

through 2009 calendar years' complaints history and 2004 through 2009 calendar-accident years' paid claims experience. Absolute grading scales will reflect higher expected complaint ratios in hurricane years.

(8) The Office of the Insurance Consumer Advocate will issue an annual report card on a form that provides the name of each insurer followed by a letter grade for:

- (a) Overall score;
- (b) Complaint score; and
- (c) Score for time to pay claims.

(9) Form CA-01, "Annual Report Card of the Insurance Consumer Advocate of Residential Property Insurers" is incorporated herein and adopted by reference.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History--New _____.

69M-236.004 Limitations and exclusions.

(1) Complaints will be evaluated on or after April 1 of the year following the experience period that is being graded.

(2) All complaints for which the complete insurer name is missing from the complaint file are excluded.

(3) All flood complaints are excluded.

(4) The maximum complaint ratio in any one calendar year for any insurer will be limited to 350%.

(5) Claims are assumed to be paid on average in the middle of the calendar year in which they close.

(6) For calendar-accident years in which a company had fewer than 50 paid claims as of the end of the latest calendar year, such claims are assumed to have been paid in the industry median number of months.

(7) Insurers with less than \$30 million in qualifying premium are included in the grading process but are given grades of "I" for "insufficient credibility."

(8) Insurers with less than 5 years of experience are only graded for those years for which they had experience.

(9) Insurers with less than \$100,000 in direct written personal residential premium in the latest calendar year will not be graded.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History--New _____.

69M-236.005 Data sources.

The insurer report card will be based on data obtained from the following sources:

(1) Complaint data from the Division of Consumer Services, Florida Department of Financial Services;

(2) Paid claim data from the Statutory Annual Statements, Schedule P, Part 5A, Section 1, filed by insurers with the Office of Insurance Regulation; and

(3) In-force policy and direct written premium data from the Quarterly Summary Reports (QSR) of the Florida Office of Insurance Regulation.

Rulemaking Authority 624.308(1), 627.0613(4) FS. Law Implemented 627.0613(4) FS. History--New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE:
Debra Seymour, Office of Insurance Regulation, E-mail Debra.Seymour@flor.com

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: The Financial Services Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: November 17, 2009

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 17, 2009

Section III Notices of Changes, Corrections and Withdrawals

DEPARTMENT OF STATE

Division of Elections

RULE NO.: 1S-2.021 RULE TITLE:
Revocation of Registration of
Political Committees

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 27, July 9, 2010 issue of the Florida Administrative Weekly.

The changes have been made in response to written comments from a staff member of the Florida House of Representatives.

1. Subsections (1)(b),(c), and (d), shall now read:

(b) The committee or organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of ~~its the campaign~~ treasurer ~~pursuant to Section 106.021(2), F.S.;~~

(c) The committee fails to file the appointment of a successor within 10 days after the death, resignation or removal of ~~its the committee~~ chairperson;

(d) The committee or organization fails to file ~~campaign~~ treasurers' reports for more than 6 months; ~~or~~

2. Subsection (1)(g) has been added to read:

(g) The organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of its top-ranking principal officer.

3. The first sentence of subsection (2) shall now read:

(2) The filing officer shall send notification to the committee's chairperson or organization's top-ranking principal officer of the intent to revoke the ~~committee's~~ registration to the most recent address on file with the filing officer for the chairperson or top-ranking principal officer, as applicable.

DEPARTMENT OF TRANSPORTATION

RULE NO.: RULE TITLE:
 14-24.001 Provisions for Prompt Settlement or
 Legal Defense of Claims and
 Disqualification for Failure to Settle
 Claims

NOTICE OF CHANGE

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 36, No. 25, June 25, 2010 issue of the Florida Administrative Weekly.

FDOT Form 700-050-21, incorporated into Rule 14-24.001, F.A.C., is being corrected to add the rule number onto the form, and correct the statute number cited.

~~(2)(4) Within 90 days of the Department’s offer of final payment, the surety company shall provide to the Department Failure on the part of the surety to furnish an affidavit to the effect that these requirements have been met on a Contractor’s Affidavit and Surety Consent (Form 21-A), FDOT Florida Department of Transportation Form 700-050-21, Rev. 12/09 08/04, which is incorporated by reference herein under Rule 14-79.006, to the Department within 90 days of the Department’s offer of final payment Failure to comply shall constitute grounds for disqualification. Preliminary notice of disqualification will be furnished to the surety company at least 21 30 days prior to disqualification. Qualification will be reinstated upon the Department’s receipt by the Department of the properly executed Form Contractor’s Affidavit and Surety Consent (Form 21-A).~~

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.”

EXECUTIVE OFFICE OF THE GOVERNOR

Office of Tourism, Trade and Economic Development

RULE NO.: RULE TITLE:
 27M-4.001 Forms and Definitions

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 1, January 8, 2010 issue of the Florida Administrative Weekly.

The Office of Tourism, Trade, and Economic Development intends to change form OTTED 8102-1, Application for Selection as Loan Administrator under the Economic Gardening Business Loan Pilot Program to clarify that the failure of an applicant to provide requested information sought by the Review Committee or the Office shall result in the rejection of the application. The above referenced form is

being changed to address comments from staff of The Florida Legislature Joint Administrative Procedures Committee (JAPC).

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Regulatory Council of Community Association Managers

RULE NO.: RULE TITLE:
 61E14-4.002 Continuing Education Provider
 Approval

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 42, October 23, 2009 issue of the Florida Administrative Weekly.

The change is due to concerns by the Joint Administrative Procedure Committee in their letter dated December 8, 2009 and January 6, 2010. The change shall be as follows:

Subsection (2) of the rule shall read:

(2) Entities or individuals who wish to become approved providers of continuing professional education shall make application to the Council, on Forms DBPR 0020-1 – Master Organization Application (Eff. 05/10), DBPR 0060-1 – General Explanatory Description (Eff. 05/10), and DBPR CAM-4302 – Continuing Education Provider and Course Approval Application (Rev. 05/10), all of which are hereby incorporated by reference into this rule. These forms are available as a single application packet with instructions, a copy of which may be obtained from the Department’s website at <https://www.myfloridalicense.com/intentions2.asp?SID=&page=intentions2.asp> ~~BPR form 33-011, entitled, “COMMUNITY ASSOCIATION MANAGER’S CONTINUING EDUCATION PROVIDER APPROVAL APPLICATION”, incorporated herein by reference and effective 11-1-00, which copies may be obtained from the Council.~~

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Managers, 1940 North Monroe Street, Tallahassee, FL 32399-0762

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Regulatory Council of Community Association Managers

RULE NO.: RULE TITLE:
 61E14-4.003 Continuing Education Course
 Approval

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 42, October 23, 2009 issue of the Florida Administrative Weekly.

The change is due to concerns by the Joint Administrative Procedure Committee in their letter dated December 8, 2009 and January 6, 2010. The change shall be as follows:

1. Subsection (1)(a) of the rule shall read:

(a) ~~Written Application~~ for course approval shall be received by the Council prior to the date the course is offered, on Forms DBPR 0020-1 – Master Organization Application (Eff. 05/10), DBPR 0060-1 – General Explanatory Description (Eff. 05/10), and DBPR CAM-4302 – Continuing Education Provider and Course Approval Application (Rev. 05/10). These forms are available as a single application packet with instructions, a copy of which may be obtained from the Department’s website at <https://www.myfloridalicense.com/intentions2.asp?SID=&page=intentions2.asp> on BPR form 33-013, entitled “COMMUNITY ASSOCIATION MANAGER’S CONTINUING EDUCATION COURSE APPROVAL APPLICATION,” incorporated herein by reference and effective 11-1-00, which copies may be obtained from the Council.

2. Section 468.4337 and 455.213(6) shall be added to the rulemaking authority. Section 468.433, F.S., shall be deleted from the rulemaking authority.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Managers, 1940 North Monroe Street, Tallahassee, FL 32399-0762

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Regulatory Council of Community Association Managers

RULE NO.: 61E14-4.005
 RULE TITLE: Prelicensure Education Provider Approval

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 42, October 23, 2009 issue of the Florida Administrative Weekly.

The change is due to concerns by the Joint Administrative Procedure Committee in their letter dated December 8, 2009 and January 6, 2010. The change shall be as follows:

Subsection (2) of the rule shall read:

(2) Entities or individuals who wish to become approved providers of prelicensure education shall make application on Forms DBPR 0020-1 – Master Organization Application (Eff. 05/10) and DBPR CAM-4306 – Prelicensure Provider Application (Rev. 05/10). Forms DBPR 0020-1 and DBPR CAM-4306 are hereby incorporated by reference into this rule. These forms are available as a single application packet with instructions, a copy of which may be obtained from the Department’s website at <https://www.myfloridalicense.com/intentions2.asp?SID=&page=intentions2.asp> on BPR form

~~33-012, entitled, “COMMUNITY ASSOCIATION MANAGER’S PRELICENSURE EDUCATION PROVIDER APPROVAL APPLICATION”, incorporated herein by reference and effective 1-3-01, which copies may be obtained from the Council.~~

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Anthony Spivey, Executive Director, Regulatory Council of Community Managers, 1940 North Monroe Street, Tallahassee, FL 32399-0762

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Board of Pilot Commissioners

RULE NO.: 61G14-19.001
 RULE TITLE: Percentage of Gross Pilotage Assessed

NOTICE OF CORRECTION

Notice is hereby given that the following correction has been made to the proposed rule in published in Vol. 36, No. 29, of the July 23, 2010, issue of the Florida Administrative Weekly. The correction is as follows:

(1) The Department of Business and Professional Regulation shall assess the pilots in the respective ports of the state seven tenths ~~one tenth~~ of one percent (.7%) ~~(.1%)~~ of the gross amount of pilotage earned by said pilots during each year.

The change does not affect the substance of the proposed rule and simply clarifies the numerical percentage as originally published.

The person to be contacted regarding the above change is Robyn Barineau, Executive Director, Board of Pilot Commissioners, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-304.600
 RULE TITLE: Tampa Bay Basin TMDLs

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 17, April 30, 2010 issue of the Florida Administrative Weekly.

Please note, a previous Notice of Change was published for this rule in the Vol. 36, No. 28, July 16, 2010 issue of the Florida Administrative Weekly.

62-304.600 Tampa Bay Basin TMDLs.

(1) Allen Creek (tidal). The fecal coliform TMDL for Allen Creek (tidal) is 400 ~~43~~ counts/100mL and is allocated as follows:

(a) The Wasteload Allocation (WLA) for wastewater sources is not applicable,

(b) The WLA for discharges subject to the Department’s National Pollutant Discharge Elimination System (NPDES) Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2000 to 2007, will require a 67 ~~74~~ percent reduction of sources contributing to exceedances of the criteria,

(c) The Load Allocation (LA) for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from 2000 to 2007, will require a 67 ~~74~~ percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform have been expressed as the percent reductions needed to attain the applicable Class III ~~H~~ criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(2) through (8) No change.

(9) Cross Canal (North). The fecal coliform TMDL for Cross Canal (North) is 400 ~~43~~ counts/100mL, and is allocated as follows:

(a) The WLA for wastewater sources is not applicable,

(b) The WLA for discharges subject to the Department’s NPDES Municipal Stormwater Permitting Program is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2007 period, will require a 59 ~~84~~ percent reduction of sources contributing to exceedances of the criteria,

(c) The LA for nonpoint sources is to address anthropogenic sources in the basin such that in-stream concentrations meet the fecal coliform criteria which, based on the measured concentrations from the 2005 to 2007 period, will require a 81 ~~64~~ percent reduction of sources contributing to exceedances of the criteria, and

(d) The Margin of Safety is implicit.

(e) While the LA and WLA for fecal coliform has been expressed as the percent reductions needed to attain the applicable Class III ~~H~~ criteria, it is the combined reductions from both anthropogenic point and nonpoint sources that will

result in the required reduction of in-stream fecal concentration. However, it is not the intent of the TMDL to abate natural background conditions.

(10) through (17) No change

Rulemaking Authority 403.061, 403.067 FS. Law Implemented 403.061, 403.062, 403.067 FS. History–New_____.

DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: 62-550.800
 RULE TITLE: Control of Lead and Copper

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 19, May 14, 2010 issue of the Florida Administrative Weekly has been withdrawn.

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.205
 RULE TITLE: Application for Pharmacist Licensure by Endorsement (Foreign Pharmacy Graduates)

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 35, No. 39, October 2, 2009 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (1) shall now read as follows:

(1) All applications for licensure by endorsement must be made on form DH-MQA 1196, effective June 2010, Pharmacist Licensure by Endorsement Application and Instructions (Foreign Graduates), which is incorporated by reference, and shall be accompanied with a non-refundable endorsement application fee and initial licensure fee as set forth in Rules 64B16-26.1001 and 64B16.1002, F.A.C. Contact the Board of Pharmacy at 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254 or (850)488-0595 to request a form or download the form from the Board’s website at <http://www.doh.state.fl.us/mqa/pharmacy>.

2. Subsection (2) shall now read as follows:

(2) The applicant must submit proof that one of the following requirements has been met:

(a) Two years of active practice, as defined in Section 465.0075(1)(c), F.S., within the immediately preceding five (5) years. To prove that the applicant has two years of active practice, the applicant must submit Form DH-MQA 1196, Item 4, Licensure Verification Form to the licensing authority of the state of licensure. It is the applicant’s responsibility to ensure that the licensing authority completes the form and returns it to the Board. If the applicant meets the requirements of this

paragraph, proof of completion of 30 hours of Florida Board of Pharmacy approved continuing education obtained in the two calendar years immediately preceding application, must also be submitted. Adequate proof consists of a letter from the provider or a certificate of completion, which contains the course title, course number and the number of hours completed.

(b) Passing of board-approved postgraduate training, by providing the Board with a transcript directly from the school of instruction.

(c) Passing of a board-approved clinical competency examination within the year immediately preceding application for licensure.

(d) Successful completion of an internship meeting the requirements of Rule 64B16-26.2033, F.A.C. within the immediately preceding two (2) years. To prove that the applicant has successfully completed the internship, the applicant must submit Form DH-MQA 1196, Item 3, Internship Work Experience Form (Form B). The applicant's supervising pharmacist must sign this form.

3. Rule 456.033, F.S., will be removed from the Rulemaking Authority.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

DEPARTMENT OF HEALTH

Board of Pharmacy

RULE NO.: 64B16-26.355
 RULE TITLE: Pharmacy Technician Continuing Education Subject Matter

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 2, January 15, 2010 issue of the Florida Administrative Weekly.

The change is in response to written comments submitted by the staff of the Joint Administrative Procedures Committee. The changes are as follows:

1. Subsection (f) shall be renumbered as subsection (6) and shall now read as follows:

(6) Subjects which are taken at an accredited educational institution as verified by an official transcript, that meet any one of the criteria in Rule 64B16-26.351, F.A.C., and are advanced beyond that completed for original registration shall be approved for continuing education under this rule.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Rebecca Poston, Executive Director, Board of Pharmacy, 4052 Bald Cypress Way, Bin #C04, Tallahassee, Florida 32399-3254

DEPARTMENT OF HEALTH

Division of Environmental Health

RULE NO.: 64E-26.005
 RULE TITLE: Sanitary System, Facilities and Fixtures

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 3, January 22, 2010 issue of the Florida Administrative Weekly.

The changes are made in response to comments received from the Joint Administrative.

Paragraph 64E-26.005(5) has been changed so that when adopted it will read:

“Beds and bedding shall be cleaned and sanitized on a schedule established by the correctional facility that is consistent with this rule. Used mattress and pillow covers shall be laundered or washed and sanitized before issued. To ensure that proper laundering occurs, the minimum requirements for the use of laundry equipment shall be the instructions provided by the manufacturers of the equipment used, such as instructions provided in equipment operating manuals. This includes instructions on the size of laundry loads placed in equipment, water temperatures, dryer temperatures, operating cycles, and chemical additives used. Chemical sanitizers that are used must be registered with the United States Environmental Protection Agency. Sanitizers must be used in accordance with the label directions to achieve the intended effect. EPA registered disinfectants can be used instead of sanitizers as long as they are used in accordance with the directions on the product label. Sheets and personal clothing shall be washed at least weekly and blankets washed or dry cleaned at least quarterly. Sheets and blankets shall be stored in a clean, dry place between laundering and issue”.

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.: 69I-20.090
 RULE TITLE: Orders or Settlements Requiring Restitution

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 25, June 25, 2010 issue of the Florida Administrative Weekly.

Changes to the proposed rule are as follows:

Paragraph (d) of subsection (1) has been amended to state:

(d) Unclaimed Property due and owing to the State of Florida shall be reported and remitted to the Florida Department of Financial Services, Bureau of Unclaimed Property in accordance with Rules 69I-20.034 and 69I-20.041, F.A.C.

Paragraphs (b) and (c) of subsection (2) have been amended to state:

(b) If the (Defendant/Respondent/Petitioner) is not able to locate any entity or individual who is required to be paid in accordance with this (Settlement/Order) or does not make payment to the entity or individual for any other reason, the (Defendant/Respondent/Petitioner) shall report and remit the amount due to the entity or individual to the Florida Department of Financial Services, Bureau of Unclaimed Property, in U.S. dollars using the appropriate reporting forms and electronic reporting format in accordance with Rules 69I-20.034 and 69I-20.041, F.A.C., within 60 days after the date that the (Defendant/Respondent/Petitioner) was required to issue payment in accordance with the terms of this (Settlement/Order). A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.

(c) If the (Defendant/Respondent/Petitioner) issues a check to an entity or individual who is required to be paid in accordance with this (Settlement/Order) and the entity or individual does not negotiate or cash the check within 90 days after the issuance of the check, the (Defendant/ Respondent/ Petitioner) shall report and remit the value of the uncashed check in U.S. dollars to the Florida Department of Financial Services, Bureau of Unclaimed Property, using the appropriate reporting forms and electronic reporting format in accordance with Rules 69I-20.034 and 69I-20.041, F.A.C., within 150 days after the issuance of the check. A copy of the (Settlement/Order) requiring restitution shall accompany the unclaimed property report and remittance.

DEPARTMENT OF FINANCIAL SERVICES

Division of Accounting and Auditing

RULE NO.:	RULE TITLE:
69I-44.022	Report of Unclaimed Property under Sections 43.19, 402.17, 550.1645, 705.103, 732.107, 733.816 or 744.534, Florida Statutes

NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 36, No. 25, June 25, 2010 issue of the Florida Administrative Weekly has been withdrawn.

FINANCIAL SERVICES COMMISSION

Finance

RULE NOS.:	RULE TITLES:
69V-40.001	Definitions
69V-40.00112	Effect of Law Enforcement Records on Applications for Loan Originator, Mortgage Broker, and Mortgage Lender Licensure.
69V-40.002	Adoption of Forms

69V-40.0113	Demonstrating Character, General Fitness, and Financial Responsibility
69V-40.0312	Application Procedure for Loan Originator License
69V-40.0313	Loan Originator License Renewal
69V-40.0321	Application Procedure for a Mortgage Broker License
69V-40.0611	Application Procedure for a Mortgage Lender License
69V-40.0612	Mortgage Lender License Renewal
69V-40.156	Third-party Fee Accounts
69V-40.170	Books and Records
69V-40.175	Mortgage Brokerage Files
69V-40.260	Mortgage Lender Files
69V-40.285	Noninstitutional Investor Funds Account

NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 36, No. 24, June 18, 2010 issue of the Florida Administrative Weekly.

The rules have been changed to address comments from the staff of the Joint Administrative Procedures Committee. In addition, Rule 69V-40.0113, F.A.C., has been changed to address comments from members of the industry. The changes are as follows:

- 1 – Rule 69V-40.001, F.A.C., has been changed to remove the new definitions; the rule will be repealed in its entirety.
- 2 – Subsection 69V-40.00112(1), F.A.C., has been changed to replace the word “may” to “will” in the fifth sentence: “In the event of a question regarding the relevant person’s criminal history, the Office will request additional information from the relevant person to determine the status of a criminal event, the specific facts and circumstances surrounding a criminal event, or to address other issues determined to be relevant to the review of the law enforcement record.”
- 3 – Subsection 69V-40.00112(2), F.A.C., has been removed.
- 4 – Subparagraph 69V-49.002(1)(b)5., F.A.C., has been changed to correct the title of the form:

“5. Declaration of Intent to Engage Solely in Loan Processing, Form OFR-494-13, effective _____.”

5 – Paragraphs 69V-40.0113(1)(a) and (b), F.A.C., have been changed to clarify provisions relating to collections accounts and charge-off accounts:

“(1) Definitions. As used in this rule, the term:
(a) “Adverse credit history information” means the following:

- 1. Personal bankruptcy within the previous year.
- 2. Bankruptcy within the previous year of any organization based on events that occurred while the relevant person was a control person.
- 3. Outstanding tax lien or other governmental lien.

4. Outstanding judgment based upon grounds of fraud, embezzlement, misrepresentation, or deceit.

5. Open collection account or charged-off account that remains unpaid, except accounts related solely to unpaid medical expenses.

6. Foreclosure on personally owned property within the last 5 years.

(b) “Charged-off” means an account that has been identified by the creditor as an uncollectable debt.

6 – Subparagraph 69V-40.0113(2)(b)4., F.A.C., has been changed to remove the requirement that letters from creditors must be dated within 30 days after the received date of the application:

“4. Copies of account statements or letters from the creditors explaining the current status of accounts. For security purposes, the relevant person may redact all but the last four (4) digits of the account number prior to submitting the document to the Office.”

7 – Paragraph 69V-40.0312(1)(c), F.A.C., has been changed to cross-reference Section 494.00172, F.S.:

“(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$20, if required by Section 494.00172, F.S., filed through the Registry.”

8 – Subparagraph 69V-40.0313(1)(b)2., F.A.C., has been changed to cross-reference Section 494.00172, F.S.:

“2. \$20 nonrefundable mortgage broker guaranty fund fee, if required by Section 494.00172, F.S., and”

9 – Paragraph 69V-40.0321(1)(c), F.A.C., has been changed to cross-reference Section 494.00172, F.S.:

“(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$100, if required by Section 494.00172, F.S., filed through the Registry.”

10 – Rule 69V-40.0611(1)(c), F.A.C., has been changed to cross-reference Section 494.00172, F.S.:

“(c) The statutory nonrefundable mortgage guaranty fund assessment fee of \$100, if required by Section 494.00172, F.S., filed through the Registry.”

11 – Subparagraph 69V-40.0612(1)(b)2., F.A.C., has been changed to cross-reference Section 494.00172, F.S.:

“2. \$100 nonrefundable mortgage broker guaranty fund fee, if required by Section 494.00172, F.S.”

12 – Rule 69V-40.156, F.A.C., has been changed to narrow the scope of the rule to books and records requirements:

69V-40.156 Third-party Fee Accounts.

~~(4) All third-party fees and refundable application fees received by a mortgage broker shall be recorded 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-494-09, Mortgage Brokerage Deposit Account Form, or on a format which is substantially similar to Form OFR-494-09.~~

~~(2) For the purposes of this rule “immediately” means within seven (7) business days of receipt of the funds.~~

~~(3) The administrative penalty for the 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. For the purposes of this rule “isolated clerical errors or omissions” shall mean less than three (3), or a percentage less than 20% of the deposit entries examined or reviewed. The penalty for intentional or repeat violations of this rule shall be a \$500 fine and suspension or revocation.~~

~~(4) For the purposes of this rule, failure to maintain an escrow account is a violation of this rule. Failure to maintain a record of account activity in a current manner is a violation of this rule. Failure to make immediate deposits as required is a violation of this rule. Each of the above shall be considered separate violations with each subject to the penalties provided therein.~~

~~(5) For the purposes of Section 120.695, F.S., a violation of the above rule shall not be considered a minor violation.~~

~~(6) Form OFR-494-09 is incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

Proposed Effective Date: October 1, 2010

Rulemaking Authority ~~494.0011(2), 494.0016(4) FS. Law Implemented 120.695, 494.00255(1)(a), 494.0038, 494.0068 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 3-23-08, 10-1-10.~~

13 – Rule 69V-40.170, F.A.C., has been changed to remove the mandatory penalty of revocation for failure to permit examination of records after a “reasonable” request:

~~“(5)(6)(a) The penalty for maintaining books, accounts, and records at a location other than the principal place of business, without written notification to the Office of Financial Regulation, 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 \$500 fine.~~

~~(b) The penalty for refusal to permit an investigation or examination of books, accounts, and records, after a reasonable request by the Office of Financial Regulation, shall be revocation of the license. This paragraph shall not apply to a proceeding governed by the rules of civil procedure of any state or federal court.~~

14 – Paragraph 69V-40.175(2)(c), F.A.C., has been changed to correct a cross-reference;

“(c) A copy of the good faith estimate of costs pursuant to Section 494.0038(3)(c), F.S. subsection 494.0038(2)(e), F.S.”

15 – Paragraph 69V-40.260(8)(d), F.A.C., has been changed to reference the penalties provided in Section 494.00255(2), F.S.:

“(d) Repeat violations of the requirements of this rule shall subject the licensee to the maximum penalties under Section 494.00255(2) ~~the provisions of Sections 494.001-.0074, F.S.~~”

16 – Rule 69V-40.285, F.A.C., has been changed to narrow the scope of the rule to books and records requirements:

69V-40.285 Noninstitutional Investor Funds Account.

~~(4) All money received by a mortgage lender or correspondent mortgage lender from a noninstitutional investor for disbursement at a mortgage loan closing shall be recorded and 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 or on a format which is substantially similar to Form OFR-494-12 ~~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.

Section IV Emergency Rules

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.”

DEPARTMENT OF THE LOTTERY

RULE NO.:	RULE TITLE:
53ER10-32	Dolphins Fan Experience Second Chance Drawing

SUMMARY: The Department of the Lottery will conduct a Dolphins Fan Experience Second Chance Drawing from August 3, 2010 to December 1, 2010, in which special prizes will be awarded. This emergency rule has been Replaced by 53ER10-35, F.A.C.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER10-32 Dolphins Fan Experience Second Chance Drawing.

Rulemaking Authority 24.105(9), 24.109(1) FS. Law Implemented 24.105(9), 24.115(1) FS. History–New 7-30-10, Replaced by 53ER10-35, F.A.C.

DEPARTMENT OF THE LOTTERY

RULE NO.:	RULE TITLE:
53ER10-33	Jacksonville Jaguars Second Chance Drawing

SUMMARY: The Department of the Lottery will conduct a Jacksonville Jaguars Second Chance Drawing from August 3, 2010 to December 1, 2010, in which special prizes will be awarded.

THE PERSON TO BE CONTACTED REGARDING THE EMERGENCY RULE IS: Faith L. Schneider, Legal Analyst, Department of the Lottery, Capitol Complex, Tallahassee, Florida 32399-4011

THE FULL TEXT OF THE EMERGENCY RULE IS:

53ER10-33 Jacksonville Jaguars Second Chance Drawing.

(1) Beginning Tuesday, August 3, 2010, players can enter their non-winning Florida Lottery JACKSONVILLE JAGUARS Scratch-Off tickets in a Jacksonville Jaguars Second Chance Drawing on the Florida Lottery Web site to win prizes as described below.

(2) Six (6) computerized Second Chance Drawings will be held from August 18 to December 1, 2010 from entries received by midnight the night before each drawing. Entries will be good for one drawing only. The draw dates are: