each facility must shall designate one person, who is licensed by the Department of Health Agency for Health Care Administration, Board of Nursing Home Administrators under Chapter 468, Part II, F.S., as administrator who oversees the day-to-day administration and operation of the facility.

(c) Each nursing home must shall be organized according to a written Table of Organization.

(d) By the 10th calendar day of each month, the licensee must shall submit to the Agency the monthly vacant bed report reflecting the number of beds available for occupancy on the last day of the preceding month. The a monthly vacant bed report which is incorporated by reference as by using AHCA Form 3110-0013, July 2006 January, "Nursing Home Monthly Bed Vacancy Report," as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(e) Each nursing home licensee must submit to the Agency semi-annually on or before April 15 and November 15 of each year, the Submit Nursing Home Staffing Report which is incorporated by reference as by using AHCA Form 3110-0012, September 2006, and updated biannually thereafter to reflect a new reporting period. January, 2002 "Nursing Home Staffing Report" as authorized by Section 400.141, F.S. This form is available from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(f) Information required in subsections (d) and (e) may be submitted electronically to the Agency at: [ahca.myflorida.com/reporting/index.shtml](http://ahca.myflorida.com/reporting/index.shtml).

~~(6)(5)~~ Fiscal Management.

(a) The licensee must shall maintain fiscal records for each nursing home it operates in accordance with the requirements of Chapter 400, Part II, F.S., and this rule these Rules.

(b) An accrual or cash system of accounting must shall be used to reflect transactions of the business. Records and accounts of transactions, such as general ledgers and disbursement journals, must shall be brought current no less than quarterly and must shall be available for review by authorized representatives of appropriate State and Federal agencies.

(c) A licensee must shall obtain a surety bond as required by Chapter 400, Part II, F.S. It must shall be based on twice the average monthly balance in the resident trust fund during the prior fiscal year or \$5,000, whichever is greater. A licensee who owns more than one nursing home may purchase a single surety bond to cover the residents' funds held in nursing homes located within the same Agency geographic region as defined in the AHCA "Nursing Home Guide Performance Measures Algorithm" dated July 2000. AHCA service district. A surety bond must shall contain substantially the same language as is found in AHCA Form 3110-6002, July 2001, Surety Bond, which is incorporated by reference. The surety bond, AHCA 3110-6002, July 2001, may be obtained from and must shall be filed with the Agency for Health Care Administration, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or online at: <http://ahca.myflorida.com/>.

(d) A self-insurance pool, which may be an interest bearing account, may be established to provide compensation to any resident suffering financial loss in accordance with the provisions of Section 400.162(5)(c), F.S., as the result of one or more of the member licensees violating any of the provisions of Section 400.162, F.S.

1. Such self-insurance pool must shall be administered under the direction of an elected board of trustees. The membership of the board of trustees must shall be composed of one representative from each participating licensee.

2. An application for establishing a self-insurance pool must shall be made by the trustees to the Agency AHCA. Such application must shall contain the following information: the names, complete addresses, and affiliation of the trustees; the name and complete address of each licensee participating in the pool; the total dollar amount of the pool; and the name and complete address of the bank in which the account is maintained, including the account number. The application must shall be accompanied by:

a. An individual application from each licensee applying for membership in the self-insurance pool. Such application must shall contain the following information: the name, telephone number, and complete address of the facility; the



name, telephone number, and complete address of the licensee; the name of the facility's administrator, manager or supervisor; his or her license and renewal number; the names of all employees involved in the administration of the resident trust fund account; the average monthly balance in the resident trust fund account during the prior year; the total dollar amount the licensee has deposited in the self-insurance pool; and the name and complete address of the bank in which the account is maintained, including the account number.

b. Prima facie evidence showing that each individual member of the pool has deposited an amount equal to twice the average monthly balance of the trust fund account or \$5,000.00 dollars, whichever is greater, in a separate account maintained by the board of trustees in the name of the self-insurance pool in a ~~chartered commercial~~ bank authorized under Chapter 658, F.S., and a member of the Federal Reserve System, in the State of Florida to secure performance of payment of all lawful awards made against any member or members of the self-insurance pool, Section 400.162(5), F.S., and this rule these Rules.

3. After the inception date of the pool, prospective new members of the pool ~~must shall~~ submit an application for membership to the board of trustees. Such application ~~must shall~~ contain the information specified in subparagraph ~~(6)(d) (5)(b)2-~~. The trustees may approve the application for membership in accordance with this rule these Rules. If so approved, the application for membership in accordance with this rule must these Rules shall be filed with the Agency AHCA. Participation in a pool by a particular licensee ~~must shall~~ be approved by the Agency if the licensee indicates in its application that it does meet the requirements of Section 400.162(5), F.S., and this rule these Rules and verification is provided to document the financial status indicated on the application.

4. The amount deposited in such an account ~~must shall~~ be maintained at all times.

(e) If, at any time during the period for which a license is issued, a licensee who has not purchased a surety bond or entered into a self-insurance agreement is requested to hold funds in trust as provided in Section 400.162(5), F.S., the licensee ~~must shall~~ notify the Agency AHCA in writing of the ~~request~~ and make application for a surety bond or for participation in a self-insurance agreement within seven calendar days of the request, ~~exclusive of weekends and holidays~~. Copies of the application, along with written documentation of related correspondence with an insurance agency or group ~~must shall~~ be maintained and shall be available for review. All notices required by this ~~R~~rule provision ~~must shall~~ be sent to Agency for Health Care Administration AHCA, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.071, 400.102, 400.111, 400.1183, 400.121, 400.141, 400.147, 400.151, 400.162, 400.179, 400.18, 400.232, 408.20 FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, 1-1-86, 11-12-89, 12-25-90, 10-6-91, Formerly 10D-29.103, Amended 4-18-94, 2-6-97, 5-5-02,\_\_\_\_\_.

59A-4.106 Facility Policies.

(1) Admission, retention, transfer, and discharge policies:

(a) Upon request and in a language the resident or his ~~her~~ or her representative understands, at the time of admission and as changes are being made, each resident ~~must will~~ receive:

1. A copy of the residents' bill of rights conforming to the requirements in Section 400.022, F.S.;

2. A copy of the facility's admission and discharge policies; and

3. Information regarding advance directives.

(b) Each resident admitted to the facility ~~must shall~~ have a contract in accordance with Section 400.151, F.S., which covers:

1. A list of services and supplies, complete with a list of standard charges, which are available to the resident but not covered by the facility's per diem or by Title XVIII and Title XIX of the Social Security Act, and the bed reservation and refund policies of the facility.

2. When a resident is in a facility offering continuing care and is transferred from independent living or assisted living to the nursing home section, a new contract need not be executed; an addendum ~~must shall~~ be attached to describe any additional services, supplies or costs not included in the most recent contract that is in effect.

(c) No resident who is suffering from a communicable disease shall be admitted or retained unless the medical director or attending physician certifies that adequate or appropriate isolation measures are available to control transmission of the disease.

(d) Residents may not be retained in the facility that require services beyond those for which the facility is licensed or has the functional ability to provide as determined by the medical director and the director of nursing in consultation with the facility administrator.

(e) Residents ~~must shall~~ be assigned to a bedroom area and ~~must shall~~ not be assigned bedroom space in common areas except in an emergency. Emergencies ~~must shall~~ be documented and shall be for a limited, specified period of time.

(f) All resident transfers and discharges ~~must shall~~ be in accordance with the facility's policies and procedures, provisions of ~~s~~Sections 400.022 and 400.0255, F.S., this rule, and other applicable ~~s~~State and ~~f~~Federal laws and will include notices provided to residents which are incorporated by reference by using AHCA Form 3120-0002, 3120-0002A, ~~Revised~~, May 2001, "Nursing Home Transfer and Discharge Notice," and 3120-0003, ~~Revised~~, May 2001, "Fair Hearing Request For Transfer or Discharge From a Nursing Home," and 3120-0004, ~~Revised~~, May, 2004 2001, "Long-Term Care

Ombudsman Council Request for Review of Nursing Home Discharge and Transfer.” These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive MS 33, Tallahassee, FL 32308 or at the web address: <http://ahca.myflorida.com/>. ~~The Department of Children and Family Services will assist in the arrangement for appropriate continued care, when requested.~~

(2) Each nursing home licensee must ~~facility shall~~ adopt, implement, and maintain written policies and procedures governing all services provided in the facility.

(3) All policies and procedures must shall be reviewed at least annually and revised, as needed with input from, at minimum, the facility administrator, medical director, and director of nursing.

(4) Each licensee must ~~facility shall~~ maintain policies and procedures in the following areas:

- (a) Activities;
- (b) Advance directives;
- (c) Consultant services;
- (d) Death of residents in the facility;
- (e) Dental services;
- (f) Staff education, including HIV/AIDS training in accordance with Section 381.0035, F.S.;
- (g) Diagnostic services;
- (h) Dietary services;
- (i) Disaster preparedness;
- (j) Fire prevention and control;
- (k) Housekeeping;
- (l) Infection control;
- (m) Laundry service;
- (n) Loss of power, water, air conditioning or heating;
- (o) Medical director/consultant services;
- (p) Medical records;
- (q) Mental health;
- (r) Nursing services;
- (s) Pastoral services;
- (t) Pharmacy services;
- (u) Podiatry services;
- (v) Resident care planning;
- (w) Resident identification;
- (x) Resident’s rights;
- (y) Safety awareness;
- (z) Social services;
- (aa) Specialized rehabilitative and restorative services;
- (bb) Volunteer services; ~~and~~
- (cc) The reporting of accidents or unusual incidents involving any resident, staff member, volunteer or visitor. This policy must shall include reporting within the facility and to the Agency AHCA.

(5) Staff Education.

(a) Each nursing home licensee must shall develop, implement, and maintain a written staff education plan, which ensures a coordinated program for staff education for all facility employees. The staff education plan must shall be reviewed at least annually by the risk management and quality assurance committee and revised as needed.

(b) The staff education plan must shall include both pre-service and in-service programs.

(c) The staff education plan must shall ensure that education is conducted annually for all facility employees, at a minimum, in the following areas:

1. Prevention and control of infection;
2. Fire prevention, life safety, and disaster preparedness;
3. Accident prevention and safety awareness program;
4. Resident’s rights;
5. Federal law, 42 CFR 483, Requirements for Long Term Care Facilities, September 26, 1991, including any amendments integrated since 1991, which is incorporated by reference and ~~State r~~Rules and ~~r~~Regulations, Chapter 400, Part II, F.S., and this rule;

~~6. The Florida “Right to Know” Hazardous Materials, Chapter 442, F.S.;~~

(d) The staff education plan must shall ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV/AIDS in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment or before the staff provides care for an HIV/AIDS diagnosed resident. All employees must shall have a minimum of one hour biennially.

(6) Advance Directives.

(a) Each nursing home licensee must shall have written policies and procedures, which delineate the nursing home’s position with respect to the state law and rules relative to advance directives. The policies must shall not condition treatment or admission upon whether or not the individual has executed or waived an advance directive. In the event of conflict between the facility’s policies and procedures and the individual’s advance directive, provision should be made in accordance with Section 765.308, F.S.

~~(b)(7)~~ The facility’s policy must shall include:

~~1.(a)~~ Providing each adult individual, at the time of the admission as a resident, with a copy of “Health Care Advance Directives – The Patient’s Right to Decide,” as prepared by the Agency for Health Care Administration, State Center for Health Statistics, April 2006, effective 1-11-93, which is hereby incorporated by reference, or with a copy of some other substantially similar document which is a written description of Florida’s state law regarding advance directives. A copy of the “Health Care Advance Directives – The Patient’s Right to Decide,” may be obtained from the State Center for Health Statistics at 2727 Mahan Drive, MS 16, Tallahassee, FL 32308,

or \_\_\_\_\_ electronically \_\_\_\_\_ at [ahca.myflorida.com/MCHQ/Health Facility Regulation/HC Advance Directives/](http://ahca.myflorida.com/MCHQ/Health Facility Regulation/HC Advance Directives/)

2.(b) Providing each adult individual, at the time of the admission as a resident, with written information concerning the nursing home's policies respecting advance directives; and

3.(e) The requirement that documentation of the existence of an advance directive be contained in the medical record. A nursing home licensee which is provided with the individual's advance directive ~~must shall~~ make the advance directive or a copy thereof a part of the individual's medical record.

(c) Pursuant to Section 400.142(3), F.S., a nursing home may honor a Do Not Resuscitate Order (DNRO) as follows:

1. Cardiopulmonary resuscitation may be withheld or withdrawn from a patient only if a valid DNRO is present and executed pursuant to Section 401.45, F.S.

2. Facility staff and nursing home licensees shall not be subject to criminal prosecution or civil liability, nor be considered to have engaged in negligent or unprofessional conduct for withholding or withdrawing cardiopulmonary resuscitation pursuant to such a DNRO and rules adopted by the Agency, pursuant to Section 400.142(3), F.S.

Specific Authority 400.141, 400.141(7), ~~400.142(3)~~, 400.23, 765.110 FS. Law Implemented 400.022, 400.0255, 400.102, 400.141, 400.141(7), 400.151, 400.23, 765.110 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.106, Amended 4-18-94, 1-10-95, 2-6-97, 5-5-02, \_\_\_\_\_.

#### 59A-4.107 Physician Services.

(1) Each nursing home licensee ~~must facility shall~~ retain, pursuant to a written agreement, a physician licensed under Chapter 458 or 459, F.S., to serve as Medical Director. In facilities with a licensed capacity of 60 beds or less, pursuant to written agreement, a physician licensed under Chapter 458 or 459, F.S., may serve as Medical Consultant in lieu of a Medical Director.

(2) Each resident or legal representative, ~~must shall~~ be allowed to select his or her own private physician.

(3) Verbal orders, including telephone orders, ~~must shall~~ be immediately recorded, dated, and signed by the person receiving the order. All verbal treatment orders ~~must shall~~ be countersigned by the physician or other health care professional on the next visit to the facility.

(4) Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he visits a facility.

(5) All physician orders ~~must shall~~ be followed as prescribed, and if not followed, the reason ~~must shall~~ be recorded on the resident's medical record during that shift.

(6) Each resident ~~must shall~~ be seen by a physician or another licensed health professional acting within their scope of practice at least once every 30 days for the first 90 days after admission, and at least once every 60 days thereafter. A

physician visit is considered timely if it occurs not later than 10 days after the date the visit was required. If a physician documents that a resident does not need to be seen on this schedule and there is no other requirement for physician's services that must be met due to Title XVIII or XIX, the resident's physician may document an alternate visitation schedule.

(7) If the physician chooses to designate another health care professional to fulfill the physician's component of resident care, they may do so after the required visit. All responsibilities of a physician, except for the position of medical director, may be carried out by other health care professionals acting within their scope of practice.

(8) Each nursing home licensee ~~must maintain facility shall have~~ a list of physicians designated to provide emergency services to residents when the resident's attending physician, or designated alternate is not available.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23, 464.012 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.107, Amended 10-5-92, 4-18-94, 1-10-95, \_\_\_\_\_.

#### 59A-4.1075 Medical Director.

(1) Each nursing home licensee ~~must facility will~~ have only one physician who is designated as Medical Director.

(2)(a) The Medical Director must be a physician licensed under Chapter 458 or 459, F.S., the nursing home administrator may require that the Medical Director be certified or credentialed through a recognized certifying or credentialing organization.

(b) A Medical Director who does not have hospital privileges ~~must shall~~ be certified or credentialed through a recognized certifying or credentialing body, such as the Joint Commission on Accreditation of Healthcare Organizations, the American Medical Directors Association, the Healthcare Facilities Accreditation Program of the American Osteopathic Association, the Bureau of Osteopathic Specialists of the American Osteopathic Association, the Florida Medical Directors Association or a ~~health Health~~ maintenance organization licensed in Florida.

(c) A physician must have his ~~or her~~ principal office within 60 miles of all facilities for which he/~~she~~ serves as Medical Director. ~~The p~~Principal office is the office maintained by a physician pursuant to Section 458.351 or 459.026, F.S., and where the physician delivers the majority of medical services. The physician must specify the address of his/~~her~~ or her principal office at the time of becoming Medical Director. The Agency may approve a request to waive this requirement for rural facilities that exceed this distance requirement. A rural facility is a facility located in a county with a population density of no greater than 100 persons per square mile, which is at least 30 minutes of travel time, on normally traveled roads under normal traffic conditions, from any other nursing home facility within the same county.

(d) The nursing home licensee must ~~facility shall~~ appoint a Medical Director who must shall visit the facility at least once a month. The Medical Director must shall review all new policies and procedures; review all new incident and new accident reports from the facility to identify clinical risk and safety hazards. The Medical Director must shall review the most recent grievance logs for any complaints or concerns related to clinical issues. Each visit must be documented in writing by the Medical Director.

(3) A physician may be Medical Director of a maximum of ten nursing homes at any one time. The Medical Director, in an emergency where the health of a resident is in jeopardy and the attending physician or covering physician cannot be located, may assume temporary responsibility of the care of the resident and provide the care deemed necessary.

(4) The Medical Director must ~~appointed by the facility shall~~ meet at least quarterly with the quality assessment and assurance committee of the facility.

(5) The Medical Director must ~~appointed by the facility shall~~ participate in the development of the comprehensive care plan for the resident when he/ or she is also the attending physician of the resident.

Specific Authority 400.141 FS. Law Implemented 400.141(2) FS. History—New 8-2-01, Amended \_\_\_\_\_.

59A-4.108 Nursing Services.

(1) The administrator of each nursing home must will designate one full-time registered nurse as a director of nursing (DON) who shall be responsible and accountable for the supervision and administration of the total nursing services program. When a director of nursing is delegated institutional responsibilities, a full-time qualified registered nurse (RN) shall be designated to serve as assistant director of nursing. In a facility with a census of 121 or more residents, a registered nurse an registered nursing must be designated as an assistant director of nursing.

(2) Persons designated as director of nursing or assistant director of nursing must shall serve only one nursing home facility in this capacity, and shall not serve as the administrator of the nursing home facility.

(3) The director of nursing must shall designate one licensed nurse on each shift to be responsible for the delivery of nursing services during that shift.

(4) Staffing. In addition to the requirements outlined in subsection 400.23(3)(a), F.S., the nursing home licensee must facility shall have sufficient nursing staff, on a 24-hour basis to provide nursing and related services to residents in order to maintain the highest practicable physical, mental, and psychosocial well-being of each resident, as determined by resident assessments and individual plans of care. ~~The facility will staff, at a minimum, An average of 1.7 hours of certified nursing assistant and 6 hours of licensed nursing staff time for each resident during a 24 hour period.~~

(5) Each nursing home licensee must post the names of direct care nursing staff on duty by shift and by location of assignment in a conspicuous location on each wing or unit of the facility that is easily visible to residents and their families. This posting may designate staff assigned to work multiple locations.

(6)(5) In multi-story, multi-wing, or multi-station nursing home facilities, there must shall be a minimum of one nursing services staff person who is capable of providing direct care on duty at all times on each floor, wing, or station.

(7)(6) No nursing services staff person shall be scheduled for more than 16 hours within a 24 hour period, for three consecutive days, except in an emergency. Emergencies must shall be documented and must shall be for a limited, specified period of time.

(8) A nursing home licensee may allow a licensed nurse that performs both licensed nurse and certified nursing assistant duties during the same shift to divide the hours of patient care provided between the licensed nurse and certified nursing assistant staffing ratios requirements consistent with services provided. However, prior to such division, the nursing home licensee must receive approval from the Agency. Requests for approval must be made in writing to the Agency by the nursing home licensee. Approval of such request will be based on the facilities compliance and survey history for the previous 30 months to include citations for quality of care issues, staffing, and class I deficiencies. The licensee must document daily the time the licensed nurse performed personal care services to comply with minimum staffing requirements.

Specific Authority 400.022, 400.23 FS. Law Implemented 400.011, 400.022, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, 7-1-88, 7-10-91, Formerly 10D-29.108, Amended 4-18-94, \_\_\_\_\_.

59A-4.109 Resident Assessment and Care Plan.

(1) Each resident admitted to the nursing home facility must shall have a plan of care. The plan of care must shall consist of:

(a) Physician's orders, diagnosis, medical history, physical exam and rehabilitative or restorative potential.

(b) A preliminary nursing evaluation with physician's orders for immediate care, completed upon ~~on~~ admission.

(c) A complete, comprehensive, accurate and reproducible assessment of each resident's functional capacity which is standardized in the facility, and is completed within 14 days of the resident's admission to the facility and every 12 ~~twelve~~ months, thereafter. The assessment must shall be:

1. Reviewed no less than once every three ~~3~~ months,
2. Reviewed promptly after a significant change in the resident's physical or mental condition,
3. Revised as appropriate to assure the continued accuracy of the assessment.

(2) The nursing home licensee facility is responsible for developing to develop a comprehensive care plan for each resident that includes measurable objectives and timetables to meet a resident's medical, nursing, mental and psychosocial needs that are identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the resident's highest practicable physical, mental and social well-being. The care plan must be completed within seven 7 days after completion of the resident's assessment.

(3) At the resident's option, every effort must shall be made to include the resident and family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the resident's plan of care.

(4) All staff personnel who provide care, and at the resident's option, private duty nurses or persons who are not non employees of the facility, must shall be knowledgeable of, and have access to, the resident's plan of care.

(5) A summary of the resident's plan of care and a copy of any advanced directives must shall accompany each resident discharged or transferred to another health care facility, licensed under Chapter 400, Part II, F.S., or must shall be forwarded to the receiving facility as soon as possible consistent with good medical practice.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.109, Amended 4-18-94, 1-10-95,\_\_\_\_\_.

#### 59A-4.110 Dietary Services.

(1) The administrator must designate one full-time person as a director of food services dietary services supervisor. In a facility with a census of 61 or more residents, the duties of the director of food services must dietary services supervisor shall not include food preparation or service on a regular basis.

(2) The director of food services must dietary services supervisor shall either be a qualified dietitian or the facility must shall obtain consultation from a qualified dietitian. A qualified dietitian is one who:

(a) Is a registered dietitian as defined by the Commission on Accreditation for Dietetics Education (CADE), 1997 Commission on Dietetic Registration, March 1, 1994, which is incorporated by reference, the credentialing agency for the American Dietetic Association and is currently registered with the American Dietetic Association; or

(b) Has a baccalaureate degree with major studies in food and nutrition, dietetics, or food service management, as defined by the Commission on Accreditation for Dietetics Education Commission on Dietetic Registration of the American Dietetic Association, 1997 March 1, 1994, which is incorporated by reference, has one year of supervisory experience in the dietetic service of a health care facility, and participates annually in continuing dietetic education.

(3) A director of food services must Dietary Services Supervisor shall be a person who:

(a) Is a qualified dietitian as defined in subsection paragraphs 59A-4.110(2)(a),(b), F.A.C.; or

(b) Has successfully completed an associate degree program which meets the education standard established by the American Dietetic Association; or

(c) Has successfully completed a dietetic assistant correspondence or class room training program, approved by the American Dietetic Association. This training program is the dietary managers' course formerly administered by the Dietary Managers Association; or

(d) Has successfully completed a course offered by an accredited college or university that provided 90 or more hours of correspondence or classroom instruction in food service supervision, and has prior work experience as a dietary supervisor in a health care institution with consultation from a qualified dietitian; or

(e) Has training and experience in food service supervision and management in the military service equivalent in content to the program in paragraph (3)(b), (c) or (d); or

(f) Is a certified dietary manager who has successfully completed the Dietary Manager's Course and is certified through the Certifying Board for Dietary Managers and is maintaining their certification with continuing clock hours at 45 continuing education credits, CEU's per three-year period.

(4) A director of food service qualified under paragraphs 59A-4.110(3)(c), (d) or (e) of this subsection must become certified through the Board for Dietary Managers and maintain continuing education as set forth by the certifying board on or before December 31, 2009.

(5)(4) A one-week supply of a variety of non-perishable food and supplies, that represents a good diet, must shall be maintained in by the facility.

Specific Authority 400.022(1)(a), (f), (g), 400.141(5), 400.23 F.S. Law Implemented 400.022, 400.102, 400.141, 400.23 F.S. . History—New 4-1-82, Amended 4-1-84, 7-1-88, 7-10-91, Formerly 10D-29.110, Amended 4-18-94, 2-6-97,\_\_\_\_\_.

#### 59A-4.112 Pharmacy Services.

(1) The nursing home licensee must facility shall adopt procedures that assure the accurate acquiring, receiving, dispensing, and administering of all drugs and biologicals, to meet the needs of each resident.

(2) The nursing home licensee must facility shall employ, or obtain, the services of a state licensed consultant pharmacist. A consultant pharmacist is a pharmacist who is licensed by the Department of Business and Professional Regulation Department of Health, Board of Pharmacy and registered as a consultant pharmacist by the Board of Pharmacy in accordance with Rules 64B16-26.300 and 64B16-28.501, F.A.C., and who provides consultation on all aspects of the provision of pharmacy services in the facility.

(3) The consultant pharmacist ~~must shall~~ establish a system to accurately record the receipt and disposition of all controlled drugs in sufficient detail to enable an accurate reconciliation.

(4) The consultant pharmacist must shall determine that drug records are in order and that an account of all controlled drugs is maintained and periodically reconciled.

(5) Drugs and biologicals used in the facility must shall be labeled in accordance with currently accepted professional principles, Chapter 499, F.S., and Rules Chapter 64B16-28.108 and 64B16-28.502, F.A.C.

(6) Prescription Drugs and non-prescription medications requiring refrigeration must shall be stored in a refrigerator. ~~When stored in a general-use refrigerator, they shall be stored in a separate, covered, waterproof, and labeled receptacle.~~ Prescription and non-prescription medications must be stored in locked compartments that are accessible only to licensed staff in accordance with state and federal laws.

(7) All controlled substances must shall be disposed of in accordance with state and federal laws. All non-controlled substances may be destroyed in accordance with the facility's policies and procedures. Records of the disposition of all substances must shall be maintained in sufficient detail to enable an accurate reconciliation and a copy of the disposition must be filed in the resident's record.

(8) Non-controlled substances in unit dose containers may be returned to the dispensing pharmacy for credit.

(9) If ordered by the resident's physician, the resident or his or her representative may, upon discharge, take all current prescription drugs with him or her. An inventory of the drugs released must shall be completed, ~~shall be~~ dated, and signed by both the person releasing the drugs and the person receiving the drugs, and must shall be placed in the resident's record.

(10) The licensee must facility shall maintain an Emergency Medication Kit, also known as the Emergency Drug Kit (EDK), the contents of which shall be determined in consultation with the medical director, director of nursing and pharmacist, and it shall be in accordance with facility policies and procedures. The kit must shall be readily available and must shall be kept sealed. All items in the kit must shall be properly labeled. The licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory of the contents of the EDK must Emergency Medication Kit shall be attached to the outside of the kit, which must include the earliest expiration date of the EDK drugs. If the seal is broken, the kit must be restocked and resealed by the next business day after use.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 7-10-91, Formerly 10D-29.112, Amended 4-18-94,\_\_\_\_\_.

59A-4.118 Medical Records.

(1) The licensee must facility shall designate a full-time employee as being responsible and accountable for the facility's medical records. If this employee is not a qualified Medical Record Practitioner, then the licensee must facility shall have the services of a qualified Medical Record Practitioner on a consultant basis. A qualified Medical Record Practitioner is one who is eligible for a certification as a Registered Record Administrator or an Accredited Record Technician by the American Health Information Management Association or a graduate of a School of Medical Record Science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Health Information Management Association.

(2) Each medical record must shall contain sufficient information to clearly identify the resident, his or her diagnosis and treatment, and results. Medical records must shall be complete, accurate, accessible and systematically organized.

(3) Medical records must shall be retained for a period of five years from the date of discharge. In the case of a minor, the record must shall be retained for three 3 years after a resident reaches legal age under state law.

(4) In the event of a change of ownership, the transferee must maintain all client records, including those originated by the transferor, as required in this subsection.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.145, 400.23 FS. History—New 4-1-82, Amended 4-1-84, 3-2-88, Formerly 10D-29.118, Amended 4-18-94,\_\_\_\_\_.

59A-4.122 Physical Environment and Physical Plant Maintenance.

(1) The licensee must facility shall provide a safe, clean, comfortable, and homelike environment, which allows the resident to use his or her personal belongings to the extent possible.

(2) The licensee must facility shall provide:

(a) Housekeeping and maintenance services necessary to maintain a sanitary, orderly, and comfortable interior;

(b) Clean bed and bath linens that are in good condition;

(c) Private closet space or wardrobe space for each resident;

(d) Furniture, such as a bedside cabinet, drawer space;

(e) Adequate and comfortable lighting levels in all areas;

(f) Comfortable and safe room temperature levels in conformance with section 483.15(h)(6) 42 Codes of Federal Regulations Chapter IV (10-1-00 Education) and;

(g) The maintenance of comfortable sound levels. Individual radios, TVs and other such transmitters belonging to the resident will be tuned to stations of the resident's choice.

(3) Each nursing home licensee must establish written policies designed to maintain the physical plant and overall nursing home environment in such a manner that the safety and well-being of residents are assured.

(4) The building and mechanical maintenance programs must be under the supervision of a person who has knowledge in the areas of building and mechanical maintenance.

(5) All mechanical and electrical equipment must be maintained in working order, and must be accessible for cleaning and inspection.

(6) All mechanical systems must be tested, balanced and operated prior to being placed into service and maintained in accordance with the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006. Permanent records must be maintained.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History—New 4-1-82, Amended 4-1-84, Formerly 10D-29.122, Amended 4-18-94, \_\_\_\_\_.

#### 59A-4.123 Risk Management and Quality Assurance.

(1) The licensee must ~~facility shall~~ maintain a risk management and quality assurance committee as required in Section 400.147, F.S.

(2) The licensee must ~~facility shall~~ use AHCA Form 3110-0009, February 2003, Revised, January, 2002, October, 2001, “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” and AHCA Form 3110-0010, February 2003 3110-0010A, and 3110-0010B, Revised, January, 2002, “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” which are incorporated by reference when reporting events as stated in Section 400.147, F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. Each licensee must comply with reporting timeframes and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C. at: <http://ahca.myflorida.com/reporting/index.shtml>.

(3) Each licensee that has submitted a “Confidential Nursing Home Initial Adverse Incident Report – 1 Day,” AHCA Form 3110-0009, February 2003 must submit a full report of each event by completing “Confidential Nursing Home Complete Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, February 2003, which is incorporated by reference. This form may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. If through a thorough investigation it has been determined that the event does not meet the definition of adverse incident, a statement of corrective action on “Confidential Nursing Home Complete

Adverse Incident Report – 15 Day,” AHCA Form 3110-0010, February 2003, is not required. Each licensee must comply with report timeframe and transmission requirements specified in Section 400.147, F.S. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C., at: <http://ahca.myflorida.com/reporting/index.shtml>. Events reported to law enforcement are considered adverse incidents if the report leads to an investigation by law enforcement officials and the report involves a resident of the facility. Each facility shall use AHCA Form 3110-0008, and AHCA Form 3110-0008A, Revised, January, 2002, “Nursing Home Monthly Liability Claim Information,” which are incorporated by reference when reporting liability claims filed against it as required by Section 400.147(9), F.S. These forms may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New 4-1-82, Amended 9-5-82, 4-1-84, 8-1-85, 7-10-91, Formerly 10D-29.123, Amended 4-18-94, 5-5-02, \_\_\_\_\_.

#### 59A-4.1235 Liability Claims.

Each nursing home licensee must use AHCA Form 3110-0008, and AHCA Form 3110-0008A, February 2003, “Nursing Home Monthly Liability Claim Information,” which are incorporated by reference, when reporting notices of intent to litigate and complaints filed with the Clerk of the Court received by the licensee during the prior month as required by Section 400.147(9), F.S. If a liability claim has not been filed against the licensee in a given month, no report is required. These forms must be submitted by the tenth calendar day following the month of receipt and may be obtained from the Agency for Health Care Administration, Long Term Care Unit, 2727 Mahan Drive, MS 33, Tallahassee, FL 32308 or on the web site at: <http://ahca.myflorida.com/>. These forms may be submitted through the Agency’s web site in accordance with subsection 59A-4.103(3), F.A.C. at: <http://ahca.myflorida.com/reporting/index.shtml>.

Specific Authority 400.23 FS. Law Implemented 400.022, 400.102, 400.141, 400.147, 400.23 FS. History—New \_\_\_\_\_.

#### 59A-4.126 Disaster Preparedness.

(1) Each nursing home licensee must ~~facility shall~~ have a written plan with procedures to be followed in the event of an internal or externally caused disaster. The initiation, development, and maintenance of this plan shall be the responsibility of the facility administrator, and ~~must shall~~ be accomplished in consultation with the Department of Community Affairs’, ~~cCounty eEmergency mManagement aAgency~~.

(2) The plan ~~must shall~~ include, at a minimum, the following:

(a) Criteria, as shown, in ~~sSection~~ 400.23(2)(g), F.S.; and

(b) The Emergency Management Planning Criteria for Nursing Home Facilities, AHCA 3110-6006, March 1994, which is incorporated herein by reference and obtainable available from the Agency for Health Care Administration, 2727 Mahan Drive, MS #24, Tallahassee, Florida 32308 or on the web site at <http://ahca.myflorida.com/MCHQ/Plans/index.shtml#forms>.

(3) The plan, including the "Emergency Management Planning Criteria for Nursing Homes," must be submitted annually, at the time of a change of ownership of the facility and after significant modification of the plan, to the county emergency management agency for review and approval. A fee may be charged for the review of the plan as authorized by Sections 252.35(2)(l) and 252.38(1)(e), F.S.

(4) If the licensee is advised by the county emergency management agency of necessary revisions to the plan, those revisions must be made and the plan resubmitted to the county emergency management agency within 30 days of notification.

(5) The county emergency management agency shall be the final administrative authority for emergency plans developed by the nursing home licensee.

(6) The nursing home licensee must test the implementation of the emergency management plan annually, either in response to a disaster, an emergency, or in a planned drill. The outcome must be evaluated and documented and appropriate modifications to the plan must be made within 30 days to address deficiencies of the plan.

(7) The emergency management plan must be located in a designated area of the facility for immediate access by nursing home staff.

(8) If residents must be evacuated from the premises due to emergency conditions or a disaster, the licensee must report to the Agency's Long Term Care Unit in Tallahassee at (850)488-5861 or through the Emergency Status System (ESS) at: <http://ahcaxnet/esswebahca> within 24 hours after the evacuation is completed, the location and number of residents evacuated. In the event the Long Term Care Unit is unavailable to receive such information, the licensee must contact the appropriate Agency field office. The administrator or designee is responsible for knowing the location of each resident until the resident has been discharged from the facility. The licensee must inform the appropriate Agency field office of a contact person(s) who will be available 24 hours a day, seven days a week, until the facility is reoccupied.

(9) A licensee may exceed its licensed capacity to act as a receiving facility in accordance with an emergency operations plan for residents of evacuating providers from a geographic area where an evacuation order has been issued by a local authority having jurisdiction. While in an overcapacity status, each provider must furnish or arrange for appropriate care and services to all residents.

(10) The Agency must review requests for overcapacity beyond 15 days. Approvals shall be based upon satisfactory justification, need and resident safety as provided by the receiving and sending facilities.

(11) If the residents are evacuated from a nursing home during or after an emergency situation or disaster, the facility must not be reoccupied until a determination is made by the nursing home administrator, the Agency and, if required, the local authority having jurisdiction, that the facility is appropriate to meet the needs of the residents.

(12) A facility with significant structural or systems damage must relocate residents out of the damaged facility until approval is received from the Agency's Office of Plans and Construction that the facility can be safely reoccupied pursuant to the requirements of the Florida Building Code 2004 Edition, including all supplements in affect as of December 2006 and this rule.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, Formerly 10D-29.126, Amended 8-15-94, \_\_\_\_\_.

59A-4.128 Evaluation of Nursing Homes and Licensure Status.

(1) The Agency shall, at least every 15 months, evaluate and assign a licensure status to every nursing home facility. The evaluation and licensure status shall be based on the facility's compliance with the requirements contained in this rule, and Chapter 400, Part II, F.S.

(2) The evaluation shall be based on the most recent licensure survey report and investigations conducted by the Agency and those persons authorized to inspect nursing homes under chapter 400, Part II, F.S.

(3) The licensure status assigned to the nursing home facility will be either conditional or standard. The licensure status is based on the compliance with the standards contained in this rule and Chapter 400, Part II, F.S. ~~Non-compliance will be stated as deficiencies measured in terms of scope and severity.~~

Specific Authority 400.23 FS. Law Implemented 400.102, 400.19, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 9-26-85, 7-21-87, Formerly 10D-29.128, Amended 8-15-94, 2-28-95, 10-13-96, 5-5-02, \_\_\_\_\_.

59A-4.1285 Respite Care.

(1) Each nursing home licensee that meets the standards provided in Section 400.141(6), F.S., may develop and implement a respite care program.

(2) All sections in this rule and Chapter 400, Part II, F.S., shall apply to a nursing home licensee offering a respite care program. For each person admitted under the respite care program, the nursing home licensee must:

(a) Consider respite residents as nursing home residents for the purposes of determining the nursing home minimum staffing as required by Section 400.23(3)(a), F.S.



(b) Have an abbreviated plan of care developed with those items specified in paragraph 59A-4.109(1)(a), F.A.C. At a minimum, the modified plan of care must include nutritional requirements, medication orders, physician's orders, nursing assessments and dietary preferences. The nursing or physician assessments may take the place of all other required assessments.

(c) Have a contract which, at a minimum, must include the services to be provided to the resident including: charges for services, activities, equipment, emergency medical services and the handling of medications. If multiple respite admissions for a single person are anticipated, the original contract may be good for one year from the date of execution.

(3) Persons admitted under the respite care program are:

(a) Exempt from the requirements as specified in subsection 59A-4.106(1), F.A.C., for a discharge plan, discharge summary, and discharge diagnosis; however, each nursing home licensee must ensure a resident is released to his or her caregiver or an individual designated in writing by the caregiver;

(b) Entitled to resident's rights as specified under Section 400.022, F.S., with the following exceptions:

1. Funds or property of the respite resident shall not be considered trust funds subject to the requirements of Section 400.022(1)(h), F.S., until the resident has been in the facility for more than 14 consecutive days. Each nursing home licensee must develop policies and procedures for handling respite care residents' funds or property, which must include free access to personal funds as needed and release of all property and funds upon discharge.

2. The rights of residents as specified in Section 400.022(i) and (l), F.S., for respite residents must be addressed under resident contract.

3. The rights of residents as specified in Sections 400.022(p)(q)(u) and (v), F.S., will not apply.

(c) Allowed to use their personal medications for the respite stay if permitted under facility policy. Prescription medications brought in with the respite resident must be in a properly labeled container. Over-the-counter medications must be in the original container. The nursing home licensee must obtain physician's orders for the medications. The caregiver may provide information regarding the medications as part of the nursing assessment, which must agree with the physician's orders. Medications should be released with the resident upon discharge and in accordance with current orders. The nursing home policy may include the acceptance of:

1. An attestation by the caregiver that the medication(s) has(have) been under his or her control prior to bringing it to the nursing home;

2. Verification by the DON, the consultant pharmacist, or provider pharmacy that the medication(s) as packaged is(are) the same as labeled and ordered by the physician.

(4) A person receiving respite care shall be entitled to a total of 60 days in the nursing home within a contract year or a calendar year if the contract is for less than 12 months. However, each single stay shall be limited to not more than 14 days. If a stay exceeds 14 days, the nursing home licensee must comply with all assessment and care planning requirements applicable to nursing home residents.

(5) Persons receiving respite care shall reside in a licensed nursing home bed.

(6) A prospective respite resident must provide such relevant medical information from a physician, a physician assistant, or nurse practitioner and other information from the primary caregiver as may be required by the nursing home, prior to or at the time of admission to the nursing home for purposes of receiving respite care. The medical information must include a physician's order for respite care and proof of a physical examination by a licensed physician, physician assistant or nurse practitioner. The physician's order and physical examination may be used to provide intermittent respite care for up to 12 months from the date the order is written.

(7) The nursing home licensee must assume the duties of the primary care giver. To ensure continuity of care and services, the respite resident shall be entitled to retain his or her personal physician and must have access to medically necessary services such as physical therapy, occupational therapy or speech pathology as needed. The nursing home licensee must arrange for transportation to these services if necessary.

Specific Authority 400.011 FS. Law Implemented 400.151 FS. History--New \_\_\_\_\_.

59A-4.1288 Exception.

Nursing homes licensees that participate in Title XVIII or XIX must follow certification rules and regulations found in 42 C.F.R. 483, Requirements for Long Term Care Facilities, September 26, 1991, including any amendments integrated since 1991, which are incorporated by reference and sState rRules and rRegulations, Cchapter 400, Part II, F.S., and this RRule. Non-certified facility licensees facilities must follow the contents of this Rrule and the standards contained in the Conditions of Participation found in 42 C.F.R. 483, Requirements for Long Term Care Facilities, September 26, 1991, which is incorporated by reference with respect to social services, dental services, infection control, dietary and ~~the~~ therapies.

Specific Authority 400.23 FS. Law Implemented 400.102, 400.141, 400.23 FS. History--New 4-18-94, Amended \_\_\_\_\_.

59A-4.1295 Additional Standards for Homes That Admit Children 0 Through 20 Years of Age.

(1) Nursing homes licensees who accept children with a level of care of Intermediate I or II, skilled or fragile, must meet the following standards as indicated. Intermediate I and II are defined in Chapter 59G-4, F.A.C. Children considered skilled have a chronic debilitating disease or condition of one or more physiological or organ systems that generally make the child dependent upon 24-hour per day medical, nursing, or health supervision or intervention. Fragile children are medically complex and the medical condition is such that they are technologically dependent upon through medical equipment apparatus or procedure(s) to sustain life and who can expire, without warning unless continually under observation.

(2) Each child must shall have an assessment upon admission by licensed physical, occupational, and speech therapists that are experienced in working with children. Therapies must will be administered based upon the outcome of these assessments and the orders of the child's physician.

(3) Admission criteria:

(a) The child must require intermediate, skilled or fragile nursing care and be medically stable, as documented by the physician determining level of care.

(b) For nursing facility placement, a recommendation must shall be made in the form of a written order by the child's attending physician in consultation with the parent(s) or legal guardian(s). For Medicaid certified nursing facilities, the recommendations for placement of a Medicaid applicant or recipient in the nursing facility must shall be made by the Multiple Handicap Assessment Team. Consideration must be given to relevant medical, emotional, psychosocial, and environmental factors.

(c) Each child admitted to the nursing home facility must shall have a plan of care developed by the interdisciplinary care plan team. The plan of care must shall consist of those items listed below.

1. Physician's orders, diagnosis, medical history, physical examination and rehabilitative or restorative needs.

2. A preliminary nursing evaluation with physician orders for immediate care, completed on admission.

3. A comprehensive, accurate, reproducible, and standardized assessment of each child's functional capability which is completed within 14 days of the child's admission to the facility and every twelve months thereafter. The assessment must shall be:

a. Reviewed no less than once every 120 days;

b. Reviewed promptly after a significant change in the child's physical or mental condition;

c. Revised as appropriate to assure the continued usefulness of the assessment.

4. The plan of care must shall also include measurable objectives and timetables to meet the child's medical, nursing, mental and psychosocial needs identified in the comprehensive assessment. The care plan must describe the services that are to be furnished to attain or maintain the child's highest practicable physical, mental, social and educational well-being. The care plan must be completed within seven 7 days after completion of the child's assessments ~~required in subsection (3) above.~~

5. In order to enhance the quality of life of each child ages 3 years through 15 years, the facility administration must notify by certified mail the school board in the county in which the facility is located that there is a school-age child residing in the facility. Children ages 16 through 20 years may be enrolled in an education program according to their ability to participate. Program participation for each child regardless of age is predicated on his or her their intellectual function, physical limitations, and medical stability. Collaborative planning with the public school system and community at-large is necessary to produce integrated and inclusive settings which meet each child's needs. The failure or inability on the part of city City, county County, state State, or federal Federal school system to provide an educational program according to the child's ability to participate shall not obligate the licensee facility to supply or furnish an educational program or bring suit against any city City, county County, state State, or federal Federal organizations for their failure or inability to provide an educational program. Nothing contained herein is intended to prohibit, restrict or prevent the parents or legal guardian of the child from providing a private educational program that meets applicable sState laws.

6. At the child's guardian's option, every effort must shall be made to include the child and his or her family or responsible party, including private duty nurse or nursing assistant, in the development, implementation, maintenance and evaluation of the child's plan of care.

7. All employees of the facility who provide hands on care, must shall be knowledgeable of, and have access to, the child's plan of care.

8. A summary of the child's plan of care must shall accompany each child discharged or transferred to another health care facility or must shall be forwarded to the facility receiving the child as soon as possible consistent with good medical practice.

(4) The child's attending physician, licensed under Chapter 458 or 459, F.S., must shall maintain responsibility for the overall medical management and therapeutic plan of care and must will be available for face-to-face consultation and collaboration with the nursing facility medical and nursing director. At a minimum, the physician or his or her designee must shall:

(a) Evaluate and document the status of the child's condition at least monthly;

(b) Review and update the plan of care every 60 days;

(c) Prepare orders as needed and accompany them by a signed progress note in the child's medical record; and

(d) Co-sign verbal orders no more than 72 hours after the order is given. Physician orders may be transmitted by facsimile machine. It is not necessary for a physician to re-sign a facsimile order when he or she visits a facility. Orders transmitted via computer mail are not acceptable. Verbal orders not co-signed within ~~seventy-two (72)~~ hours shall not be held against the licensee facility if it has documented timely, good-faith efforts to obtain said co-signed orders.

(5) The following must be completed for each child. ~~An registered nurse must RN shall~~ be responsible for ensuring these tasks are accomplished:

(a) Informing the attending physician and medical director of beneficial and untoward effects of the therapeutic interventions;

(b) Maintaining the child's record in accordance with facility policies and procedures; and

(c) ~~Instructing~~ ~~instructing~~ or arranging for the instruction of the parent(s), legal guardian(s), or other caretakers(s) ~~giver(s)~~ on how to provide the necessary interventions, how to interpret responses to therapies, and how to manage unexpected responses in order to facilitate a smooth transition from the nursing facility to the home or other placement. This instruction ~~must will~~ cover care coordination and ~~must will~~ gradually pass the role of care coordinator to the parent or legal guardian, as appropriate.

(6) In addition to the requirements of section 420 of the Florida Building Code 2004 Edition including all supplements in effect as of December 2006, The licensee must facility shall provide the following:

~~(a) A minimum of 100 square feet in a single bedroom and 80 square feet per child in multiple bedrooms;~~

~~(a)(b)~~ Bathroom and bathing facilities appropriate to the child's needs to allow for:

1. Toileting functions with privacy ~~( a door to the bathroom must will be provided); and~~

2. Stall showers and tubs.

~~(b)(e)~~ There ~~must shall~~ be an indoor activities area that:

1. Encourages exploration and maximizes the child's capabilities;

2. Accommodates mobile and non-mobile children; and

3. Supports a range of activities for children and adolescents of varying ages and abilities.

~~(c)(d)~~ There ~~must shall~~ be an outdoor activity area that is:

1. Secure with areas of sun and shade;

2. Free of safety hazards; and

3. Equipped with age appropriate recreational equipment for developmental level of children and has storage space for same.

~~(d)(e)~~ All furniture and adaptive equipment must be physically appropriate to the developmental and medical needs of the children;

~~(e)(f)~~ Other equipment and supplies ~~must shall~~ be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(7) For those nursing ~~homes that facilities who~~ admit children age 0 through 15 years of age, the following standards apply in addition to those above and throughout Chapter 59A-4, F.A.C.

(a) Each child ~~must shall~~ have an assessment upon admission by licensed physical, occupational, and speech therapists who are experienced in working with children. Therapies ~~must will~~ be administered based upon the outcome of these assessments and the orders of the child's physician.

(b) The nursing home licensee must facility shall have a contract with a board certified pediatrician who serves as a consultant and liaison between the nursing facility and the medical community for quality and appropriateness of services to children.

(c) The nursing home licensee facility must assure that pediatric physicians are available for routine and emergency consultation to meet the children's child's needs.

(d) The nursing home licensee facility must ensure that children reside in distinct and separate units from adults.

(e) The nursing home licensee must facility shall be equipped and staffed to accommodate no more than ~~sixty (60)~~ children at any given time, of which there ~~must shall~~ be no more than 40 children of ages 0 through 15 at any given time, nor more than 40 children of ages 16 through 20 at any given time.

(f) The nursing home licensee facility must provide access to emergency and other forms of transportation for children.

(g) At least one licensed health care staff person with current Pediatric Advanced Life Support (PALS) Life Support certification for children ~~must shall~~ be on the unit at all times where children are residing.

(h) The nursing home licensee must facility shall maintain an Emergency Medication Kit, also known as an Emergency Drug Kit (EDK) of pediatric medications, as well as adult dosages for those children who require adult doses. The contents in the EDK Emergency Medication Kit shall be determined in consultation with the Medical Director, Director of Nursing, a registered nurse who has current experience working with children, and a Pharmacist who has pediatric expertise. The kit ~~must shall~~ be readily available and ~~must shall~~ be kept sealed. All items in the kit ~~must shall~~ be properly labeled. The nursing home licensee must facility shall maintain an accurate log of receipt and disposition of each item in the EDK Emergency Medication Kit. An inventory to include expiration dates of the contents of the EDK must Emergency

~~Medication Kit shall~~ be attached to the outside of the kit. If the seal is broken, the kit must be restocked and resealed the next business day after use.

(i) Each nursing home ~~licensee must~~ facility shall develop, implement, and maintain a written staff education plan which ensures a coordinated program for staff education for all facility employees who work with children. The plan must shall:

1. Be reviewed at least annually by the quality assurance committee and revised as needed.

2. Include both pre-service and in-service programs. In-service for each department must include pediatric-specific requirements as relevant to its discipline.

3. ~~Include~~ Ensure that education ~~that~~ is conducted annually for all facility employees who work with children, at a minimum, in the following areas:

a. Childhood diseases to include prevention and control of infection;

b. Childhood accident prevention and safety awareness programs;

4. ~~Require~~ Ensure that all non-licensed employees of the nursing home complete an initial educational course on HIV and AIDS, preferably pediatric HIV and AIDS, in accordance with Section 381.0035, F.S. If the employee does not have a certificate of completion at the time they are hired, they must have two hours within six months of employment. All employees must shall have a minimum of one hour biennially.

(j) All facility staff must shall receive in-service training in and demonstrate awareness of issues particular to pediatric residents annually.

(8) For the purposes of this ~~section rule~~, nursing care must shall consist of the following:

(a) For residents who are skilled: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants (CNAs). The child's nursing care must shall be as follows:

1. There must shall be one registered nurse on duty, on-site 24 hours per day on the unit where children reside. There must shall be a minimum of 3.6 an average of 3.5 hours of nursing care per patient per day.

2. In determining the minimum hours of nursing care required above, there must shall be no more than 1.5 hours per patient per day of certified nursing assistant (CNA) care and no less than 2.1 1-0 hours per patient per day of licensed nursing care.

(b) For residents who are fragile: registered nurses, licensed practical nurses, respiratory therapists, respiratory care practitioners, and certified nursing assistants. The child's nursing care must shall be as follows:

1. One registered nurse on duty, on-site 24 hours per day on the unit where children reside. There must shall be a minimum of 3.6 hours with an average of 5 hours of nursing care per patient day.

2. In determining the minimum hours per patient day required above, there must shall be no more than 1.5 hours per patient day of CNA care, and no less than 2.1 1-7 hours per patient day of licensed nursing care.

(c) In the event that there are more than ~~forty two (42)~~ children in the facility, there must shall be no fewer than ~~two (2)~~ registered nurses on duty, on-site, 24 hours per day on the unit where the children reside.

(9) A qualified dietitian with knowledge, expertise and experience in the nutritional management of medically involved children must shall evaluate the needs and special diet of each child at least every 60 days.

(10) The pharmacist must will have access to appropriate knowledge concerning pediatric pharmaceutical procedures, i.e., total parenteral nutrition (TPN) infusion regime and be familiar with pediatric medications and dosages.

(11) The nursing ~~home licensee must~~ facility shall maintain or contract as needed for pediatric dental services.

(12) Safety equipment, such as, childproof safety latches on closets, cabinets, straps on all seating services, locks on specific storage cabinets, bumper pads on cribs and car seats for transporting must be used whenever appropriate to ensure the safety of the child.

(13) Pediatric equipment and supplies must shall be available as follows:

(a) Suction machines, one per child requiring suction, plus one suction machine for emergency use;

(b) Oxygen, in portable tanks with age appropriate supplies;

(c) Thermometers;

(d) Sphygmomanometers, stethoscopes, otoscopes; and

(e) Apnea monitor and pulse oximeter.

(14) Other equipment and supplies must shall be made available to meet the needs of the children as prescribed or recommended by the attending physician or medical director and in accordance with professional standards of care.

(15) Prior to initiating or expanding services to pediatric residents, the licensee or applicant must receive written approval from the Agency. Nursing home licensees that wish to convert existing nursing home beds to pediatric beds must:

(a) Have a standard license pursuant to Section 400.062, F.S.:

(b) Submit approval from the Office of Plans and Construction based upon submission of plans and specifications of the building for approval as outlined in Rule 59A-4.133, F.A.C.

(c) Submit a revised licensure application no less than 30 days prior to the anticipated date that services will be provided. The application must include the number and configuration of beds to be used to serve pediatric residents and a listing of services that will be provided.

(16) Approval to provide pediatric services shall be based upon demonstration of compliance with this rule and Chapter 400, Part II, F.S.

(17) Any changes in pediatric services, including cessation of services, must be reported to the Agency in writing at least 30 days prior to the change.

Specific Authority ~~400.23(5)(2), (4)~~ FS. Law Implemented ~~400.23(5)(4)~~ FS. History—New 11-5-96, Amended 9-7-97, \_\_\_\_\_.

(Substantial rewording of Rule 59A-4.130 follows. See Florida Administrative Code for present text.)

59A-4.130 ~~Fire Prevention~~, Fire Protection, and Life Safety, Systems Failure and External Emergency Communications.

(1) Each nursing home licensee must provide fire protection through the elimination of fire hazards. All portions of the existing facility must comply with the requirements of the National Fire Protection Association (NFPA) Life Safety Code 101 for Existing Health Care Occupancy, as adopted by the State Fire Marshal and described in Chapter 4A-53, F.A.C. and incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts, 02269-9101.

(2) All fires or explosions must be reported to the Agency's Office of Plans and Construction, 2727 Mahan Drive, MS # 24, Tallahassee, Florida 32308, within seven days of the occurrence. Upon notification and in accordance with NFPA 1, Fire Prevention Code, the Agency shall investigate the cause, origin, and circumstances of the fire or explosion. To facilitate this investigation, the nursing home licensee must complete the form "Fire Incident Report," AHCA Form 3500-0031, September 2006, incorporated herein by reference and available by mail from the Agency's Office of Plans and Construction or accessible from the Agency's web site at [ahca.myflorida.com/MCHO/Plans/index.shtml#forms](http://ahca.myflorida.com/MCHO/Plans/index.shtml#forms).

(3) In accordance with NFPA 101, Life Safety Code, in the event of a system failure of the fire alarm system, smoke detection system, or sprinkler system, the following actions must be taken by the licensee:

(a) Notify the local fire department and document instructions.

(b) Notify the Agency's Office of Plans and Construction or the appropriate Agency field office.

(c) Assess the extent of the condition and effect corrective action, with a documented correction period. If the corrective action will take more than four hours, the following items must be completed:

1. Implement a contingency plan to the facility fire plan containing a description of the problem, a specific description of the system failure, and the projected correction period. All staff on the shifts involved must have documented in-service training for the emergency contingency.

2. Begin a documented fire watch until the system is restored. Staff performing the fire watch must be trained in appropriate observations and actions, as well as be able to expeditiously contact the fire department. To maintain a fire watch, the licensee must utilize only certified public fire safety personnel, a security guard service, or facility staff. If facility staff are utilized for this function, they must meet the following criteria:

a. Be off duty from their regular facility position or assigned only to fire watch duty. The licensee must maintain compliance with direct care staffing requirements at all times;

b. Be trained and competent as determined by the licensee in the duties and responsibilities of a fire watch;

c. Have a provision for immediate access to two-way electronic communication.

3. If the projected correction period changes or upon restoration of the system to normal operation, the licensee must notify the appropriate Agency's field office and local fire authorities.

(4) External Emergency Communication. Each facility initially licensed after February 1, 2007, must provide for external electronic communication not dependent on terrestrial telephone lines, cellular, radio, or microwave towers, such as on-site radio transmitter, satellite communication systems or a written agreement with an amateur radio operator volunteer group. This agreement must provide for a volunteer operator and communication equipment to be relocated into the facility in the event of a disaster until communications are restored. Other methods which can be shown to maintain uninterrupted electronic communications not dependent on land-based transmission must be approved by the Agency's Office of Plans and Construction.

Specific Authority ~~381.031(1)(g)~~, 400.23, 400.191(2) FS. Law Implemented ~~381.031, 400.102, 400.141, 400.23, 633.05(8), 633.051~~ FS. History—New 4-1-82, Amended 4-1-84, 8-1-85, Formerly 10D-29.119, 59A-4.119, Amended \_\_\_\_\_.

(Substantial rewording of Rule 59A-4.130 follows. See Florida Administrative Code for present text.)

59A-4.133 ~~Physical Plant Codes and Standards for Nursing Homes Plans Submission and Review and Construction Standards.~~

(1) All construction of nursing homes initially licensed after February 1, 2007 and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of existing facilities must be in compliance with the following codes and standards:

(a) The Florida Building Code 2004 Edition, including all supplements in effect as of December 2006, as adopted by the Florida Building Commission and incorporated by reference in subsection 9B-3.047(1), F.A.C., by the Department of

Community Affairs and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, Birmingham, Alabama 35213-1206;

(b) The fire codes as adopted by the State Fire Marshal and incorporated by reference in Rule 69A-3.012, F.A.C., by the Division of State Fire Marshal at the Department of Financial Services and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101.

(2) No building shall be converted to a licensed nursing home unless it complies with the standards and codes set forth herein and with licensure requirements set forth in Rule 59A-4.103, F.A.C.

(3) The Fire Safety Evaluation System (FSES), NFPA-101 A, as adopted by the State Fire Marshal and described in Chapter 69A-53, F.A.C., and herein incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101, shall not be used to meet the required codes and standards for new construction or for the conversion of an existing building to a licensed nursing home.

(4) Where additions, modifications, alterations, refurbishing, renovations or reconstruction are undertaken within an existing facility, all such additions, modifications, alterations, refurbishing, renovations or reconstruction must comply with applicable sections of the codes for new facilities. Where existing major structural elements make total compliance impractical or impossible, the licensee or potential licensee must submit to the Office of Plans and Construction a request to utilize alternate materials and methods in accordance with the Florida Building Code.

(5) In additions, modifications, alterations, refurbishing, renovations or reconstruction projects and those projects that are making additions to existing facilities, only that portion of the total facility affected by the project must comply with applicable sections of the referenced codes for new construction.

(6) A licensed nursing home or any portion of a licensed nursing home that was reviewed and approved under a previous edition of the Life Safety Code must be in compliance with the requirements of Chapter 19, Existing Health Care Occupancy, of the National Fire Protection Association (NFPA) Life Safety Code 101, as adopted by the State Fire Marshal and described in Chapter 69A-53, F.A.C., with the exception of any part included in the additions, modifications, alterations, refurbishing, renovations or reconstruction. A licensed nursing home and any portion of a licensed nursing home that was reviewed and approved under a previous edition of Chapter 59A-4, F.A.C., and the state or local building code must remain in compliance with the rule or building code in effect at the date of licensure with the exception of any part included in the additions, modifications, alterations, refurbishing, renovations or reconstructions.

(7) All existing facilities must be maintained in a safe condition free of hazards and all existing architectural, mechanical, electrical and structural systems and appurtenances must be maintained in good working order. No architectural, mechanical, electrical, or structural system or appurtenance may be deleted or discontinued without first obtaining approval from the Agency.

(8) When a building or portion of a building is converted to a new licensed nursing home, it must comply with the requirements of Chapter 4 and Institutional Occupancy- Group I, Unrestrained, of the Florida Building Code 2004 Edition, including all supplements in effect as of December 2006 as adopted by the Florida Building Commission and incorporated by reference and obtainable from the Southern Building Code Congress International, Inc., 900 Montclair Road, and the National Fire Protection Association (NFPA) Life Safety Code 101, Chapter 18, New Health Care Occupancy, as adopted by the State Fire Marshal and incorporated by reference and obtainable from the National Fire Protection Association, 1 Batterymarch Park, P. O. Box 9101, Quincy, Massachusetts 02269-9101. For the purpose of life safety requirements, conversion from a hospital to a nursing home or vice versa is not considered a change in occupancy. However, any such conversion must meet the requirements of Sections 419 or 420 of the Florida Building Code as appropriate. A change of ownership shall not constitute a change of occupancy.

(9) Other facilities or providers not owned or operated by the licensee of a nursing home may be fully integrated with the nursing home's physical plant only after it has been successfully demonstrated to the Agency that:

(a) All areas of the facility's physical plant are designed and maintained in a manner that will ensure continued licensure compliance of the nursing home.

(b) The areas associated with the separately licensed or unlicensed area provide and maintain clear, visible and readable signs denoting its separateness from the licensed nursing home.

(10) The Agency shall conduct annual life safety inspections of nursing homes in order to ensure compliance with all licensing and fire safety requirements. Inspections may also be conducted by the Agency as it deems necessary to carry out the functions of the Agency for the following reasons:

(a) To ensure compliance with the licensing and life safety requirements of this Chapter;

(b) To respond to licensing, life safety, and other physical plant complaints; or

(c) To protect the public health and safety.

(11) Nothing in these standards shall be construed as restrictive to a facility that chooses to do work or alterations as part of a long-range, phased safety improvement plan. All hazards to life and safety and all areas of noncompliance with

applicable codes and regulations are to be corrected in accordance with a plan of correction approved in advance by the Agency's Office of Plans and Construction.

(12) Projects that have not received at a minimum a Stage II Preliminary Plan approval from the Office of Plans and Construction on the effective date of this rule must conform to the requirements as set forth in these rules.

Specific Authority ~~381.031(1)(g)7,~~ 400.23 FS. Law Implemented ~~381.031,~~ 400.011(2), 400.021(1)-(17), 400.022(1)-(4), 400.102, 400.141, 400.23 FS. History--New 4-1-82, Amended 4-1-84, 4-29-92, Formerly 10D-29.120, 59A-4.120, Amended 2-6-97, 10-21-99, \_\_\_\_\_.

#### 59A-4.134 Plans Submission and Fee Requirements.

(1) No construction work, including demolition, shall be started until prior written approval has been given by the Office of Plans and Construction. This includes all construction of new facilities and any and all additions, modifications, alterations, renovations, and refurbishing to the site, facility, equipment or systems of all existing facilities.

(2) Approval to start construction only for demolition, site work, foundation, and building structural frame may be obtained prior to construction document approval when the following is submitted for review and approval:

(a) Preliminary Stage II approval letter from the Office of Plans and Construction.

(b) Construction documents, specifications and construction details for all work to be undertaken.

(c) A letter from the nursing home licensee holding the Agency harmless for any changes that may occur to the project as a result of the final construction document review.

(d) A life safety plan indicating temporary egress and detailed phasing plans indicating how the area(s) to be demolished or constructed is(are) to be separated from all occupied areas must all be submitted for review and approval when demolition or construction in and around occupied buildings is to be undertaken.

(3) Projects that have been submitted to the Agency for review will be considered abandoned and will be terminated after any of the following has occurred:

(a) Construction has not begun within one year after written approval from the Office of Plans and Construction of the construction documents;

(b) No further plans have been submitted for Agency review within one year after a project has been initiated with the Office of Plans and Construction;

(c) Construction has been halted for more than one year. After this termination, resubmission as a new project will be required.

(4) When construction is planned, either for new buildings or additions, alterations or renovations to existing buildings, the plans and specifications must be prepared and submitted to the Office of Plans and Construction for approval by a Florida

registered architect and a Florida registered professional engineer. An architecture or engineering firm not practicing as a sole proprietor must also be registered as an architecture or engineering firm with the Florida Department of Business and Professional Regulation.

(5) The initial submission of plans to the Office of Plans and Construction for any new project must include a completed Plan Review Application Form, ACHA Form 3500-0011, November 1996, revised March 2002, incorporated by reference and obtainable from the Agency for Health Care Administration, 2727 Mahan Drive, Tallahassee, Florida, 32308 and a valid Certificate of Need, if required by the Agency. This information must accompany the initial submission, and approval will not be granted for any project without a Certificate of Need if required by the Agency.

(6) Plans and specifications submitted for review shall be subject to a plan review fee. This fee is prescribed by Section 400.023, F.S. All fees must be paid by check made payable to the Treasurer, State of Florida, with the check noted with the Office of Plans and Construction facility log number. Fees will be accepted only from the licensee or prospective licensee.

(7) Plans and specifications shall normally be submitted in three stages. Exceptions to the submission of all three stages shall be subject to prior approval by the Office of Plans and Construction.

(a) Stage I, schematic plans.

(b) Stage II, preliminary plans or design development drawings.

(c) Stage III, construction documents, including specifications, addenda and change orders.

(8) For each stage of submission, a program or scope of work must be submitted. It must consist of a detailed word description of all contemplated work and any required phasing to be provided in the proposed construction.

(9) For projects involving only equipment changes or system renovations, only Stage III, construction documents need be submitted. These documents must include the following:

(a) Life safety plans showing the fire/smoke compartments in the area of renovation.

(b) Detailed phasing plans indicating how the new work will be separated from all occupied areas.

(c) Engineering plans and specifications for all of the required work.

(10) Stage I, Schematic Plans.

(a) At a minimum, the following must be incorporated into the schematic plans:

1. Single-line drawings of each floor that must show the relationship of the various activities or services to each other and each room arrangement. The function of each room or space must be noted in or near the room or space. The proposed roads and walkways, service and entrance courts, parking, and orientation must be shown on either a small plot

plan or on the first floor plan. Provide a simple cross-section diagram showing the anticipated construction. Provide a schematic life safety plan showing smoke and fire compartments, exits, exit passageways and gross areas of smoke and fire compartments. Provide information as to which areas have sprinklers, both new and existing.

2. If the proposed construction is an addition or is otherwise related to existing buildings on the site, the schematic plans must show the facility and general arrangement of those other buildings.

3. A schedule showing the total number of beds, types of bedrooms and types of ancillary spaces.

(11) Stage II, Preliminary Plans.

(a) At a minimum, to gain a Stage II approval, the following must be incorporated into the preliminary plans:

1. A vicinity map showing the major local highway intersections for new nursing home construction.

2. Site development plans that:

a. Show existing grades and proposed improvements as required by the schematic submission.

b. Provide building locating dimensions.

c. Provide site elevations for both the 100 year flood elevations and hurricane category 3 surge inundation elevations if the project involves the construction of a new facility or is a new addition of a wing or floor to an existing facility.

d. Provide the location of the fire protection services water source to the building.

3. Architectural Plans that include:

a. Floor plans, 1/8-inch scale minimum, showing door swings, windows, casework and millwork, fixed equipment and plumbing fixtures. Indicate the function of each space.

b. A large-scale plan of typical new bedrooms with a tabulation of gross and net square footage of each bedroom. Tabulate the size of the bedroom window glass.

c. Typical large-scale interior and exterior wall sections to include typical rated fire and fire/smoke partitions and a typical corridor partition.

d. All exterior building elevations.

e. Equipment which is not included in the construction contract but which requires mechanical or electrical service connections or construction modifications must be identified to assure its coordination with the architectural, mechanical and electrical phases of construction.

f. If the project is located in an occupied facility, preliminary phasing plans indicating how the project is to be separated from all occupied areas.

4. Life safety plans that include:

a. Single-sheet floor plans showing fire and smoke compartmentation, all means of egress and all exit signs. Additionally, dimension the longest path of travel in each

smoke compartment to the door(s) to the adjoining compartment, calculate the total area of the smoke compartment in square feet, and tabulate exit inches.

b. All sprinklered areas, fire extinguishers, fire alarm devices and pull station locations.

c. If the project is an addition or conversion of an existing building, fully developed life safety plans.

d. If the project is a renovation in an existing building, life safety plans of the floor being renovated and the required exit egress floor(s).

e. When demolition or construction in and around occupied buildings is to be undertaken, a life safety plan indicating temporary egress and detailed phasing plans indicating how the area(s) to be demolished or constructed is to be separated from all occupied areas.

5. Mechanical engineering plans that include:

a. Single-sheet floor plans with a one-line diagram of the ventilating system with relative pressures of each space. Provide a written description and drawings of the anticipated smoke control system, passive or active, and a sequence of operation correlated with the life safety plans.

b. The general location of all fire and smoke dampers, all duct smoke detectors and firestats.

c. If the building is equipped with fire sprinklers, the location of the sprinkler system risers and the point of connection for the fire sprinkler system. State the method of design for the existing and new fire sprinkler systems.

d. The locations of all plumbing fixtures and other items of equipment requiring plumbing services and/or gas services.

e. The locations of any fume, radiological or chemical hoods.

f. The locations of all medical gas outlets, piping distribution risers, terminals, alarm panel(s), low pressure emergency oxygen connection, isolation/zone valve(s), and gas source location(s).

g. The locations and relative size of major items of mechanical equipment such as chillers, air handling units, fire pumps, medical gas storage, boilers, vacuum pumps, air compressors and fuel storage vessels.

h. The locations of hazardous areas and the volume of products to be contained therein.

i. The location of fire pump, stand pipes, and sprinkler riser(s).

6. Electrical Engineering Drawings that include:

a. A one-line diagram of normal and essential electrical power systems showing service transformers and entrances, switchboards, transfer switches, distribution feeders and over-current devices, panel boards and step-down transformers. The diagram must include a preliminary listing and description of new and existing, normal and emergency loads, preliminary estimates of available short-circuit current at all new equipment and existing equipment serving any new



equipment, short-circuit and withstand ratings of existing equipment serving new loads and any new or revised grounding requirements.

b. Fire alarm zones and correlate with the life safety plan.

7. Outline specifications are to include a general description of the construction, including construction classification and ratings of components, interior finishes, general types and locations of acoustical material, floor coverings, electrical equipment, ventilating equipment and plumbing fixtures, fire protection equipment, and medical gas equipment.

8. Whenever an existing building is to be converted to a health care facility, the general layout of spaces of the existing structure must be submitted with the preliminary plans for the proposed facility.

9. Whenever additions, modifications, alterations, renovations, and refurbishing to an existing building is proposed, the general layout of spaces of the existing facility must be submitted with the preliminary plans.

(12) Stage III, Construction Documents.

(a) The Stage III, construction documents must be an extension of the Stage II, preliminary plan submission and must provide a complete description of the contemplated construction. Construction documents must be signed, sealed, dated and submitted for written approval to the Office of Plans and Construction by a Florida registered architect and Florida registered professional engineer. These documents must consist of work related to civil, structural, mechanical, and electrical engineering, fire protection, lightning protection, landscape architecture and all architectural work. At a minimum, and in addition to the requirements for Stage II submission, the following must be incorporated into the construction documents:

1. Site and civil engineering plans that shall indicate building and site elevations, site utilities, paving plans, grading and drainage plans and details, locations of the two fire hydrants utilized to perform the water supply flow test, and landscaping plans.

2. Life safety plans for the entire project.

3. Architectural plans.

(a) Typical large-scale details of all typical interior and exterior walls and smoke walls, horizontal exits and exit passageways.

(b) Comprehensive ceiling plans that show all utilities, lighting fixtures, smoke detectors, ventilation devices, sprinkler head locations and fire-rated ceiling suspension member locations where applicable.

(c) Floor/ceiling and roof/ceiling assembly descriptions for all conditions.

(d) Details and other instructions to the contractor on the construction documents describing the techniques to be used to seal floor construction penetrations to the extent necessary to prevent smoke migration from floor to floor during a fire.

4. Structural engineering plans, schedules and details.

5. Mechanical engineering plans to include fire and smoke control plans. Show all items of owner furnished equipment requiring mechanical services. Provide a clear and concise narrative control sequence of operations for each item of mechanical equipment including but not limited to air conditioning, heating, ventilation, medical gas, plumbing, and fire protection and any interconnection of the equipment of the systems. Mechanical engineering drawings must depict completely the systems to be utilized, whether new or existing, from the point of system origination to its termination. Provide a tabular schedule giving the required air flow (as computed from the information contained on the ventilation rate table) in cubic feet per minute (cfm) for supply, return, exhaust, outdoor, and ventilation air for each space listed or referenced by note on the ventilation rate table as shown on the architectural documents. The schedule must also contain the HVAC system design air flow rates and the resulting space relative pressures. The schedule or portion of the schedule, as applicable, must be placed in the specifications or in the drawing set containing the spaces depicted.

6. Fire protection plans, where applicable, that must include the existing system as necessary to define the new work.

7. Electrical engineering plans that must describe complete power, lighting, alarm, communications and lightning protection systems and power system study.

8. A power study that must include a fault study complete with calculations to demonstrate that over-current devices, transfer switches, switchboards, panel boards, motor controls, transformers and feeders are adequately sized to safely withstand available phase-to-phase and phase-to-ground faults. The study must also include an analysis of generator performance under fault conditions and a coordination study resulting in the tabulation of settings for all over-current device adjustable trips, time delays, relays and ground fault coordination. This must be provided for all new equipment and existing equipment serving any new equipment. Power studies for renovations of existing distribution systems must include only new equipment and existing equipment upstream to the normal and emergency sources of the new equipment. Renovations involving only branch circuit panel boards without modifications to the feeder shall not require a full power study; instead, the power study shall be limited to the calculation of new and existing loads of the branch circuit panel.

9. A complete set of specifications for all work to be undertaken.

a. All project required contractor supplied testing and/or certification reports must be submitted in type written format, on standard forms, reviewed and accepted by the Engineer of Record prior to presenting to the Agency for review.

b. The specifications shall require a performance verification test and balance air quantity values report for a minimum of two operating conditions for each air handling unit system. One operating condition shall be with the specified air filters installed in the minimum pressure drop or clean state. The second operating condition is to be at the maximum pressure drop and/or dirty state. The air quantities reported are acceptable if they are within ten percent of the design value and the space relative pressures are maintained. This requirement shall apply to any air-handling unit affected by the construction to be performed.

10. Well coordinated construction documents. It is specifically required that in the case of additions to existing institutions, the mechanical and electrical, especially existing essential electrical systems and all other pertinent conditions must be a part of this submission.

11. Signed, sealed and dated subsequent addenda, change orders, field orders and other documents altering the above submitted for advance written approval from the Office of Plans and Construction.

(13) All submissions will be acted upon by the Agency within 60 days of the receipt of the initial payment of the plan review fee. The Agency will either approve or disapprove the submission and shall provide a listing of deficiencies in writing. Each subsequent resubmission of documents for review on the project will initiate another 60-day response period. If the Agency does not act within 60 days of receipt of a submission, the submission will be considered approved. However, all deficiencies noted by the Agency must still be satisfactorily corrected before final approval may be obtained for the project from the Agency.

(14) Additions or revisions that substantially change the original scope or the project or are submitted by different design professionals, will be required to be submitted as a new project.

(15) Record drawings. Within 60 days after final approval of the project has been obtained from the Agency, the licensee and the Office of Plans and Construction must be provided with a complete set of legible record drawings showing all of the construction, fixed equipment and the mechanical and electrical systems as installed. These drawings must include the life safety plans. If no drawings are received within this time frame, only the construction document and project file will be retained for up to five years.

Specific Authority 400.011 FS. Law implemented 400.151 FS. History-New \_\_\_\_\_.

59A-4.150 Geriatric Outpatient Nurse Clinic.

(1) Definitions:

~~(a) Advanced Registered Nurse Practitioner — a person who holds a current active license to practice professional nursing and a current Advanced Registered Nurse Practitioner certificate issued by the Florida State Board of Nursing.~~

~~(a)(b) Appropriate Resources — those service providers who provide most effectively and efficiently the specific services needed by the geriatric patient.~~

~~(c) Agency for Health Care Administration — AHCA.~~

~~(b)(d) Geriatric Outpatient Nurse Clinic — a treatment room or rooms site in a nursing home utilized treatment room for the provision of health care to geriatric patients on an outpatient basis which is staffed by a registered nurse, advanced registered nurse practitioner (ARNP), or by a physician’s assistant.~~

~~(c)(e) Geriatric Patient — any patient who is 60 years of age or older.~~

~~(f) Nursing Facility — a facility licensed under Part I of Chapter 400, F.S.~~

~~(g) Physician’s Assistant — a person who holds a current certificate issued by the Florida State Board of Medical Examiners of Florida State Board of Osteopathic Medical Examiners, to serve as a physician’s assistant to function in the dependent relationship with the supervising physician. (Sections 458.135(2)(d); 459.151(2)(d), F.S.)~~

~~(d)(h) Pre-established Protocols — a statement prepared by or with the responsible or attending physician defining the extent and limits of the medical services provided by the registered nurse. Such protocols are to be reviewed at periods not to exceed one year, to be dated and signed by the physician, and to be kept readily available.~~

~~(i) Professional Standards of Practice those measurements or guides for practice developed and/or endorsed by the respective professional disciplines.~~

~~(j) Registered Dietitian one who meets the standards and qualifications established by the Committee on Professional Registration of the American Dietetic Association and is currently registered with the American Dietetic Association.~~

~~(k) Registered Nurse — a person who holds a current active license to practice professional nursing issued by the Florida State Board of Nursing. (Section 464.071, F.S.)~~

~~(e)(l) Responsible Physician — the licensed physician delegated by the supervising physician as responsible for the services rendered by the physician’s assistant or ARNP in the absence of the supervising physician.~~

~~(f)(m) Routine Health Care — the provision of preventive care, detection of health problems, referral for medical care, and management of chronic illness within medical prescriptions.~~

~~(g)(n) Substantive Change — when the patient’s condition changes to such an extent that a change in treatment and/or medication orders is indicated or when pre-established protocols are not applicable.~~

~~(h)(o) Supervising Physician — the licensed physician assuming responsibility and legal liability for the services rendered by the physician’s assistant or ARNP. (Sections 458.135(2)(e); 459.151(2), (3), F.S.)~~

(1)(p) Treatment Room – the room or suite of rooms set aside for the examination and care of patients.

(2) Applications.

(a) ~~The nursing home licensee must submit a letter shall be sent through to the local county Public Health unit Department and to the Agency's Long Term Care Unit AHCA by the operator of a currently licensed nursing home~~ stating intent to establish a geriatric outpatient nurse clinic in compliance with ~~Chapter 400, F.S., Chapter 77-401, Laws of Florida, and applicable the rules pertaining to these chapters.~~ A copy of ~~the said letter must shall~~ be sent to the Health Program Office of the Department of Health and Rehabilitative Services by the local county ~~Public Health Department unit~~. This letter ~~must shall~~ be sent at least sixty (60) days prior to the anticipated date of establishment of the clinic. The Director, ~~of the County Public Health Department Unit~~ shall provide specific recommendations for operation of the clinic when transmitting the letter.

(b) The ~~Agency AHCA~~ shall ascertain compliance with all applicable laws, rules, regulations, and codes ~~during the inspection and by letter notify the operator of compliance or non-compliance.~~

(c) Receipt of the letter of notification stating compliance shall constitute authority to operate a geriatric outpatient nurse clinic within the nursing home facility.

(d) Application for renewal of authority to operate a geriatric outpatient nurse clinic ~~must shall~~ be submitted in the manner described above at the same time the application for the nursing home ~~relicensure~~ is submitted.

(e) Suspension or revocation of the nursing home license automatically suspends or revokes authority to operate the geriatric outpatient nurse clinic.

~~(f) A Certificate of Need issued by the Agency required by Sections 381.493 through 381.497, F.S., is a pre-requisite to establish a geriatric outpatient nurse clinic.~~

(3) Treatment Rooms and Access Areas.

(a) Plant maintenance and housekeeping ~~must shall~~ be in accordance with Rule 59A-4.049, F.A.C.

(b) Every nursing home licensee facility conducting a geriatric outpatient nurse clinic ~~must shall~~:

1. Use an existing treatment room exclusively for the examination and treatment of patients.

2. Store supplies and equipment in such a manner that safeguards patients and staff from hazards.

3. Have a waiting area that does not interfere with regular in-patient functions.

4. Provide clinic patients with the most direct route to and from the treatment room.

(4) Administration.

(a) The business and administrative management of the geriatric outpatient nurse clinic ~~must shall~~ be under the management control of the nursing home facility administrator. This ~~must shall~~ include, but not be limited to, maintenance of the following written records.

1. Clinic financial records identifying all income by source and describe all expenditures by category in such a manner as to be suitable by community recognized procedure.

2. An accident and incident record, containing a clear description of each accident and any other incident hazardous or deviant behavior of a patient or staff member with names of individuals involved, description of medical and other services provided, by whom such services were provided and the steps taken to prevent recurrence.

3. Personnel records for each clinic employee and/or contractual provider. These records ~~must will~~ be kept updated and include current Florida license and certificate numbers. Original application for the position, references furnished and an annual performance evaluation ~~must shall~~ be included.

4. A record of personnel policies, including statement of policies affecting personnel and a job description for each person providing clinic services.

5. Clinic Schedule.

6. Compliance with requirements of Title VI of the Civil Rights Act of 1964.

(b) The provision of health services through geriatric outpatient nurse clinics ~~must shall~~ be under the direct management control of the registered nurse, ARNP or physician's assistant providing those services. Management control of the provision of health services ~~must shall~~ contain the following:

1. Assurance that all health services are provided according to legal, ethical and professional practice standards to protect the health, safety and well-being of the patients.

2. Maintenance and confidentiality of clinical records for each patient as required in this rule, Chapter 400, Part II, F.S., and applicable state and federal regulations relating to patient records.

3. Responsibility for development and periodic review of written policies and protocols governing patient care, including emergency procedures.

4. Responsibility for development and periodic review of patient referral system.

5. Responsibility for the administration and handling of drugs and biologicals as required in this rule, Chapter 400, Part II, F.S., and applicable state and federal regulations relating to patient records these Rules.

6. Maintenance of an individual and cumulative clinic census record.

7. Coordination of patient care with the attending physician and other community health and social agencies and/or facilities.

8. Maintenance of a safe, sanitary clinic environment.

(5) Fiscal Management.

(a) There ~~must shall~~ be a recognized system of accounting used to accurately reflect business details of the clinic operation and services kept separate from the nursing home's facility fiscal records.

(b) A reasonable fee, based on cost of operation and services, may be charged for clinic services rendered.

(c) Personnel involved in operating and/or providing clinic services ~~must shall~~ not:

1. Pay any commission, bonus, rebate or gratuity to any organization, agency, physician, employee or other person for referral of any patients to the clinic.

2. Request or accept any remuneration, rebate, gift, benefit, or advantage of any form from any vendor or other supplier because of the purchase, rental, or loan, of equipment, supplies or services for the resident, client and/or patient.

(6) Personnel Policies.

(a) Staff in the geriatric outpatient nurse clinic ~~must will~~ be governed by their personnel standards ~~Personnel Standards~~ in Rules and Regulations governing nursing homes ~~Nursing Homes~~ and related health care facilities ~~Related Health Care Facilities~~. Rule 59A-4.157, F.A.C.

(b) Staff in the geriatric outpatient nurse clinic ~~must shall~~ be qualified and sufficient in numbers to perform the necessary services.

(c) Services of this clinic ~~must will~~ in no way reduce the minimum staffing standards for in-patient care.

(d) Staff in the geriatric outpatient clinic may be regularly employed or serve on a contractual basis.

(7) Personnel Functions and Responsibilities.

(a) The registered nurse, ARNP or physician assistant staffing the geriatric outpatient clinic must: ~~Registered Nurse (Sections 464.021(2)(a)1., 2., F.S.)~~

1. Be responsible ~~The nurse shall have the responsibility~~ for eliciting and recording a health history, observation and assessment nursing diagnosis, counseling and health teaching of patients and the maintenance of health and prevention of illness.

2. Provide ~~The nurse shall provide~~ treatment for the medical aspects of care according to pre-established protocols or physician's orders.

~~3.2. Note~~ ~~The nurse shall note~~ findings and activities on the clinical record.

~~4.3. Provide~~ ~~The nurse shall provide~~ progress reports to the attending physicians about patients under the physician's care when there is a substantive change in the patient's condition, there are deviations from the plan of care, or at least every sixty (60) days.

~~(b) The Advanced Registered Nurse Practitioner (Section 464.003(3)(c), F.S.)~~

~~1. The Advanced Registered Nurse Practitioner shall perform the functions outlined for the Registered Nurse, and in addition:~~

~~Provide additional services dependent upon the certification authority of the Advanced Registered Nurse Practitioner by the Florida State Board of Nursing.~~

~~2. The Advanced Registered Nurse Practitioner shall note findings and activities on the clinical record.~~

~~(c) The Physician's Assistant (Sections 458.347(3); 459.022, F.S.)~~

~~1. The physician's assistant shall perform health care tasks delegated by the supervising or responsible physician.~~

~~2. The physician's assistant shall note findings and activities on the clinical record.~~

(8) Patient Eligibility Criteria.

(a) Acceptance of patients and discharge policies ~~must shall~~ include but not be limited to the following:

(b) Patients ~~must shall~~ be accepted for clinic services on self-referral for nursing care, or upon a plan of treatment established by the patient's attending physician.

(c) Patients ~~The patients~~ with an attending physician will be held responsible for providing the clinic with a written medical plan of treatment reviewed and signed by their physician ~~at least sixty (60) days~~.

(d) When services are to be terminated, the patient ~~must is to~~ be notified of the date of termination and the reason for termination that ~~must shall~~ be documented in the patient's clinical record. ~~A plan shall be developed for a~~ Referrals must be made for any continuing care required indicated.

(9) Patient's Rights.

(a) The nursing home licensee must facility shall adopt, implement and make public a statement of the rights and responsibilities of the clinic patients and ~~must shall~~ treat such patients in accordance with the provisions of the said statement. This statement ~~must shall~~ be conspicuously posted and available to clinic patients in pamphlet form. The statement ~~must ensure shall insure~~ each patient the following:

~~1.(b)~~ The right to have private communication with any person of his or her choice.

~~2.(e)~~ The right to present grievances on behalf of himself, herself, or others to the facility's staff or administrator, to government officials, or to any person without fear of reprisal, and to join with other patients or individuals to work for improvements in patient care.

~~3.(d)~~ The right to be fully informed in writing, prior to at the time of admission and during his or her attendance, of fees and services not covered under Title XVIII or Title XIX of the Social Security Act or other third party reimbursement agents.

~~4.(e)~~ The right to be adequately informed of his or her medical condition and proposed treatment unless otherwise indicated in the written medical plan of treatment by the physician, and to participate in the planning of all medical

treatment, including the right to refuse medication and treatment, unless otherwise indicated in the written medical plan of treatment by the physician, and to know the consequences of such actions.

~~5.(f)~~ The right to receive adequate and appropriate health care consistent with established and recognized practice standards within the community and with rules as promulgated by the Agency AHCA.

~~6.(g)~~ The right to have privacy in treatment and in caring for personal needs, confidentiality in the treatment of personal and medical records.

~~7.(h)~~ The right to be treated courteously, fairly, and with the fullest measure of dignity and to receive a written statement of the services provided by the nursing home licensee facility.

~~(i) The right to freedom of choice in selecting a nursing home.~~

~~1. Each nursing home shall post a copy of the statement required by subsection (1) so that it is clearly evident.~~

~~(b)2.~~ Any violation of the patient's rights set forth in this section shall constitute grounds for action by the Agency under the provisions of Section 400.102, F.S.

~~(10) The scope Scope of services Services of the geriatric outpatient nurse clinic must include:~~

~~Geriatric Outpatient Nurse Clinic~~

(a) Observation of signs and symptoms.

(b) Assessment of health status/progress.

(c) Nursing diagnosis and plan of care.

(d) Nursing care of patients and counseling to maintain health and prevent disease, including diet counseling.

(e) Health instruction to control progression of disease and/or disability and self care measures.

(f) Administration of medication and treatment as prescribed by a person licensed in this state to prescribe such medications and treatment.

(g) Provision of progress reports to the attending physician.

(h) Referral for additional services as needed.

(i) Follow-up on a regular basis by communication with the patient, the patient's physician, and other agencies or persons to which referrals were made.

(j) When staffed by an ARNP Advanced Registered Nurse Practitioner advanced registered nurse or physician's assistant Physician's Assistant, additional services may be provided dependent upon their respective certification authority. (Sections 458.347, 459.022, 464.003(3)(c), F.S.)

(11) Clinical Records.

(a) The clinic must shall maintain a clinical record for every patient receiving health services that contain the following:

1. Identification data including name, address, telephone number, date of birth, sex, social security number, clinic case number if used, next of kin or guardian and telephone number, name and telephone number of patient's attending physician.

2. Assessment of problems.

3. A hHealth cCare pPlan including diagnosis diagnose, type, and frequency of services and when receiving medications and medical treatments, the medical treatment plan and dated signature of the physician or designee health professional licensed in this state to prescribe such medications and treatments.

4. Clinical notes, signed and dated by staff providing service.

a. Progress notes with changes in the patient's condition.

b. Services rendered with progress reports.

c. Observations.

d. Instructions to the patient and family.

e. Referrals made.

f. Consultation reports.

g. Case conferences.

h. Reports to physicians.

i. Termination summary which must include:

(I) Date of first and last visit.

(II) Total number of visits by discipline.

(III) Reason for termination of service.

(IV) Evaluation of achievements of previously established goals at time of termination.

(V) Condition of patient on discharge.

j. Clinical records must shall be confidential. Information may be released by the nurse, ARNP or physician's assistant responsible for clinical services only in accordance with state and federal regulations related to patient records and confidentiality.

~~(I) When permission is granted in writing by the patient or guardian.~~

~~(II) To those persons or agencies with a legitimate professional need or regulatory authority pursuant to Section 455.241, F.S.~~

~~(III) When so ordered by the courts.~~

(12) Medications. The clinic must shall have policies and procedures for the administration of medications by health care professionals acting within the scope of practice defined by laws and rules of the Department of Health and the Department of Professional Regulation which must shall include, ~~for example,~~ the following:

(a) All prescriptions for medications must shall be noted on the patient's record, and include the date, drug, dosage, frequency, method or site of administration, and the authorized health care professional's signature.

(b) All verbal orders for medication or medication changes ~~must shall~~ be taken by the clinic registered nurse, ARNP or physician's assistant. Such orders must be in writing and signed by the authorized health care professional within eight (8) days and added to the patient's record.

(c) The clinic registered nurse, ARNP or physician's assistant ~~must shall~~ record and sign for each medication administered, by drug, dosage, method, time and site on patient's record.

(d) An emergency plan for reversal of drug reaction to include the nursing home licensee's pro re nata (P.R.N. or "as needed") facility's PRN standing orders for medications available in the emergency drug medication kit.

(e) If there is not a separate emergency drug medication kit in the clinic, the nursing home licensee's facility's emergency drug medication kit ~~must shall~~ be immediately accessible for use in the outpatient clinic.

(f) A drug storage system that includes:

1. Prescribed medications for individual outpatients may be retained in the clinic. These medications ~~must shall~~ be stored separately from those of the nursing home in-patients for preventive measures and treatment of minor illnesses.

2. Multi-dose containers ~~must shall~~ be limited to medications or biological commonly prescribed for preventive measures and treatment of minor illnesses.

3. A list ~~must shall~~ be kept of patients receiving medication from multi-dose medication containers.

Specific Authority ~~381.493-381.497~~, 400.141(3), 400.23(2) FS. Law Implemented 400.33, 400.141, 400.333 FS. History—New 4-27-78, Formerly 10D-29.71, 10D-29.071, 59A-4.071, Amended 2-6-97, \_\_\_\_\_.

59A-4.165 Nursing Home Guide.

(1) Pursuant to Section 400.191 F.S., the Agency shall provide information to the public in consumer-friendly printed and electronic formats (hereafter collectively the "Guide") to assist consumers and their families in comparing and evaluating nursing home facilities.

(2) The format of the printed Guide is shown in the "Nursing Home Guide Performance Measures Algorithm 2000" ~~document, dated July 2000~~, incorporated by reference herein.

(3) The format of the electronic Guide will be the same as the printed Guide, but with the addition of the following:

(a) The ability to search for a nursing home facility electronically.

(b) Details of each deficiency ~~which deficiencies~~ the nursing home facility has been cited for over the time period specified in Section 400.191, F.S. past 45 months.

(4) The data provided in the Guide shall include the following:

(a) General guidance about when a nursing home is the appropriate choice of care.

(b) General guidance about selecting a nursing home.

(c) Contact information such as phone numbers and web sites where questions can be answered, and further information obtained.

(d) A listing of all nursing home facilities in the Sstate of Florida, including hospital based skilled nursing units. This listing shall include for each nursing home facility the following:

1. Name;

2. Address;

3. Voice and fax phone numbers;

4. Web address of facility;

5. A recognition if the nursing home licensee facility has been awarded a Gold Seal;

6. The current licensee;

7. Which calendar year the current licensee became the licensee;

8. Whether the licensee is a for-profit, or non-profit entity, and whether or not the nursing home facility is part of a retirement community;

9. Any corporate or religious affiliations;

10. The number of private, semi-private, and total beds at the nursing home facility;

11. The lowest daily charge for a semi-private room;

12. The payment forms accepted;

13. Any special services or amenities, or recreational programs provided;

14. Any non-English languages spoken by the administrator or staff of the nursing home facility; and

15. A summary of the deficiencies found at the nursing home facility over the time period specified in Section 400.191, F.S. a 45-month period prior to the publication of the Guide. The summarization procedure is discussed in detail below.

(5) The Guide will employ a procedure for summarizing the deficiencies as follows:

(a) All deficiencies cited over the most recently available time period as specified in Section 400.191, F.S., 45-month period prior to the publication of the Guide will be collected.

(b) Each citation will be assigned points based on the type of deficiency and its assigned severity and scope. For those nursing homes facilities that are not federally certified, each citation will be assigned points based on the type of deficiency and its assigned class. Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is

equivalent to. The points assigned to an N-Tag shall be those that would be assigned to the equivalent F-Tag or K-Tag, if the nursing home facility were federally certified.

(c) A score for a nursing home facility will be computed by summing the points of all of its citations, and then dividing this sum by the number of ~~annual~~ recertification surveys conducted at the facility in the same ~~45-month~~ period as in paragraph (a) above. For those nursing homes facilities that are not federally certified, the number of ~~annual~~ licensure surveys will be used in place of the number of ~~annual~~ recertification surveys.

(d) For federally certified nursing homes facilities, the above computations will reflect any changes resulting from the Informal Dispute Resolution process, or administrative or appellate proceedings; inasmuch as the federal Centers for Medicare and Medicaid Services Health Care Financing Administration concurs with such changes.

(e) The scores for the freestanding nursing facilities will be ranked within each region. The regions are defined in the "Nursing Home Guide Performance Measures Algorithm," document, dated July 2000, incorporated by reference herein.

(f) Ranks for the hospital based skilled nursing units will be assigned the same rank as the freestanding nursing home facility in the same region with an equal or next lower score.

(g) These ranks shall be presented numerically and/or symbolically in the Guide.

(h) (b) through (g) shall be repeated for subsets of the citations. These subsets are discussed in the "Nursing Home Guide Performance Measures Algorithm," document, dated July 2000, incorporated by reference herein.

(i) Nursing homes Facilities that are federally certified have their deficiencies recorded as F-Tags and K-Tags. Nursing homes Facilities that are not federally certified receive N-Tags instead of F-Tags and K-Tags. For the non-federally certified nursing homes facilities the findings supporting each N-Tag shall be read by the Agency to determine which F-Tag or K-Tag each of the cited N-Tags is equivalent to. The sub-setting of the tags in paragraph (h) for non-certified facilities shall be accomplished by using these equivalent F-Tags and K-Tags.

(j) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., MS 33, Tallahassee, FL 32308.

(6) The electronic version of the guide will be available at <http://ahcaxnet.fdhc.state.fl.us/nhcguide/> [www.fdhc.state.fl.us](http://www.fdhc.state.fl.us) and [www.floridahealthstat.com](http://www.floridahealthstat.com).

Specific Authority 400.191(6) FS. Law Implemented 400.191 FS. History--New 2-15-01, Amended.

59A-4.166 Nursing Home Consumer Satisfaction Survey.

~~(1) Pursuant to Section 400.0225, F.S., the Agency or its contractor shall conduct consumer satisfaction surveys of all nursing homes and skilled nursing units of hospitals in the state. These nursing homes and skilled nursing units shall hereafter be referred to as "nursing facilities".~~

~~(2) The Agency or its contractor will survey family members and guardians of residents of these nursing facilities by way of mail surveys. This will require each nursing facility to provide to the Agency or its contractor, upon request, the names and addresses of at least one family member or guardian for each resident.~~

~~(3) The Agency or its contractor will interview residents of these facilities in person. This will require each nursing facility to provide to the Agency or its contractor, upon request, a list of all residents, along with each resident's room number, and each resident's birth date.~~

~~(4) The Agency or its contractor shall conduct these surveys and interviews at each nursing facility at least annually.~~

~~(5) The specific protocol for conducting these surveys and interviews is shown in the "Nursing Home and Skilled Nursing Unit Resident and Family Member Survey Project" document, dated July 2000, incorporated by reference herein.~~

~~(6) Only data summarized to the level of the facility may be released.~~

~~(7) The documents incorporated by reference may be obtained from the Agency for Health Care Administration, Managed Care and Health Quality Division, 2727 Mahan Dr., Tallahassee, FL 32308.~~

Specific Authority 400.0225 FS. Law Implemented 400.0225 FS. History--New 2-15-01, Repealed.

## AGENCY FOR HEALTH CARE ADMINISTRATION

### Medicaid

RULE NO.:

59G-4.003

RULE TITLE:

Medicaid Providers Who Bill on the UB-04

PURPOSE AND EFFECT: The purpose of this rule is to incorporate by reference the Florida Medicaid Provider Reimbursement Handbook, UB-04, March 2007. The Department of Health and Human Services, Centers for Medicare and Medicaid, replaced the UB-92 claim form with the UB-04 claim form effective March 2007. The handbook contains the instructions for the new claim form. The effect will be to incorporate by reference in rule the Florida Medicaid Provider Reimbursement Handbook, UB-04, March 2007.

SUBJECT AREA TO BE ADDRESSED: Medicaid Providers Who Bill on the UB-04.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905, 409.906, 409.907, 409.908, 409.912 FS.

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

DATE AND TIME: Monday, April 2, 2007, 2:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room D, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Catherine McGrath, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7326, mcgrathc@ahca.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.003 Medicaid Providers Who Bill on the UB-04.

(1) All Medicaid providers and their billing agents who submit claims on behalf of an enrolled Medicaid provider who are required by their service-specific coverage and limitations handbook or other notification by the Medicaid Program to bill the Florida Medicaid Program on a paper UB-04 claim form for reimbursement of services performed on a Medicaid eligible recipient, must be in compliance with the provisions of the Florida Medicaid Provider Reimbursement Handbook, UB-04, March 2007, which is incorporated by reference. The handbook is available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. Paper copies of the handbook may be obtained by calling the Medicaid fiscal agent at (800)377-8216.

(2) The following forms that are included in the Florida Medicaid Provider Reimbursement Handbook, UB-04, are incorporated by reference: in Chapter 1, the UB-04 CMS-1450 (03-07), one page double-sided; and in Chapter 2, the State of Florida, Florida Medicaid Authorization Request, PA01 04/2002, one page; Medically Needy Billing Authorization, CF-ES 2902, June 2003, one page; State of Florida, Sterilization Consent Form, SCF 7/94, one page; State of Florida, Hysterectomy Acknowledgment Form, HAF 07/1999, one page; State of Florida, Exception to Hysterectomy Acknowledgment Requirement, ETA 07/2001, one page; State of Florida, Abortion Certification Form, AHCA-Med Serv Form 011, August 2001, one page. All the forms are available from the Medicaid fiscal agent by calling (800)289-7799 or from its website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Medicaid Forms.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.912 FS. History—New

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NO.: 59G-4.330  
 RULE TITLE: Non-Emergency Medical Transportation Services

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference into rule the Florida Medicaid Non-Emergency Medical Transportation Services Coverage and Limitations Handbook, May 2007. The handbook includes the policies for the provision of non-emergency transportation services through a contracted vendor. The effect will be to incorporate by reference into rule the Florida Medicaid Non-Emergency Medical Transportation Services Coverage and Limitations Handbook, May 2007.

This Notice of Rule Development replaces the Notice of Rule Development that was published in the Florida Administrative Weekly, Vol. 31, No. 48, on December 2, 2005.

SUBJECT AREA TO BE ADDRESSED: Transportation Services.

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.905, 409.908, 409.9081 FS.

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

DATE AND TIME: Monday, April 2, 2007, 3:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, Florida  
 THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Doug Harper, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, 922-7305, harperg@ahca.myflorida.com

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

59G-4.330 Non-Emergency Medical Transportation Services.

(1) This rule applies to all entities which provide non-emergency medical transportation services to Florida Medicaid recipients.

(2) All non-emergency medical transportation services providers who provide transportation to Medicaid recipients must comply with the provisions of the Florida Medicaid Non-Emergency Medical Transportation Services Coverage, and Limitations and Reimbursement Handbook, May 2007 ~~July 1997~~, incorporated by reference. The handbook is available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and



then on Handbooks. A paper copy of the handbook may be obtained by calling the Medicaid fiscal agent Provider Inquiry at (800)377-8216.

Specific Authority 409.919 FS. Law Implemented ~~409.902, 409.905, 409.907, 409.908, 409.9081, 409.910, 409.913~~ FS. History—New 1-1-77, Amended 10-1-77, 1-27-81, 8-28-84, Formerly 10C-7.45, Amended 4-13-93, Formerly 10C-7.045, Amended 1-7-98, 12-18-05, 7-23-06,\_\_\_\_\_.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NOS.:	RULE TITLES:
61D-14.002	Application Requirements
61D-14.005	Occupational License Requirements for Individual Persons
61D-14.006	Occupational License Application Requirements for Business Entities
61D-14.008	Occupational License Renewal Application
61D-14.010	Identification of the Occupational License Applicant

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rules will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The subject areas to be addressed in these rules are: Clarify requirements for applicant bond and specify the requirement for applicants to provide additional information with application including all administrative, civil or criminal proceedings initiated by any government, federal or state agency and provide copies of complaints, pleadings and final orders in Rule 61D-14.002, F.A.C. Specify that each applicant include the date of birth, race and gender of all relatives over the age of 21 living in the same household as the applicant and copies of any final orders or judgments relative to the applicant in Rule 61D-14.005, F.A.C. Clarify the types of business entities that require licensing. Additional qualifications necessary for certain applicants, and specify the requirement for applicants to provide copies of all court and/or administrative records regarding denial, suspension or revocation of any government issued license, permit or certificate and provide copies of the applicable license, permit or certificate and of all court and/or administrative records in Rule 61D-14.006, F.A.C. Specify the requirement of applicant to disclose any administrative, civil or criminal action that has occurred since the issue of the current license and provide copies of complaints, pleadings, final orders and judgments entered as a result of any administrative, civil or criminal proceeding in Rule 61D-14.008, F.A.C. Specify how applicant may establish his/her identity, removing the requirement for driver’s license or identification card to contain eye color and changing paragraph (g) to specify the use

of passports recognized by the Immigration and Customs Enforcement (ICE) rather than using the acronym “ICE” in Rule 61D-14.010, F.A.C.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.  
**LAW IMPLEMENTED:** 551.103(1)(a), (b), (f), 551.104(4), 551.107(4)(a), (d), 551.118 FS.

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

**DATE AND TIME:** April 2, 2007, 9:00 a.m. – 4:00 p.m.  
**PLACE:** Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

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**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:	RULE TITLE:
61D-14.007	Business Occupational License Requirements for an Independent Testing Laboratory

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The subject areas to be addressed in this rule are: Require that applicants for independent test laboratory license file an affidavit with license application attesting that applicant and employees of the applicant have no ownership or financial interest in any slot machine licensee or slot machine licensee owned business in subsection (2) of Rule 61D-14.007, F.A.C.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.  
**LAW IMPLEMENTED:** 551.103(1)(a), (b), (c), 551.107 FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.020  
 RULE TITLE: Excluded Persons

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is: An update to the rule outlining the division and licensee’s procedure to excluded persons contained in Rule 61D-14.020, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.112, 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(g), (i), 551.112, 551.118 FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.023  
 RULE TITLE: Slot Machine Doors and Compartments

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify the required locks for the slot machine’s cabinet external door and the maintenance of a master key for the external door in Rule 61D-14.023, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (e), (i) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:                   RULE TITLE:  
61D-14.036                 Slot Tournament

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject area to be addressed in this rule is: Provide rules to govern the institution and management of slot machine tournaments at licensed facilities.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:                   RULE TITLE:  
61D-14.038                 Percentage Payout and Odds

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify that the minimum theoretical payout percentage is to be maintained at all times pursuant to the testing frequency required in Rule 61D-14.038, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e), (h) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.:                   RULE TITLE:  
61D-14.040                 Game Cycle, Payment of Credits by  
Ticket Printer, and Ticket  
Redemption

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Add language specifying that a slot machines ticket validation system should either be able to identify duplicate tickets or be incapable of authorizing payment on a wagering instrument that has been previously paid in subsection (2) of Rule 61D-14.040, F.A.C. Remove the limitation phrase “by redeeming all credits” from subsection (3) in Rule 61D-14.040, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e), (i) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.041  
RULE TITLE: Randomness Requirements and Game Play Auditing

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify that slot machines may not display any letter, word, message, symbol, or gaming outcome, however briefly, which offers the player “false hope” of a winning outcome and certification requirements for manufacture and licensed certification laboratory submission for state approval in Rule 61D-14.041, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e), (g) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.042  
RULE TITLE: Accounting and Occurrence Meter Specifications

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify that metering requirements for the credit out meter can be met by summing the credit out, machine paid external bonus payout, and machine paid progressive payout meters. AFT fund transfers will also be permitted. The designation of the door meter has been modified to specify that the door of interest is the slot machine door and reference to the drop door has been removed in Rule 61D-14.042, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e), (g) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.044  
 RULE TITLE: Identification of Program Storage Media, and Slot Machine Technical Requirements

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify that programs used are not rewritable in subsection (2) of Rule 61D-14.044, F.A.C. Remove the external check in favor of type III game internal check algorithm using Internal Checksum or Cyclic Redundancy Check (CRC) in subsection (3) of Rule 61D-14.044, F.A.C. Specify the requirement that before a slot machine may be cleared after a failed authentication has occurred, the supervising attendant must enter the time and date of the failure in a permanent record in subsection (4) of Rule 61D-14.044, F.A.C. Specify the requirement of and the procedures to be enacted if “complete and continuous” access to the facility based computer system is lost for a period longer than 90 minutes, and remove requirement for slot machines to maintain an internal record of RAM and ROM errors in subsection (11) of Rule 61D-14.044, F.A.C. Specify that authentication errors or RAM or ROM errors will require the game to cease play and illuminate the tower light in subsection (12) of Rule 61D-14.044, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(c), (d), (e), (f) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.047  
 RULE TITLE: Facility Based Monitoring System and Computer Diagnostics

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Require slot machine to not be enabled to play following errors until the control program is authenticated in Rule 61D-14.047, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(d), (e), (i), 551.104(4)(f) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.048                      RULE TITLE: Facility Based Monitoring System Required Reports

PURPOSE AND EFFECT: The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in this rule are: Specify the required daily reports required of the facility and additional definition of information data required in specified reports.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(d), (e), (i), 551.104(4)(f) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NOS.: 61D-14.053                      RULE TITLES: Key Controls  
61D-14.063                              Court Rooms

PURPOSE AND EFFECT: The purpose and effect of the proposed rules will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed in these rules are: Specify the required documentation to be included in the log system of access to any secure key in Rule 61D-14.053, F.A.C. Specify that a metal detector shall be used as outlined in the facility internal controls to inspect persons exiting the count room in Rule 61D-14.063, F.A.C.

SPECIFIC AUTHORITY: 551.103(1), 551.122 FS.

LAW IMPLEMENTED: 551.103(1)(b), (d), (e), (g), (i), 551.104 (4)(h) FS.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

RULE NO.: 61D-14.075                      RULE TITLE: Jackpot and Credit Meter Payouts Not Paid Directly From the Slot Machine

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rules will be to implement Florida Statutes regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The rule addresses the following subject matter area: Specify procedures to verify jackpot payouts and conditions under which jackpot payment of \$25,000 or more shall be paid.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.

**LAW IMPLEMENTED:** 551.103(1)(d), (g), (i) FS.

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**DATE AND TIME:** April 2, 2007, 9:00 a.m. – 4:00 p.m.

**PLACE:** Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

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 5 days before the workshop/meeting by contacting: Mary Polombo at (850)413-0750. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS:** Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

**RULE NO.:** 61D-14.079 **RULE TITLE:** Resolution of Jackpot Disputes

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule will be to implement Florida Statutes regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The rules address the following subject matter areas: Specify allowances and requirements for resolution of jackpot disputes under Rule 61D-14.079, F.A.C.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.

**LAW IMPLEMENTED:** 551.103(1)(d), (e) FS.

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

**DATE AND TIME:** April 2, 2007, 9:00 a.m. – 4:00 p.m.

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

**RULE NO.:** 61D-14.087 **RULE TITLE:** Response to Division Reports and Audits

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The subject areas to be addressed in this rule are: Specify reporting frequency and responses required of licensees to variance reports to include details required of variance and proposed corrective action.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.

**LAW IMPLEMENTED:** 551.103(1)(d), (g), 551.104(8) FS.

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

**DATE AND DATE:** April 2, 2007, 9:00 a.m. – 4:00 p.m.

**PLACE:** Florida Department of Business and Professional Regulation, Northwood Centre, Board Room, 1940 N. Monroe Street, Tallahassee, Florida 32399

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contacting: Mary Polombo at (850)413-0750. 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 RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Mary Polombo, Clerk, Division of Pari-Mutuel Wagering, 1940 North Monroe Street, Tallahassee, Florida 32399-1035

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
61D-14.096	Requirement for Movement of All Slot Machines and/or Slot Machine Components
61D-14.097	Slot Machine Licensee Responsibility – Control of Slot Machine(s) Movement
61D-14.098	Slot Machine Seal

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule will be to implement and interpret Florida Statutes that relate to rules regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The subject areas to be addressed in this rule are: Specify slot machine licensee responsibility in the movement of slot machines into, out of and within the state for stated purposes in Rule 61D-14.096, F.A.C.; specify requirements imposed on all slot machine licensees for control of slot machines shipped by them in Rule 61D-14.097, F.A.C.; and specify the use of regulatory seals uniquely identifying slot machines that have been properly shipped into and received in the state under Rule 61D-14.098, F.A.C.

**SPECIFIC AUTHORITY:** 551.103(1), 551.122 FS.

**LAW IMPLEMENTED:** 551.103(1)(c), (e), (i) FS.

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

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hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

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**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Division of Pari-Mutuel Wagering**

<b>RULE NO.:</b>	<b>RULE TITLE:</b>
61D-15.001	Incorporated and Approved Forms

**PURPOSE AND EFFECT:** The purpose and effect of the proposed rule will be to implement Florida Statutes regulating the conduct of slot machine operations at pari-mutuel racing facilities.

**SUBJECT AREA TO BE ADDRESSED:** The rule addresses the following subject matter areas: Revise form number DBPR PMW-3400 to require applicants to include a complete set of fingerprints and the completed form DBPR PMW-3460. In addition, add the authorization for the release of information and include a requirement for the applicant’s training plan for the Compulsive or Addictive Gambling Prevention Program. Create form for the annual renewal of slot machine licenses numbered as DBPR PMW-3405 and titled Permitholder Renewal Application for Annual Slot Machine License Renewal. Revise form number DBPR PMW-3410 by removing “NAPRA checked” and “Other Gaming Jurisdiction checked” check boxes under the section titled “For Division Use Only.” Revise form number DBPR PMW-3420 to include a “Testing Laboratory” check box under the section titled “Type of Slot Machine Business License(s) you are applying for:” and include the price of fees for each license type under section titled “Number of Years.” Under the section titled “To be completed by all applicants” replace the section for an alternate phone number with a section for a fax number. Remove the “NAPRA checked” and “Other Gaming Jurisdiction checked” check boxes under the section titled “For Division Use Only.” Revise instructions regarding submission and maintenance of form DBPR PMW-3430, entitled Business Entity Internal Control Information. Designate form DBPR PMW-3435, entitled Affidavit of Truth, to accompany form number DBPR PMW-3430 pursuant to Rule 61D-14.060, F.A.C. Revise form DBPR PMW-3440, entitled Professional or Business Employee Supplemental Information, to include in the section titled “Personal Data” the applicant’s sex, color of eyes, hair color, height, weight and a description of any distinguishing features including scars or tattoos. Citizenship and passport



information has also been added to the form. Remove "NAPRA checked" and "Other Gaming Jurisdiction checked" check boxes under the section titled "For Division Use Only" on form number DBPR PMW-3450. Revise form number DBPR PMW-3460 to have section titled "Attest Statement" include a separate area for permitting the release of criminal information and an area for permitting regulatory agencies to release information. Designate form number DBPR PMW-3470, entitled Surety Bond for Florida Slot Machine Licensee, for the purposes of requiring licensees to obtain a surety bond in order to receive a license. Designate form number DBPR PMW-3900, entitled Slot Machine and Component Application for Movement, to track the movements of slots into, out of and within the state of Florida, pursuant to Proposed Rules 61D-14.096, 61D-14.097 and 61D-14.098, F.A.C. Designate form number DBPR PMW-3910, entitled Slot Machine and Component Movement Record, in order to accurately record the movements of slots into, out of and within the state of Florida, pursuant to Proposed Rules 61D-14.096, 61D-14.097 and 61D-14.098, F.A.C. Update form number DBPR PMW-3660, entitled Slot Operations Monthly Remittance Report, to remove column for total credits in and total credits out, add day of week and provide updated formula for computation. Update form number DBPR PMW-3670, entitled Slot Operations Cumulative Monthly Remittance Report, to remove column for total credits in and total credits out, and provide updated formula for computation.

SPECIFIC AUTHORITY: 551.103, 551.104, 551.106, 551.114, 551.118, 551.145 FS.

LAW IMPLEMENTED: 551.103, 551.104, 551.106, 551.114, 551.118, 551.145, 559.79(2) FS.

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DATE AND TIME: April 2, 2007, 9:00 a.m. – 4:00 p.m.

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#### **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 HEALTH**

##### **Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-6.001                      RULE TITLE: Renewal of Active License

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the provision of the rule that allows pro bono services to be credited toward continuing education requirement.

SUBJECT AREA TO BE ADDRESSED: Deletion of language that allows pro bono services to be credited toward continuing education requirement for renewal of active licenses.

SPECIFIC AUTHORITY: 456.013(6), 456.031(1)(a), 491.004(5), 491.007(2) FS.

LAW IMPLEMENTED: 456.013(6), (7), 456.031(1)(a), 491.007(2) 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: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

#### **DEPARTMENT OF HEALTH**

##### **Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-9.001                      RULE TITLE: Requirements for Client Records

PURPOSE AND EFFECT: The Board proposes the rule amendment to add language to clarify how long a notice should be published prior to destruction of client records.

SUBJECT AREA TO BE ADDRESSED: Publication of a notice prior to client records being destroyed.

SPECIFIC AUTHORITY: 456.058, 491.004(5), 491.0148 FS.  
 LAW IMPLEMENTED: 456.058, 491.009(2)(s), 491.0148 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: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-11.007  
 RULE TITLE: Definition of "Licensed Clinical Social Worker, or the Equivalent, Who is a Qualified Supervisor"

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the provision of the rule that a licensee disciplined within the last 10 years is not eligible to serve as a qualified supervisor because of the conflict with Rule 64B4-5.009, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Definition of licensed clinical social worker or equivalent, who is a qualified supervisor.

SPECIFIC AUTHORITY: 491.004(5), 491.005(1)(c) FS.

LAW IMPLEMENTED: 491.005(1)(c) 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: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-21.007  
 RULE TITLE: Definition of "a Licensed Marriage and Family Therapist with at Least Five Years Experience or the Equivalent, Who is a Qualified Supervisor"

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the provision of the rule that a licensee disciplined within the last ten years is not eligible to serve as a qualified supervisor because of the conflict with Rule 64B4-5.009, F.A.C.

SUBJECT AREA TO BE ADDRESSED: Definition of a licensed marriage and family therapist with at least five years experience or the equivalent, who is a qualified supervisor.

SPECIFIC AUTHORITY: 491.003(3), 491.004(5), 491.005(3)(c) FS.

LAW IMPLEMENTED: 491.005(3)(c) 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: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling**

RULE NO.: 64B4-31.007  
 RULE TITLE: Definition of a "Licensed Mental Health Counselor, or the Equivalent, Who is a Qualified Supervisor"

PURPOSE AND EFFECT: The Board proposes the rule amendment to delete the provision of the rule that a licensee disciplined within the last the years is not eligible to serve as a qualified supervisor because of the conflict with Rule 64B4-5.009, F.A.C.

SUBJECT AREA TO BE ADDRESSED: The definition of a licensed mental health counselor or the equivalent who is a qualified supervisor.

SPECIFIC AUTHORITY: 491.004(5), 491.005(4)(c) FS.

LAW IMPLEMENTED: 491.005(4)(c) 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: Sue Foster, Executive Director, Board of Clinical Social Work, Marriage and Family Therapy and Mental Health Counseling/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Council of Medical Physicists**

RULE NO.: 64B23-7.001  
 RULE TITLE: Application for Physicist-in-Training  
 PURPOSE AND EFFECT: To establish standards of practice for medical physicists and physicists-in-training.  
 SUBJECT AREA TO BE ADDRESSED: Definitions.  
 SPECIFIC AUTHORITY: 483.901(6)(a) FS.  
 LAW IMPLEMENTED: 483.901(6)(j) 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: Joe Baker, Executive Director, MQA, 4052 Bald Cypress Way, Bin #C06, Tallahassee, Florida 32399-3250

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

**DEPARTMENT OF HEALTH**

**Division of Disease Control**

RULE NO.: 64D-3.046  
 RULE TITLE: Immunization Requirements: Public and Nonpublic Schools, Grades Preschool, and Kindergarten Through 12, and Adult Education Classes

PURPOSE AND EFFECT: The Bureau of Immunization proposes an amendment to update forms and guidelines that are incorporated by reference.

SUBJECT AREA TO BE ADDRESSED: The subject areas to be addressed are updated forms and guidelines.

SPECIFIC AUTHORITY: 1003.22, 381.003 FS.

LAW IMPLEMENTED: 1003.22, 381.003 FS.

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

DATE AND TIME: March 22, 2007, 10:00 a.m. (EDT)  
 PLACE: 2585 Merchants Row Blvd., Room 135Q, Tallahassee, FL 32399-1719

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Susan Lincicome, Senior Management Analyst Supervisor, Department of Health, Bureau of Immunization, 2585 Merchants Row Blvd., Room 210N, Tallahassee FL 32399-1719

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

64D-3.046 Immunization Requirements: Public and Nonpublic Schools, Grades Preschool, Kindergarten through 12, and Adult Education Classes.

- (1)(a) Immunization and Documentation Requirements.
- (b) A student may attend a public or non-public school, grades preschool through 12 or an adult education class if younger than 21, if prior to admittance, attendance or transfer, they present one of the following for inspection for validity by an authorized school official:

1. DH Form 680, Florida Certification of Immunization (January 2007) (~~July 2001~~), incorporated by reference, available from the Department of Health (DOH) county health departments (CHD) or physicians' offices.

2. Documentation of receipt of or exemption from must be noted for the following immunizations: diphtheria, tetanus, pertussis, poliomyelitis, measles (rubeola), rubella, mumps, varicella and hepatitis B. The manner and frequency of administration of the immunizations shall conform to recognized standards of medical practice.

(2) Specific immunization requirements by grade, in addition to those in paragraph (1)(a), which must be documented prior to admittance, attendance or transfer:

- (a) Preschool – Completion of Haemophilus influenzae type b vaccination.
- (b) Preschool or kindergarten effective with the 2001/2002 school year – completion of varicella vaccination. Each subsequent year thereafter, the next highest grade will be included in the requirement, so that students transferring into Florida schools are added to the varicella immunized cohort.
  - 1. 7th Grade – Completion of a tetanus-diphtheria booster.
  - 2. Additional Documentation Requirements for Exemptions.
  - 3. For exemption from the rubeola immunization the practitioner must include with

DH Form 680, Florida Certification of Immunization, incorporated by reference in subsection 64D-3.046(1), F.A.C., documentation on their own stationery of the physician's request for exemption, asserting that the student had an illness comprised of a generalized rash lasting three or more days, a fever of 101 degrees Fahrenheit or greater, a cough, and/or coryza, and/or conjunctivitis and, in the physician's opinion, has had the ten-day measles (rubella) or serologic evidence of immunity to measles.

(c) Forms are to be fully executed by a practitioner licensed under Chapters 458, 459, 460, F.S., or their authorized representative (where permitted in the particular certification) per instructions for the appropriate school year, as provided in DH Form 150-615, Immunization Guidelines – Florida Schools, Child Care Facilities and Family Day Care Homes (March 2007), (~~July 2002~~), incorporated by reference, available online at: [www.doh.state.fl.us/disease\\_ctrl/immune/schoolguide.pdf](http://www.doh.state.fl.us/disease_ctrl/immune/schoolguide.pdf).

(d) Florida SHOTS (State Health Online Tracking System) Electronically Certified DH Form 680 produced by a CHD or a physician's office, as provided in subsection (7), may be utilized.

~~(e)~~ DH Form 681, Religious Exemptions for Immunizations (English/Spanish/Haitian-Creole) (February 2002), incorporated by reference, available at DOH CHDs, must be issued and signed by the local county health department medical director or designee.

~~(f)~~ Otherwise, required immunizations not performed must be accounted for under the Temporary or Permanent Medical Exemptions, DH Form 680, Florida Certification of Immunization, Parts B and C, incorporated by reference in subsection 64D-3.046(1), F.A.C.

(3) Documentation Requirements for Schools:

(a) The original of the form(s) required under subsection paragraph (1)(a) shall remain in the student's cumulative health record.

(b) Antigen doses by dates of immunization shall be transferred as data elements through the Florida Automated System for Transferring Education Records (FASTER).

(c) Compliance Reporting:

1. Each public and nonpublic school with a kindergarten and/or seventh grade shall submit an annual compliance report. The report shall be completed on DH Form 684, Immunization Annual Report of Compliance for Kindergarten and Seventh Grade (January 2007), (~~November 1996~~), incorporated by reference, available at DOH CHDs. The report shall include the immunization status of all children who were attending kindergarten and seventh grades at the beginning of the school year. The report shall be forwarded to the CHD director/administrator no later than October 1 of each school year, where the data will be compiled on DH Form 685, Kindergarten and Seventh Grade Annual Report of

Compliance County Summary (November 2006), incorporated by reference, available at DOH CHDs; or electronically generated by the Department of Education.

2. After consultation with the Department of Education, the DOH shall require compliance reports from public and nonpublic schools and preschools for selected grades (K-12 and preschool) in special situations of vaccine-preventable disease outbreak control or identified need for monitoring through surveys for immunization compliance levels. Such reports shall include the status of all children who were attending school at the beginning of the school year. Reports shall be forwarded to the CHD director/administrator within a specified period, as determined by the DOH.

(4) Homeless, Transfers and Juvenile Justice – A temporary exemption to requirements of subsection (2) above, not to exceed 30 days, may be issued by an authorized school official for any of the following, consistent with the definitions in Section 1003.01, F.S.:

(a) A homeless child.

(b) A transfer student.

(c) A student who enters a juvenile justice education program or school.

(5) Notwithstanding subsection (2), the Department may:

(a) Designate any required immunization as unnecessary or hazardous, according to recognized standards of medical practice.

(b) Upon determination that a shortage of vaccine exists, approve issuance of temporary medical exemption with extended expiration dates by practitioners or authorized school officials until such time as, in the DOH's opinion, vaccine will be available in sufficient quantity for such deferred vaccinations to be completed.

(6) Florida SHOTS Opt Out Provision – Parents or guardians may elect to decline participation in the Florida immunization registry, Florida SHOTS, by submitting a Florida SHOTS Notification and Opt Out Form to the DOH. The form, either a DH Form 1478 (English) or DH Form 1478S (Spanish) or DH Form 1478H (Haitian-Creole), incorporated by reference, is available from the DOH, Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719. The immunization records of children whose parents choose to opt out will not be shared with other entities that are allowed by law to have access to children's immunization records via authorized access to Florida SHOTS.

(7) Florida SHOTS Private Provider Participation – Any healthcare practitioner licensed in Florida under Chapter 458, 459 or 464, F.S., may request authorization to access Florida SHOTS by filling out a DH Form 1479, Authorized Private Provider User Agreement for Access to Florida SHOTS (January 2007), (~~November 2000~~), incorporated by reference, available from the DOH, Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719. The

DH Form 1479 will be returned to the DOH for processing and authorization to access Florida SHOTS. Notification of access approval and instructions for accessing Florida SHOTS will be provided by the DOH. The authorized user and the applicable licensing authority or agency shall notify the DOH, Bureau of Immunization Florida SHOTS personnel when an authorized user's license or registration has expired or has been suspended or revoked.

(8) Florida SHOTS School and Licensed or Registered Child Care Facility Participation – Any public or nonpublic school, or licensed or registered child care facility may request authorization to access Florida SHOTS by completing a DH Form 2115, Authorized School and Licensed or Registered Child Care Facility User Agreement for Access to Florida SHOTS (January 2007), (~~November 2000~~), incorporated by reference, available from the DOH, Bureau of Immunization, 4052 Bald Cypress Way, Bin #A-11, Tallahassee, FL 32399-1719.

The DH Form 2115 will be returned to the DOH for processing and authorization to access Florida SHOTS. Notification of access approval and instructions for accessing Florida SHOTS will be provided by the DOH. The authorized user and the applicable licensing authority or agency shall notify the DOH, Bureau of Immunization Florida SHOTS personnel when an authorized user's license or registration has expired or has been suspended or revoked.

Specific Authority 381.0011(13), 381.003(1),(2), 381.005(2), 1003.22 FS. Law Implemented 381.0011(4), 381.003(1), 381.005(1)(i), 1003.22 FS. History–New 11-20-06, Amended.  
*Editorial Note: Formerly 10D-3.88, 10D-3.088 and 64D-3.011.*

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE NOS.:	RULE TITLES:
69V-40.001	Definitions
69V-40.002	Adoption of Forms
69V-40.008	Fees and Commissions
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69V-40.225	Application Procedure for Mortgage Lender or Correspondent Mortgage Lender Branch Office License
69V-40.242	Principal Representative
69V-40.245	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 mortgage lending. The

proposed rules implement and reflect the statutory changes, which pertain to the licensing and regulation of mortgage brokers, mortgage broker businesses, and mortgage lenders.

SUBJECT AREA TO BE ADDRESSED: Mortgage Brokering and Mortgage Lending.

SPECIFIC AUTHORITY: 215.405, 494.0011, 494.0016, 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 IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA ADMINISTRATIVE WEEKLY.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT 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.001-290, F.A.C.:

(a) Application for Mortgage Brokerage Business and Lender License, Form OFR-494-01, revised 3/1/2007;

(b) Application for Branch Office License, Form OFR-494-02, revised 3/1/2007;

(c) Application for Licensure as a Mortgage Broker, Form OFR-494-03, revised 3/1/2007;

(d) Application for a Mortgage Business School Permit, Form OFR-494-04, revised 3/1/2007;

(e) Mortgage Brokerage and Mortgage Lending Act Surety Bond, Form OFR-494-05, revised 3/1/2007;

(f) Mortgage Lender License Renewal and Reactivation Form, Form OFR-494-06, revised 3/1/2007;

(g) Mortgage Broker License Renewal and Reactivation Form, Form OFR-494-07, revised 3/1/2007;

(h) Quarterly Report Form, Form OFR-494-08, revised 3/1/2007;

(i) Mortgage Brokerage Deposit Account Form, Form OFR-494-09, revised 3/1/2007;

(j) Mortgage Brokerage Transaction and Lending Journal, Form OFR-494-10, revised 3/1/2007;

(k) Calculation of Aggregate Value of Mortgage Loans Serviced, Form OFR-494-11, revised 3/1/2007;

(l) Non-Institutional Investor’s Funds Account Form, Form OFR-494-12, revised 3/1/2007.

(m) FL921050Z, Florida Fingerprint Card, revised 3/1/2007.

(2) All forms adopted by this rule are available on the Office’s website at 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) A mortgage brokerage business shall state in each contract for services the total fee to be received. The total fee shall not exceed the maximum as prescribed in subsection 494.0042(2), F.S.

(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 subsection (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) 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)(c) 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)(c), F.S., and thereafter the licensee or registrant becomes subject to the provisions of the bankruptcy code, the former subsection 494.043(1)(c), 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(2)(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-MX-QR-E by accessing the Office of Financial Regulation's website at 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-MX-QR.

~~(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) If a correct initial report or correct quarterly report thereafter is not timely received (incidental and isolated clerical errors or omissions shall not be considered a violation) as required by subsection 494.004(6), F.S., or subsection 494.0067(9), F.S., the penalty shall be the issuance of a “notice of noncompliance” for the first offense. Any subsequent finding of a violation of this rule shall be a fine of \$500. The penalty for any intentional violations of this rule shall be a fine of \$500 and suspension of the license.

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-40.027 Mortgage Broker Pre-licensing Education Requirement.

(1) through (3) No change.

(4) For the purpose of this rule “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.

(5) Schools shall be responsible for determining that the student attending or completing the continuing education course is the actual person scheduled to complete the class or session.

~~(6)(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. In lieu of the typed list, the Each 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.comdbf.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.~~

(7)(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~~ ~~three~~ ~~(4)(3)~~ years from the completion dates.

(12) All electronically transmitted courses shall require that the time spent attending electronically transmitted professional education courses is equal to the number of qualifying hours awarded to participants for course attendance. Before allowing a course participant to complete a course and receive a certificate or course completion, the course provider shall ensure that the course participant has:

(a) Logged the required number of hours for the particular timed module;

(b) Completed a test that comprehensively covers the course content for the particular timed module; and

(c) Correctly answered all test questions for the particular timed module.

(13) All distance education course participants shall successfully complete a test that comprehensively covers content in order to receive a certificate of course completion. Distance education providers shall not provide answers to test questions to course participants and shall not issue a certificate of course completion to any course participant who has failed to correctly answer at least 75 percent of the total test questions.

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-40.0271, 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 may ~~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.

~~(4)(3)~~ 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)(4)~~ Refunds. If the application is withdrawn or denied, all fees are non-refundable 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.

~~(6)(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.

(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-494-03MB-101, 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. 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 \$47 nonrefundable fingerprint card processing fee; and

(e) A non-refundable examination fee of \$43 for each mortgage broker examination, upon implementation of electronic testing in this state; and

~~(f)(4)~~ Evidence that the applicant has completed the mortgage broker education requirements of subsection 494.0033(3), F.S.; and

(g) 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 ~~may~~ shall be denied pursuant to Section 120.60(1), F.S.

(3) ~~Amendments to Pending of Applications.~~ 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 ten (30)(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), 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, examination fee(s), 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. 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 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 215.405, 494.0011(2), 494.0033(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 \_\_\_\_\_.

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) A mortgage broker 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 reactivated within two (2) years after becoming inactive upon payment of the statutory renewal and reactivation fees required by Section 494.0034, F.S., certification of compliance with the continuing education requirements of Section 494.00295, 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) A mortgage broker license that is not renewed within two (2) years after becoming inactive shall expire.

(4) The Office of Financial Regulation shall not renew or reactivate a mortgage broker license if the minimum continuing education requirements are not satisfied prior to the renewal or reactivation.

(5) The licensee is responsible for maintaining copies of the certificate of completion for all continuing education courses completed and shall supply them to the Office of Financial Regulation upon request.

(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. 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-494-07 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-494-01~~MB-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) The statutory, nonrefundable application fee required by Section 494.0031, F.S., which shall be the fee for the biennial period beginning September 1 of each even-numbered year or any part thereof.

(c) Evidence that the applicant's designated principal broker has 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.

(d) For the purpose of this rule, examples of "actively engaged in a mortgage-related business" shall include, but are not limited to, the following positions that are engaged in the origination, underwriting, closing, and servicing of mortgage loans: loan originator, loan underwriter, officer, or director of a mortgage lender or correspondent mortgage lender; mortgage loan officer of a financial institution; mortgage broker in another state; loan closer for a title insurance company or agency; loan representative, loan underwriter, officer, or director of a private mortgage insurance company; and regulator that is directly responsible for the examination, investigation, or regulation of mortgage companies from this state, another state, or a federal government agency.

(2) Each ultimate equitable owner of 10% or greater interest, designated principal broker, 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-494-01~~MBB-BIO-1 (revised 10/99)~~, to the Office of Financial Regulation along with a \$~~4723~~ 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, designated principal broker, 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)(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% 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 may ~~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 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 is 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.ofr.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-494-02~~MB-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 may ~~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-494-04 for Mortgage Business Schools, and Form OFR-494-02 for Branch Offices. 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 10/91), 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 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 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 waive 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.

(6) Form OFR-494-01, 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 and Lender License application form Change in Ownership or Control of Saving Clause Mortgage Lender, Form OFR-494-01 MLST, 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) If principal representative testing is required pursuant to subsection 494.0065(4)(c)2, Florida Statutes, a non-refundable examination fee of \$43 for each mortgage broker examination of the principal representative, upon implementation of electronic testing in this state;

(d)(e) 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.

(e)(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 \$47~~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% 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 may 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) 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.~~

(7) Form OFR-494-01 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

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 may 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) Refunds. If the application is withdrawn or denied, the application fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial period.

(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 (5) No change.

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.

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 section of Designation, 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 section of Designation, 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.

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 32399-0375.

(b) The notification shall include confirmation by the licensee that the proposed storage facilities are a building of stationary construction wherein the books, accounts, and records will be kept in a secured location under conditions, which will not lead to the damage or destruction of the records.

(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) No change.

(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) If principal representative testing is required pursuant to subsection 494.006(8), Florida Statutes, a non-refundable examination fee of \$43 for each mortgage broker examination of the principal representative, upon implementation of electronic testing in this state;

(d)(e) 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;

(e)(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.

(f)(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 \$4723 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 may ~~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 and Form 494-05 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-494-06~~ML-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.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 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. 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.

(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-494-01~~CL~~ 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) If principal representative testing is required pursuant to subsection 494.0062(11), Florida Statutes, a non-refundable examination fee of \$43 for each mortgage broker examination of the principal representative, upon implementation of electronic testing in this state;

(d)(e) 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;

~~(e)(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.

~~(f)(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 \$4723 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.

(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 may ~~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 and Form OFR-494-05 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 11-9-04, \_\_\_\_\_.

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-494-02~~ML-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 may ~~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) Refunds. If the application is withdrawn or denied, the license fee is nonrefundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial period.

(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-494-01~~ML/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-494-01~~ML/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-494-01~~ML/CL-PR~~, revised 09/02 pursuant to subsection 69V-40.099(1), F.A.C. Form OFR-494-01~~ML/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. If principal representative testing is required pursuant to subsections 494.0061(8), 494.0062(11), 494.0065(4)(c)2., Florida Statutes, a non-refundable examination fee of \$43 for each mortgage broker examination of the principal representative, upon implementation of electronic testing in this state;~~

~~(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- 03765 in writing, within thirty (30) days, of the termination or resignation of its his or her principal representative status.~~

~~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) A mortgage lender which services an aggregate value of less than \$7.5 million dollars in outstanding mortgage loans and elects to provide a fidelity bond, financial guaranty bond, fidelity insurance, or other financial guaranty providing protection against theft, loss or other illegal diversion of funds in lieu of the single line audit required shall have such financial guaranty in full force and effect by the lender's first fiscal year end. The financial guaranty shall designate the Office of Financial Regulation as the recipient of the amount of the financial guaranty.

(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)(a) The penalty for failure to maintain adequate documentation as required in subsections (2) and (3), shall be a \$1,000 fine and a two (2) year probation with the condition that a single line audit be initiated within thirty (30) days.

(b) A lender that has elected to provide a financial guaranty in lieu of the single line audit and increases the aggregate value of mortgages serviced above the \$7,500,000 threshold shall immediately notify the Office of Financial Regulation and initiate a single line audit within sixty (60) days.

(c) A mortgage lender licensee which services loans without a single line audit or sufficient financial guaranty shall be fined \$1,000 and the license shall be revoked.

(5) For purposes of Section 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

(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 Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375,~~ or on a format which is substantially similar to Form OFR-MX-555.

(2) In lieu of depositing noninstitutional investor money into a trust account the mortgage lender or correspondent mortgage lender may have noninstitutional investor money intended for mortgage loan closings deposited with and disbursed by an attorney licensed in this state or by a title company duly licensed in this state if such title company is not owned, controlled or affiliated with the licensee.

(3) The administrative penalty for failure to comply with this rule shall be \$500. Incidental and isolated clerical errors or omissions shall not be considered a violation of this rule. The penalty for intentional or repeat violations of this rule shall be a \$500 fine and suspension or revocation.

(4) For the purposes of Section 120.695, F.S., a violation of the above rule shall not be considered a minor violation.

(5) Form OFR-494-12 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Specific Authority 494.0011(2) FS. Law Implemented 120.695, 494.0043, 494.0073 FS. History--New 8-24-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.285, Amended \_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
69V-50.055	Application Procedure for Motor Vehicle Retail Installment Seller License
69V-50.058	Motor Vehicle Retail Installment Seller Branch Office License
69V-50.070	Motor Vehicle Retail Installment Seller and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation

**PURPOSE AND EFFECT:** Rules 69V-50.055, 69V-50.058, and 69V-50.070, F.A.C., pertaining to the licensure and renewal process for motor vehicle retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Motor Vehicle Retail Sales Finance Act (Part I, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida.

**SUBJECT AREA TO BE ADDRESSED:** Licensure of Motor Vehicle Retail Installment Sellers.

**SPECIFIC AUTHORITY:** 520.03, 520.994 FS.

**LAW IMPLEMENTED:** 120.60, 520.03, 520.94 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-50.055 Application Procedure for Motor Vehicle Retail Installment Seller License.

~~(1) Each person desiring to obtain licensure as a motor vehicle retail installment seller shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Motor Vehicle Retail Installment Seller License, Form OFR HV 1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non-refundable application fee required by Section 520.03, F.S., which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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) 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.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, 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 operation of a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented 120.60(1), 520.03(2) FS. History—New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-50.055, Repealed.

69V-50.058 Motor Vehicle Retail Installment Seller Branch Office License.

~~(1) Every motor vehicle retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR-HV-2, Application for Motor Vehicle Retail Installment Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a motor vehicle retail installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address. If a motor vehicle retail installment seller has more than one location in the same county, only one license is required for that county.~~

~~(2) The statutory, non-refundable application fee for an initial branch office license required by Section 520.03, F.S., shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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.~~

Specific Authority 520.03(2), 520.994(5) FS. Law Implemented 120.60(1), 520.03(2) FS. History—New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-50.058, Repealed.

69V-50.070 Motor Vehicle Retail Installment Seller and Motor Vehicle Retail Installment Seller Branch Office License Renewal and Reactivation.

~~(1) Each active motor vehicle retail installment seller and motor vehicle retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year upon receipt of the statutory renewal fee required by Section 520.03, F.S., and the renewal/reactivation notice, Form OFR-MV-3, 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.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, and a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier office in Tallahassee, Florida.~~

~~(4) In the event the payment is received in a paper format, the received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Engaging in a retail installment transaction as defined in Section 520.02(15), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, 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) If December 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.~~

Specific Authority 520.03(2), (3), 520.994(5) FS. Law Implemented 520.03(2), (3), 520.994(5) FS. History—New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-50.070, Repealed \_\_\_\_\_ .

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE NOS.:	RULE TITLES:
69V-60.060	Application Procedure for Retail Installment Seller License
69V-60.065	Retail Installment Seller Branch Office License
69V-60.070	Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation

PURPOSE AND EFFECT: Rules 69V-60.060, 69V-60.065, and 69V-60.070, F.A.C., pertaining to the licensure and renewal process for retail installment sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Retail Installment Sales Finance Act (Part II, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida.

SUBJECT AREA TO BE ADDRESSED: Licensure of Retail Installment Sellers.

SPECIFIC AUTHORITY: 520.32, 520.994 FS.

LAW IMPLEMENTED: 520.32, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-60.060 Application Procedure for Retail Installment Seller License.

~~(1) Each person desiring to obtain licensure as a retail installment seller shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Retail Installment Seller License, Form OFR-HR-1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non-refundable application fee required by Section 520.32, F.S., which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar 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) 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.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction directly related to the operation of a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History—New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-60.060, Repealed \_\_\_\_\_ .

69V-60.065 Retail Installment Seller Branch Office License.

~~(1) Every retail installment seller which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR HR 2, Application for Retail Installment Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a retail installment seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location or advertised address.~~

~~(2) The statutory, non-refundable application fee required by Section 520.32, F.S., for an initial branch office license shall be for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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) 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.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.32(2), 520.994(5) FS. Law Implemented 520.32(2) FS. History-New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96,12-8-99, Formerly 3D-60.0065, Repealed.

69V-60.070 Retail Installment Seller and Retail Installment Seller Branch Office License Renewal and Reactivation.

~~(1) Each active retail installment seller and retail installment seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year, upon receipt of the statutory renewal fee required by Section 520.32, F.S., and the renewal/reactivation notice, Form OFR RS 3, 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.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Engaging in a retail installment transaction as defined in Section 520.31(13), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, 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) If December 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.~~

Specific Authority 520.32(2), (3), 520.994(5) FS. Law Implemented 520.32(2), (3), 520.994(5) FS. History-New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-60.070, Repealed.

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

**RULE NOS.:**

69V-70.050

69V-70.055

69V-70.060

**RULE TITLES:**

Application Procedure for Sales Finance Company License

Sales Finance Company Branch Office License

Sales Finance Company and Sales Finance Company Branch Office License Renewal and Reactivation

**PURPOSE AND EFFECT:** Rules 69V-70.050, 69V-70.055, and 69V-70.060, F.A.C., pertaining to the licensure and renewal process for sales finance companies are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Installment Sales Finance Act (Part III, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida.

**SUBJECT AREA TO BE ADDRESSED:** Licensure of Sales Finance Companies.

SPECIFIC AUTHORITY: 520.52, 520.994 FS.

LAW IMPLEMENTED: 520.52, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-70.050 Application Procedure for Sales Finance Company License.

~~(1) Each person desiring to obtain licensure as a sales finance company shall apply to the Office of Financial Regulation by submitting the following:~~

~~(a) A completed Application for Sales Finance Company License, Form OFR HI 1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory, non refundable application fee required by Section 520.52, F.S., which shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar 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) 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.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction directly related to operating a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History—New 11-5-87, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-70.050, Repealed \_\_\_\_\_.

69V-70.055 Sales Finance Company Branch Office License.

~~(1) Every sales finance company which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR HI 2, Application for Sales Finance Company Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch if the name or advertising of a sales finance company shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.~~

~~(2) The statutory, non refundable application fee for an initial branch office license required by Section 520.52, F.S., shall be the fee for the biennial period beginning January 1 of each odd numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar 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) 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.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.52(2), 520.994(5) FS. Law Implemented 520.52(2) FS. History--New 11-11-90, Amended 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-70.055, Repealed.

69V-70.060 Sales Finance Company and Sales Finance Company Branch Office License Renewal and Reactivation.

~~(1) Each active sales finance company and sales finance company branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year, upon receipt of the statutory renewal fee required by Section 520.52, F.S., and the renewal/reactivation notice, Form OFR-SF-3, 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.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier office in Tallahassee, Florida.~~

~~(5) Engaging in a business as a sales finance company as defined in Section 520.31(16), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, 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) If December 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.~~

Specific Authority 520.52(2), (3), 520.994(5) FS. Law Implemented 520.52(2), (3), 520.994(5) FS. History--New 11-5-87, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-70.060, Repealed.

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

**RULE NOS.:**

69V-80.003  
69V-80.015

**RULE TITLES:**

Completion Certificates  
Application Procedure for Home Improvement Finance Seller License

69V-80.050

Home Improvement Finance Seller and Home Improvement Finance Seller Branch Office License Renewal and Reactivation

69V-80.060

Home Improvement Finance Seller Branch Office License

PURPOSE AND EFFECT: Rules 69V-80.015, 69V-80.050, and 69V-80.060, F.A.C., pertaining to the licensure and renewal process for home improvement finance sellers are repealed. New rules pertaining to the licensure and renewal process for these persons are being proposed under Rule Chapter 69V-85, F.A.C. The new rules will reflect and implement the changes to The Home Improvement Sales and Finance Act (Part IV, Chapter 520, Fla. Stat.) that are contained in Chapter 2006-213, Laws of Florida. A new rule is created to implement the completion certificate required by Section 520.81, Florida Statutes.

SUBJECT AREA TO BE ADDRESSED: Licensure of Home Improvement Finance Sellers.

SPECIFIC AUTHORITY: 520.81, 520.994, 520.63 FS.

LAW IMPLEMENTED: 520.81, 520.994, 520.63 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-80.003 Completion Certificates.

The completion certificate required by Section 520.81, F.S., Form OFR-520-03, is hereby incorporated by reference and available on the Office's website at www.flofr.com.

Specific Authority 520.81(2), 520.994(5) FS. Law Implemented 520.81 FS. History--New

69V-80.015 Application Procedure for Home Improvement Finance Seller License.

~~(1) Each person desiring to obtain licensure as a home improvement finance seller shall apply to the Office of Financial Regulation by submitting the following:~~



~~(a) A completed Application for Home Improvement Finance Seller License, Form OFR-HC-1, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375; and~~

~~(b) The statutory non-refundable application fee required by Section 520.63, F.S., which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(2) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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) 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.~~

~~(4) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(5) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

~~(6) Restoration of Civil Rights.~~

~~(a) If one's civil rights have been restored and the conviction did not directly relate to the operation of a retail installment business, the applicant shall provide evidence of restoration of civil rights.~~

~~(b) If one's civil rights have been restored and the conviction directly related to the operation of a retail installment business, the applicant shall provide evidence of restoration of rights and rehabilitation. Evidence of rehabilitation should include, but is not limited to, employment history and letters from probation officers and employers.~~

~~Specific Authority 520.63(2), (3), 520.994(5) FS. Law Implemented 520.63(2) FS. History-New 4-13-88, Amended 5-9-90, 11-11-90, 9-28-94, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-80.015, Repealed \_\_\_\_\_.~~

~~69V-80.050 Home Improvement Finance Seller and Home Improvement Finance Seller Branch Office License Renewal and Reactivation.~~

~~(1) Each active home improvement finance seller and home improvement finance seller branch office license shall be renewed for the biennial period beginning January 1 of each odd-numbered year, upon receipt of the statutory renewal fee required by Section 520.63, F.S., and the renewal/reactivation~~

~~notice, Form OFR-HI-3, effective 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.~~

~~(2) If the Office of Financial Regulation has not received the renewal notice and renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal fee, a reactivation fee equal to the renewal fee, and the reactivation notice. A license that is not reactivated within six (6) months after becoming inactive automatically expires.~~

~~(3) A renewal notice and fee shall be considered submitted when received in the Office of Financial Regulation's cashier office in Tallahassee, Florida.~~

~~(4) The received date shall be the date stamped on the notice when received by the Office of Financial Regulation's cashier's office in Tallahassee, Florida.~~

~~(5) Acting as "home improvement finance seller" as defined in Section 520.61(13), F.S., with an inactive or expired license is a violation of Chapter 520, F.S., and subjects the person to disciplinary action.~~

~~(6) Renewal via the Internet. In lieu of filing the paper version of the renewal form, 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.~~

~~(7) If December 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.~~

~~Specific Authority 520.63(2), (3), 520.994(5) FS. Law Implemented 520.63(2), (3), 520.994(5) FS. History-New 4-13-88, Amended 11-11-90, 12-18-93, 9-29-96, 12-8-99, 12-25-00, Formerly 3D-80.050, Repealed \_\_\_\_\_.~~

~~69V-80.060 Home Improvement Finance Seller Branch Office License.~~

~~(1) Every home improvement finance seller which conducts home improvement business in a branch office shall apply for a license to operate a branch office on Form OFR-HC-2, Application for Home Improvement Finance Seller Branch Office License, revised 10/99, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375. Any office or location shall be deemed to be a branch office if the name or advertising of a home improvement finance seller shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address.~~

~~(2) The statutory, non-refundable applicant fee for an initial branch office license required by Section 520.63, F.S., shall be for the biennial period beginning January 1 of each odd-numbered year or any part thereof.~~

~~(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty five (45) calendar 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) 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.~~

~~(5) Refunds. If the application is withdrawn or denied, the license fee is non-refundable.~~

~~(6) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.~~

Specific Authority 520.63(2), 520.994(5) FS. Law Implemented 520.63(2) FS. History—New 4-13-88, Amended 5-9-90, 11-11-90, 8-9-95, 7-10-96, 9-29-96, 12-8-99, Formerly 3D-80.060, Repealed \_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE NOS.:	RULE TITLES:
69V-85.002	Application Forms, Fees, Procedures and Requirements
69V-85.003	Branch Application Forms, Fees, Procedures and Requirements
69V-85.004	Renewal Fees, Deadlines and Requirements
69V-85.005	Amendments, Change of Name, Change of Entity and Change in Control or Ownership
69V-85.200	Definition of Moral Turpitude

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to chapter 520, Florida Statutes, relating to retail installment sales. The proposed rules implement and reflect the statutory changes, which pertain to the licensing and regulation of persons under The Motor Vehicle Retail Sales Finance Act, The Retail Installment Sales Act, The Installment Sales Finance Act, and The Home Improvement Sales and Finance Act.

SUBJECT AREA TO BE ADDRESSED: Retail Installment Sales.

SPECIFIC AUTHORITY: 520.03, 520.32, 520.99, 520.52, 520.63, 520.994 FS.

LAW IMPLEMENTED: 520.02, 520.03, 520.31, 520.32, 520.99, 520.52, 520.61, 520.63, 520.994 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-85.002 Application Forms, Fees, Procedures and Requirements.

(1) Each person desiring to obtain licensure under Chapter 520 shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed Application for Installment Seller or Sales Finance License, Form OFR-520-01, revised 3/1/2007, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376; and

(b) The statutory, non-refundable application fee required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable, which shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(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, and each director of an entity applying for licensure, shall submit a completed Biographical Summary from Form OFR-520-01, to the Office of Financial Regulation. Form OFR-520-01 is incorporated by reference in subsection 69V-85.002(1), F.A.C.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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 may be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Licensure as a Retail Installment Seller, Form OFR-520-01, becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-520-01. 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 of Financial Regulation. Requests to make changes which are material to the application 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. Form OFR-520-01 is incorporated by reference in subsection 69V-85.002(1), F.A.C.

(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 non-refundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 520.03(2), 520.32(2), 520.52(2), 520.63(2), 520.994(5) FS. Law Implemented 520.03(2), 520.32(2), 520.52(2), 520.63(2) FS. History—New \_\_\_\_\_.

69V-85.003 Branch Application Forms, Fees, Procedures and Requirements.

(1) Every licensee under Chapter 520 which conducts business in a branch office shall apply for a license to operate a branch office on Form OFR-520-02, Application for Branch Office License, revised 3/1/2007, which is hereby incorporated by reference and available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Any office or location shall be deemed to be a branch office if the name or advertising of a licensee shall be displayed in such a manner as to reasonably lead the public to believe that such business may be conducted at such office, location, or advertised address. If a motor vehicle retail installment seller licensed under Section 520.03, F.S., has more than one location in the same county, only one license is required for that county.

(2) The statutory, non-refundable application fee for an initial branch office license required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable, shall be the fee for the biennial period beginning January 1 of each odd-numbered year or any part thereof.

(3) Request for Additional Information. Any request for additional information will be made by the Office of Financial Regulation within thirty (30) calendar 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) calendar days from the date of the request. Failure to respond to the request within forty-five (45) calendar 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 may be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Retail Installment Seller Branch Office License becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-520-02. 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 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 of Financial Regulation. Requests to make changes which are material to the application 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. Form OFR-520-02 is incorporated by reference in subsection 69V-85.003(1), F.A.C.

(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 non-refundable.

(7) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 520.03(2), 520.32(2), 520.52(2), 520.63(2), 520.994(5) FS. Law Implemented 520.03(2), 520.32(2), 520.52(2), 520.63(2) FS. History—New \_\_\_\_\_.

69V-85.004 Renewal Fees, Deadlines, and Requirements.

(1) Each active license and each active branch office license issued under Chapter 520 shall be renewed for the biennial period beginning January 1 of each odd-numbered year upon receipt of the statutory renewal fee required by Sections 520.03, 520.32, 520.52, and 520.63, F.S., as applicable.

(2) If the Office of Financial Regulation has not received the renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. The inactive license may be reactivated within six (6) months after becoming inactive upon submission of the statutory renewal

fee and reactivation fee equal to the renewal fee. A license that is not reactivated within six (6) months after becoming inactive automatically expires.

(3) A renewal fee submitted 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.

(4) 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.

(5) All fees required to be filed under this rule shall be filed electronically at [www.flofr.com](http://www.flofr.com).

(6) Any person may petition for waiver of the requirement of electronic submission of fees 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.

(7) If December 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.

Specific Authority 520.03(3), 520.32(3), 520.52(3), 520.63(2), 520.994(3) FS. Law Implemented 520.02(17), 520.03(1), 520.03(3), 520.31(15), 520.31(18), 520.32(1), 520.32(3), 520.52(1), 520.52(3), 520.61(18), 520.61(1), 520.63(3) FS. History—New \_\_\_\_\_.

69V-85.005 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed under Chapter 520, F.S., 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 Section 520.999, F.S., not later than thirty-days (30) after the effective date of the change on: Application for Installment Seller or Sales Finance License, Form OFR-520-01 and Application for Branch Office License, Form OFR-520-02. The forms 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. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensee under Chapter 520, F.S., which proposes to change any personnel described in Sections 520.03, 520.32, 520.52, and 520.63, F.S., listed in any initial application 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 Application for Installment Seller or Sales Finance License, Form OFR-520-01 and

Application for Branch Office License, Form OFR-520-02. In the event the change in personnel in Section 520.999, 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 Section 520.999, F.S. unless such person has previously complied with Section 520.999, F.S. with an entity currently licensed under this chapter.

(3) Applications for licensure under Chapter 520 required as a result of an acquisition of a controlling interest in a licensee pursuant to subsection 520.999(2), 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 not later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with Sections 520.03, 520.32, 520.52, and 520.63, F.S.

(4) The office shall waive the requirement for a licensee to file a new application pursuant to subsection 520.999(2), F.S.:

(a) when a person or group of persons proposing to purchase or acquire a controlling interest in a Chapter 520, F.S., licensee has previously filed the information with the Office required in Sections 520.03, 520.32, 520.52 and 520.63, F.S., with a licensee to the office, provided that such person is currently affiliated with the licensee; or

(b) when the acquirer is currently licensed with the office under Chapter 520, F.S.

(5) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection 4 of this rule, the licensee must file an amendment as prescribed in subsection 2 of this rule to report the change in controlling interest.

(6) Forms OFR-520-01 and OFR-520-02 are incorporated by reference in subsections 69V-85.002(1) and 69V-85.003(1), F.A.C.

Specific Authority 520.99, 520.994(5) FS. Law Implemented 520.99 FS. History—New \_\_\_\_\_.

69V-85.200 Definition of Moral Turpitude.

The following definition of "moral turpitude" shall apply in all licensing and enforcement actions under Chapter 520, F.S. This definition shall serve as the Office of Financial Regulation's interpretation of the term "moral turpitude" as used in paragraphs 520.995(3)(b) and (e), F.S.:

"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."

Specific Authority 520.994(5) FS. Law Implemented 520.995(3)(b), (c) FS. History—New 8-9-95, Formerly 3D-85.200, Repealed \_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**Office of Financial Regulation**

RULE NOS.:	RULE TITLES:
69V-160.024	Names and Addresses of Corporate Officers
69V-160.030	Application Procedure for Consumer Finance License
69V-160.031	Consumer Finance License Renewal and Reactivation
69V-160.032	Amendments, Change of Name, Change of Entity, and Change in Control or Ownership

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 516, Florida Statutes, relating to consumer finance. Among other things, Chapter 2006-213, Laws of Florida, amends provisions concerning the licensing and regulation of consumer finance companies. The proposed rules implement and reflect the statutory changes.

SUBJECT AREA TO BE ADDRESSED: Consumer Finance.

SPECIFIC AUTHORITY: 516.22(1), 516.23(3), 516.031, 516.03(1), 516.05, 516.23(3) FS.

LAW IMPLEMENTED: 516.03(1), 516.05, 516.07, 516.01, 516.02(1), 516.05(4), 516.05(5) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

69V-160.024 Names and Addresses of Corporate Officers. ~~A licensee constituted in the corporate form shall furnish the Office of Financial Regulation the name and address of each officer of its corporation and when any officer of the corporation is changed, the Office of Financial Regulation shall immediately be notified of the change and the name and address of any new officer or officers.~~

Specific Authority 20.05(5), 516.22(1) FS. Law Implemented 516.12(1)(2), 516.05(2)(a), 516.07(1)(c) FS. History—Amended 10-20-73, Renumbered 3-2.24 to 3D-160.24 on 8-11-75, Readopted 9-1-75, Formerly 3D-160.24, 3D-160.024, Repealed.

69V-160.030 Application Procedure for Consumer Finance License.

(1) Each person desiring to apply for licensure as a consumer finance company shall submit the following to the Office of Financial Regulation:

(a) A completed Application for Consumer Finance License, Form OFR-516-01 ~~CF-304~~, revised 3/1/2007 ~~10/99~~, which is hereby incorporated by reference and available on the Office’s website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376~~5~~;

(b) The statutory, non-refundable investigation fee required by Section 516.03, F.S.;

(c) The statutory, non-refundable biennial license fee required by Section 516.03, F.S., ~~which is refundable upon denial of licensure~~; and

(d) ~~Evidence Documentation~~ that the applicant has liquid assets of at least \$25,000.00 for the operation of the consumer finance company. For the purposes of this rule “Evidence” means documentation from an insured financial institution that the liquid assets are on deposit with the institution.

(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, and each director of an entity applying for licensure as a consumer finance company, shall submit a completed Biographical Summary from Form OFR-516-01, to the Office of Financial Regulation.

~~(3)(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 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 may ~~shall~~ be denied pursuant to Section 120.60(1), F.S.

(4) Amendments to Pending Applications. If the information contained in an Application for Licensure as a Consumer Finance Company becomes inaccurate for any reason, the applicant shall file an amendment correcting such information within thirty (30) days of the change on Form OFR-516-01. 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 of Financial Regulation. Requests to make changes which are material to the application may be deemed by the Office of Financial Regulation to be grounds for denial, and a new application, accompanied by the appropriate filing fees, may be required.

~~(5)(3)~~ 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)(4) Refunds. If the application is withdrawn or denied, all fees are non-refundable the investigation fee is non-refundable. If the application is withdrawn or denied, the license fee is refundable.~~

~~(5) If one's civil rights have been restored and the conviction did not directly relate to the consumer finance industry, the applicant shall provide evidence of restoration of civil rights. If one's civil rights have been restored and the conviction is directly related to the consumer finance 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) Upon approval of an application, a license will be issued for the remainder of the biennial licensure period.

Specific Authority 516.22(1), 516.23(3), 516.031, FS. Law Implemented 516.03(1), 516.05(1), 516.07 FS. History—New 12-18-88, Amended 5-9-90, 10-1-95, 1-5-00, Formerly 3D-160.030, Amended \_\_\_\_\_.

69V-160.031 Consumer Finance License Renewal and Reactivation.

(1) Each active consumer finance license will be renewed for the biennial period beginning January 1 of every odd-numbered year, upon submission of the statutory renewal fee and renewal notice to the Office of Financial Regulation. ~~Form OFR-CF-3 (effective 10/99), Consumer Finance License Renewal, is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2) If the Office of Financial Regulation has not received the renewal fee prior to January 1 of the renewal year, the license shall revert from active to inactive status. ~~Failure to return the renewal notice and fee prior to January 1 of the renewal year shall automatically result in the license becoming inactive.~~ The inactive license may be reactivated within six (6) months after becoming inactive upon payment of the biennial license fee; and payment of the reactivation fee which is a fee equal to the biennial license fee; ~~and return of the reactivation notice.~~

(3) A renewal fee submitted 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 a renewal payment. Renewal via the Internet. In lieu of filing the paper version of the renewal form, 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.

(4) 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.

(5) All renewal fees required to be filed under this rule shall be filed electronically at www.flofr.com.

(6) 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.

~~(7)(4) If December 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.~~

Specific Authority 516.03(1), 516.22(1), 516.23(3) FS. Law Implemented 516.03(1), 516.05(1), (2) FS. History—New 12-13-88, Amended 1-5-00, 12-25-00, Formerly 3D-160.031, Amended \_\_\_\_\_.

69V-160.032 Amendments, Change of Name, Change of Entity and Change in Control or Ownership.

(1) Each person licensed under Chapter 516, F.S., 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 Section 516.05, F.S., not later than thirty-days (30) after the effective date of the change on: Consumer Finance Application, Form OFR-516-01. The form is available on the Office's website at www.flofr.com and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Name changes pursuant to this subsection shall not involve any change in controlling interest of the licensed entity.

(2) Each licensee under Chapter 516, F.S., which proposes to change any personnel described in Section 516.03, F.S., listed in any initial application 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 Consumer Finance Application, Form OFR-516-01. In the event the change in personnel in Section 516.03, 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 Section 516.03, F.S. unless such person has previously complied Section 516.03, F.S., with an entity currently licensed under this chapter.

(3) Applications for licensure under Chapter 516 required as a result of an acquisition of a controlling interest in a licensee pursuant to subsection 516.05(5), 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 not later than thirty (30) days prior to the date of such acquisition. Such applications must be filed in accordance with Section 516.03, F.S.

(4) The office shall waive the requirement for a licensee to file a new application pursuant to subsection 516.05(5), F.S.:

(a) when a person or group of persons proposing to purchase or acquire a controlling interest in a Chapter 516, F.S., licensee has previously filed with the Office the information required in Section 516.03, F.S., with the licensee to the office, provided that such person is currently affiliated with the licensee; or

(b) when the acquirer is currently licensed with the office under Chapter 516, F.S.

(5) If the requirement to file a new application for a change in controlling interest is waived pursuant to subsection 4 of this rule, the licensee must file an amendment as prescribed in subsection (2) of this rule to report the change in controlling interest.

(6) Form OFR-516-01 is incorporated by reference in subsection 69V-160.030(1), F.A.C.

Specific Authority 516.05(4), 516.05(5), 516.23(3) FS, Law Implemented 516.01, 516.02(1), 516.05(4), 516.05(5) FS. History—New \_\_\_\_\_.

## Section II Proposed Rules

### DEPARTMENT OF EDUCATION

#### State Board of Education

RULE NO.:                   RULE TITLE:  
6A-2.0010                   Educational Facilities

PURPOSE AND EFFECT: This rule is amended to incorporate the 2007 State Requirements for Educational Facilities and to remove at the Joint Administrative Procedures Committee’s request, other codes and specifications from the rule. The removal of the codes and specifications do not affect educational facilities as they are still enforceable by law.

SUMMARY: This rule is amended to adopt the 2007 State Requirements for Educational Facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: 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: Section 1(a) Article IX, State Constitution; 1001.02(1), 1013.02(2), 1013.37 FS.

LAW IMPLEMENTED: 1(a) Article IX, State Constitution; 50.011, 50.021, 50.031, 50.041, 50.051, 50.061, 50.071, 1001.02, 1001.42(9), 1001.453, 1011.09, 1011.74, 1031.01, 1013.03, 1013.31, 1013.35, 1013.37, 1013.371, 1013.60, 1013.61, 1013.64, 1013.735, 1013.736, 1013.737 FS.

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

DATE AND TIME: April 17, 2007, 8:30 a.m.

PLACE: Department of Education, 325 West Gaines Street, Tallahassee, Florida 32399-0400

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Spessard Boatright, Director, Office of Educational Facilities, Department of Education, 325 West Gaines Street, Suite 1054, Tallahassee, Florida 32399-0400, (850)245-0494

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-2.0010 Educational Facilities.

~~State Board of Education Commissioner of Education requirements adopted pursuant to Chapter 120, Florida Statutes, to implement the State Uniform Building Code for Public Educational Facilities Construction in Chapter 1013, Florida Statutes, are contained in Section 423 of the Florida Building Code and the Department of Education publications titled “State Requirements for Educational Facilities, 2007,” 1999 Volume I Process,” “2005 Addendum to State Requirements for Educational Facilities Volume 1,” and “2006 Addendum to State Requirements for Educational Facilities” which is are hereby incorporated by reference and made a part of this rule to become effective with the effective date of the amended rule. All educational and ancillary facilities constructed by a school board or community college board shall comply with “State Requirements for Educational Facilities, 2007, 1999 Volume I Process,” “2005 Addendum to State Requirements for Educational Facilities, Volume I,” and “2006 Addendum to State Requirements for Educational Facilities,” the Florida Building Code (FBC), including Section 423, and the Florida Fire Prevention Code (FFPC). The FBC shall supersede any other code adopted by a board, or any other building code or ordinance, for the construction of educational and ancillary facilities and plants whether at the local, county, or state level rule.~~

(1) ~~In addition to “State Requirements for Educational Facilities, 1999 Volume I,” “2005 Addendum to State Requirements for Educational Facilities, Volume I,” and “2006 Addendum to State Requirements for Educational Facilities” all, or the specific portions cited, of the following building codes are hereby incorporated by reference and made a part of this rule. If there should be conflicting requirements between these codes and “State Requirements for Educational Facilities, 1999 Volume I,” “2005 Addendum to State Requirements for~~