

## Section I

### Notice of Development of Proposed Rules and Negotiated Rulemaking

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE NO.:       RULE TITLE:

64B12-11.0095 Delinquent Status License Fee

PURPOSE AND EFFECT: The Board proposes the rule amendment to decrease the delinquent status license fee.

SUBJECT AREA TO BE ADDRESSED: Delinquent status license fee.

RULEMAKING AUTHORITY: 456.036, 484.005 FS.

LAW IMPLEMENTED: 456.036 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 REGISTER.

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 Opticianry/MQA, 4052 Bald Cypress Way, Bin #C08, Tallahassee, Florida 32399-3258

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

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:       RULE TITLES:

64E-5.502        General Requirements

64E-5.511        Registration of Radiation Machines

PURPOSE AND EFFECT: The purpose of the proposed rule change to Florida Administrative Code Rule 64E-5.502 is to add administrative controls for ionizing radiation machines manufactured and used only for security purposes in jails and correctional facilities on legal detainees in accordance with ANSI/HPS N43, 17-2009, "Radiation Safety for Personnel Security Screening Systems Using X-ray or Gamma Radiation". DH Form 1107, 9/14, "Radiation Machine Facility Registration," will be used for reporting compliance with ANSI/HPS N43, 17-2009. This form is incorporated by reference in Florida Administrative Code Rule 64E-5.511 which will be amended to update the form to include a check

box for those registering ionizing radiation machines manufactured and used only for security purposes in jails and correctional facilities on legal detainees to indicate compliance with ANSI/HPS N43, 17-2009 standards and to update statutory reference in rulemaking authority and law implemented. Also the department will review and possibly update federal requirements and federal forms for reporting the installation of x-ray machines.

SUBJECT AREA TO BE ADDRESSED: The substantive changes will make provisions for approved security scanners to be utilized legally with detainees for security purposes and updating of form DH 1107, 9/14 which is incorporated by reference to report compliance with ANSI/HPS N43, 17-2009 standards. Need for updating federal form and federal law reference requirements for installation of x-ray machines.

RULEMAKING AUTHORITY: 404.051, 404.081, 404.14, 404.22 FS.

LAW IMPLEMENTED: 404.051, 404.071, 404.081, 404.091, 404.101, 404.141, 404.161, 404.162, 404.163, 404.22, 468.302 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 REGISTER.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Brenda Andrews, 4052 Bald Cypress Way, Bin C21, Tallahassee, FL 32399-1741, (850)245-4266, [brenda.andrews@flhealth.gov](mailto:brenda.andrews@flhealth.gov)

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

## Section II

### Proposed Rules

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.:       RULE TITLE:

64B-4.003        Office Surgery Registration Requirements,  
Fees

PURPOSE AND EFFECT: To add the web address and to make required changes to the application.

SUMMARY: The rule is being amended to add the web address where the applications are available and to make required changes to the application.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on the SERC checklist, this rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in s.120.541(2)(a), F.S. 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.

RULEMAKING AUTHORITY: 456.004, 458.309(3), 459.005(2) FS.

LAW IMPLEMENTED: 456.0635, 458.309(3), 459.005(2) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: André Ourso, Executive Director, 4052 Bald Cypress Way, Bin C-03, Tallahassee, FL 32399-3253, (850)245-4131 or MQA.Medicine@FLHealth.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-4.003 Office Surgery Registration Requirements, Fees.

~~(1) Registration Requirements.~~

~~(a) Every physician office performing surgery as defined in Sections 458.309(3) and 459.005(2), F.S., must register and maintain a valid registration with the Department of Health. To register, an office must by submitting submit Form #DH-MQA 1031, Office Surgery Registration Application for medical physicians, revised 7/15, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No=Ref-#####>~~

or Form #DH-MQA 1071, Office Surgery Registration Application for osteopathic physicians to the Department. ~~Form #DH-MQA 1031, revised 7/15 August 2011, and Form #DH-MQA 1071, revised August 2011, are adopted and incorporated by reference, and available can be obtained at <http://www.flrules.org/Gateway/reference.asp?No=Ref-01026> or <http://www.flrules.org/Gateway/reference.asp?No=Ref-#####> and from the Department of Health, Division of Medical Quality Assurance, at: 4052 Bald Cypress Way, Bin C01, Tallahassee, FL 32399 or at [http://www.doh.state.fl.us/mqa/medical/osr\\_home.html](http://www.doh.state.fl.us/mqa/medical/osr_home.html) or [http://www.doh.state.fl.us/mqa/osteopath/osr\\_home.html](http://www.doh.state.fl.us/mqa/osteopath/osr_home.html).~~

~~(b) Each office shall be registered in accordance with Rule 64B8 9.0091, F.A.C., Requirements for Physician Office Registration: Inspection or Accreditation for medical physicians or Rule 64B15 14.0076, F.A.C., Requirement for Osteopathic Physician Office Registration: Inspection or Accreditation for osteopathic physicians.~~

~~(2) Fees.~~

~~(a) The cost of registration fee shall be \$145.00.~~

~~(b) An additional five dollar (\$5.00) fee shall be added to the cost of registration to cover unlicensed activity, as required by Section 456.065(3), F.S.~~

Rulemaking Authority 456.004, 458.309(3), 459.005(2) FS. Law Implemented 456.0635, 458.309(3), 459.005(2) FS. History—New 7-12-04, Amended 5-16-06, 5-12-10, 5-9-12, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:

André Ourso

NAME OF AGENCY HEAD WHO APPROVED THE

PROPOSED RULE: John H. Armstrong, MD, FACS, Surgeon General and Secretary

DATE PROPOSED RULE APPROVED BY AGENCY

HEAD: July 20, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT

PUBLISHED IN FAR: June 12, 2015

**DEPARTMENT OF HEALTH**

**Division of Medical Quality Assurance**

RULE NO.: RULE TITLE:

64B-7.001 Pain Management Clinic Registration Requirements; Responsibility of Designated Physician

PURPOSE AND EFFECT: To provide minimum requirements for the registration of a pain management clinic.

SUMMARY: The rule is being amended to add the web address for the application, to make changes to the application, and to incorporate language from Rule 64B-4.005, F.A.C. relating to inspections.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on the SERC checklist, this rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 456.004, 458.3265(4), 459.0137(4) FS.

LAW IMPLEMENTED: 458.3265 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: André Ourso, Executive Director, 4052 Bald Cypress Way, Bin C-03, Tallahassee, FL 32399-3253, (850)245-4131 or MQA.Medicine@FLHealth.gov

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-7.001 Pain Management Clinic Registration Requirements; ~~Responsibility of Designated Physician; Inspection and Registration Fees.~~

(1) Every clinic location, unless exempt under Section 458.3265(1) or 459.0137(1), F.S., must designate a physician and register and maintain a valid registration with the Department on Application to Register Pain Management Clinic, Form #DH-MQA 1219, revised 7/15, incorporated by reference and available at <http://www.flrules.org/Gateway/reference.asp?No-Ref-####>.

(2) The clinic's designated physician must have a full, active, clear and unencumbered license, ~~which must be:~~

~~(a) A clear, active license as a medical doctor or osteopathic physician under Chapter 458 or 459, F.S.; that is not designated as limited, restricted, retired, temporary, or training.~~

~~(b) A license with no restrictions on practice and no current disciplinary or other unsatisfied obligations imposed by the Board of Medicine, Board of Osteopathic Medicine, or the Department that limits or restricts the practice of medicine or osteopathic medicine, which includes suspension, probation, or any other restrictions on practice.~~

~~(3) To register with the Department, the designated physician must submit Application for Pain Management Clinic Registration, Form #DH-MQA 1219, 7/11, incorporated herein by reference and available at <http://www.flrules.org/Gateway/reference.asp?No-Ref-00704> and [www.flboardofmedicine.gov](http://www.flboardofmedicine.gov).~~

~~(4) The registration fee shall be \$150.00, which is also required upon. The fee for change of physical location or of change of ownership shall be \$150.~~

~~(5) The annual inspection fee shall be \$1,500. Each clinic location will be assessed the fee at the time of inspection regardless of the number of physicians who share the location. Rulemaking Authority 456.004(5), 458.3265(4), 459.0137(4) FS. Law Implemented 456.037, 456.0635, 458.3265, 459.0137 FS. History--New 11-24-11, Amended 11-5-14, \_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:

André Ourso

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: John H. Armstrong, MD, FACS, Surgeon

General and Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: July 20, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: June 12, 2015

**DEPARTMENT OF HEALTH**

**Board of Opticianry**

RULE NO.: RULE TITLE:

64B12-11.012 Application and Renewal Fees for Continuing Education Providership

PURPOSE AND EFFECT: The Board proposes the rule amendment delete non-refundable fee language.

SUMMARY: The rule amendment will delete non-refundable fee language.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION: The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: During discussion of the economic impact of this rule at its Board meeting, the Board, based upon the expertise and experience of its members, determined that a Statement of Estimated Regulatory Costs (SERC) was not necessary and that the rule will not require ratification by the Legislature. No person or interested party submitted additional information regarding the economic impact at that time.

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.

RULEMAKING AUTHORITY: 484.005, 484.008 FS.

LAW IMPLEMENTED: 484.008 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sue Foster, Executive Director, Board of Opticianry/MQA, 4052 Bald Cypress Way, Bin # C08, Tallahassee, Florida 32399-3258

THE FULL TEXT OF THE PROPOSED RULE IS:

64B12-11.012 Application and Renewal Fees for Continuing Education Providership.

The application fee for continuing education providership shall be \$200.00; the reapplication fee shall be \$200.00, ~~both which shall be non-refundable.~~

Rulemaking Specific Authority 484.005, 484.008 FS. Law Implemented 484.008 FS. History—New 3-30-89, Amended 7-3-91, Formerly 21P-11.012, 61G13-11.012, 59U-11.012, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Board of Opticianry

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Board of Opticianry

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 25, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: April 15, 2015

**DEPARTMENT OF HEALTH**

**Division of Children’s Medical Services**

RULE NO.: 64C-4.003  
 RULE TITLE: Diagnostic and Treatment Facilities or Services - Specific

PURPOSE AND EFFECT: Repeal of this rule will eliminate imposed regulation of pediatric cardiac facilities, which extends beyond the Department’s statutory authority.

SUMMARY: This rule provides that CMS approved pediatric facilities must comply with the CMS Pediatric Cardiac Facilities Standards adopted in October 2012 and must submit a number of forms which were also adopted by this rule.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: Based on the SERC checklist, this rulemaking will not have an adverse impact or regulatory costs in excess of \$1 million within five years as established in s. 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 391.026(18), 391.035(1) FS

LAW IMPLEMENTED: 391.026(10), 391.035(1) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Chrishonda Jenkins, RN, BSN, Registered Nursing Consultant, Specialty Programs Unit, Children’s Medical Services Network, (850)245-4200, ext. 2247

THE FULL TEXT OF THE PROPOSED RULE IS:

64C-4.003 Diagnostic and Treatment Facilities or Services – Specific.

Rulemaking Authority 391.026(18), 391.035(1) FS. Law Implemented 391.026(10), 391.035(1) FS. History—New 1-1-77, Amended 2-11-85, Formerly 10J-5.09, 10J-5.009, Amended 12-20-05, 2-12-13, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Chrishonda Jenkins  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: John H. Armstrong, MD, FACS, Surgeon  
 General and Secretary  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: July 20, 2015

**DEPARTMENT OF FINANCIAL SERVICES**

**Finance**

RULE NOS.: RULE TITLES:  
 69V-40.00111 Determination of common terms used  
 throughout Chapter 494, F.S., and Rule  
 Chapter 69V-40  
 69V-40.00661 Mortgage Lender Branch Office Renewal  
 and Reactivation  
 69V-40.0361 Mortgage Broker Branch Office Renewal  
 and Reactivation  
 69V-40.176 Reports of Condition

PURPOSE AND EFFECT: The purpose and effect of the new  
 rules are to define common terms used throughout Chapter  
 494, F.S., and Rule Chapter 69V-40, F.A.C., to implement the  
 renewal and reactivation requirements for mortgage lender  
 branch offices as found in section 494.0066, to implement the  
 renewal and reactivation requirements for mortgage broker  
 branch offices as found in section 494.0036, to add a reports  
 of condition provision specifying requirements for reports of  
 condition, and to provide the current rulemaking authority for  
 the rules.

SUMMARY: The new rules will define the term “material  
 benefit” as used in Chapter 494, F.S. and Rule Chapter 69V-  
 40, F.A.C., will specify the license renewal and license  
 reactivation processes for mortgage broker branch office and  
 mortgage lender branch office licensees as found in Chapter  
 494, and will establish provisions for reports of condition to be  
 submitted by mortgage lenders and mortgage brokers.

SUMMARY OF STATEMENT OF ESTIMATED  
 REGULATORY COSTS AND LEGISLATIVE  
 RATIFICATION: The Agency has determined that this will  
 not have an adverse impact on small business or likely  
 increase directly or indirectly regulatory costs in excess of  
 \$200,000 in the aggregate within one year after the  
 implementation of the rule. A SERC has not been prepared by  
 the Agency.

The Agency has determined that the proposed rule is not  
 expected to require legislative ratification based on the  
 statement of estimated regulatory costs or if no SERC is  
 required, the information expressly relied upon and described  
 herein: 1) No requirement for a SERC was triggered under  
 Section 120.541(1), F.S.; and 2) The new rules will not exceed  
 any one of the economic analysis criteria in a SERC, as set  
 forth in Section 120.541(2)(a), F.S.

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.

RULEMAKING AUTHORITY: 494.0011(2),  
 494.00296(1)(c), 494.0036, 494.004, 494.0066, 494.0067 FS.  
 LAW IMPLEMENTED: 494.0011(2), 494.00296(1)(c),  
 494.0036, 494.004, 494.0066, 494.0067 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE  
 PROPOSED RULE IS: Sheila Harley, (850)410-9716,  
 sheila.harley@flofr.com

THE FULL TEXT OF THE PROPOSED RULE IS:

69V-40.00111 Determination of common terms used  
 throughout Chapter 494, F.S., and Rule Chapter 69V-40,  
 F.A.C.

(1) “Material Benefit” as used in s. 494.00296, FS, is a  
 beneficial change in the current mortgage rates or terms where  
 one or more of the following occurred:

(a) Reduction in Principal Amount of the loan by 10% or  
 more;

(b) Permanent reduction in the annual interest rate of at  
 least 1% on an annual basis; or

(c) Conversion of an Adjustable Interest Rate loan to a  
 Fixed Rate loan and the annual interest rate is equal to or less  
 than the current adjustable interest rate.

Rulemaking Authority 494.00296(1)(c) FS. Law implimented  
 494.00296(1)(c) FS. History–New\_\_\_\_\_.

69V-40.0361 Mortgage Broker Branch Office Renewal  
 and Reactivation.

(1) In order to renew an active mortgage broker branch  
 office license a licensee must submit the following to the  
 Office no later than December 31 of each calendar year in  
 which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the  
 Registry submitted through the Registry.

(b) Submit a total payment of \$225 paid through the  
 Registry.

(2) A mortgage broker office branch license that is not  
 renewed as required in subsection (1) before January 1 of the  
 renewal year shall revert from active to inactive status. In  
 order to reactivate a mortgage broker branch office license, a  
 licensee must submit the following to the Office before March  
 1 of each calendar year in which the licensee wishes to  
 reactivate the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$450 paid through the Registry which includes the following:

1. \$225 nonrefundable renewal fee; and
2. \$225 nonrefundable reactivation fee.

(3) A mortgage broker branch office license that is not reactivated before March 1 after becoming inactive shall expire.

(4) Request for Additional Information. The Office shall review each branch office renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial of the renewal request for failure to provide the requested information.

(5) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.0036, F.S. If a licensee continues to meet the minimum standards for licensure the Office shall renew the branch office license which shall be valid until December 31 of the year following the expiration date of the branch office license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0036, F.S. Rulemaking Authority 494.0011(2), 494.0036 FS. Law Implemented 494.0011(2), 494.0036 FS. History–New \_\_\_\_\_.

69V-40.00661- Mortgage Lender Branch Office Renewal and Reactivation.

(1) In order to renew an active mortgage lender branch office license a licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry; and

(b) Submit a total payment of \$225 paid through the Registry.

(2) A mortgage lender branch office license that is not renewed as required in subsection (1) before January 1 of the renewal year shall revert from active to inactive status. In order to reactivate a mortgage lender branch office license, a licensee must submit the following to the Office before March 1 of each calendar year in which the licensee wishes to reactivate the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$450 paid through the Registry which includes the following:

1. \$225 nonrefundable renewal fee; and
2. \$225 nonrefundable reactivation fee.

(3) A mortgage lender branch office license that is not reactivated before March 1 after becoming inactive shall permanently expire.

(4) Request for Additional Information. The Office shall review each branch office renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial of the renewal request for failure to provide the requested information.

(5) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.0066, F.S. If a licensee continues to meet the minimum standards for licensure the Office shall renew the branch office license which shall be valid until December 31 of the year following the expiration date of the branch office license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0066, F.S.

Rulemaking Authority 494.0011(2), 494.0066 FS. Law Implemented 494.0011(2), 494.0066 FS. History–New \_\_\_\_\_.

#### 69V-40.176 Reports of Condition.

The Standard Mortgage Call Report and the Expanded Mortgage Call Report, as required by the NMLS, each contain Residential Mortgage Loan Activity (RMLA) and Financial Condition (FC) components.

(1) Mortgage lenders that are an approved Fannie Mae, Freddie Mac Seller/Servicers, or Ginnie Mae Issuer must submit the complete Expanded Mortgage Call Report through NMLS within 45 days of the end of each calendar quarter.

(2) Mortgage lenders that are not an approved Fannie Mae, Freddie Mac Seller/Servicers, or Ginnie Mae Issuer must submit:

(a) The Residential Mortgage Loan Activity component of the standard mortgage call report within 45 days of the end of each calendar quarter, and;

(b) The Financial Condition component of the Standard Mortgage Call Report within 90 days of their fiscal year end.

(3) Mortgage brokers that are not an approved Fannie Mae, Freddie Mac Seller/Servicers, or Ginnie Mae Issuer must submit:

(a) The Residential Mortgage Loan Activity component of the standard mortgage call report within 45 days of the end of each calendar quarter, and;

(b) The Financial Condition component of the Standard Mortgage Call Report within 90 days of their fiscal year end. Rulemaking Authority 494.0011(2), 494.004, 494.0067 FS. Law Implemented 494.004, 494.0067 FS. History—New

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gregory Oaks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 28, 2015

**DEPARTMENT OF FINANCIAL SERVICES**

**Finance**

RULE NOS.:	RULE TITLES:
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-40.003	Electronic Filing of Forms and Fees
69V-40.008	Fees and Commissions
69V-40.011	Misleading Practice; Penalty
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-40.0322	Mortgage Broker License Renewal
69V-40.036	Application Procedure for a Mortgage Broker Branch Office License
69V-40.0611	Application Procedure for a Mortgage Lender License
69V-40.0612	Mortgage Lender License Renewal
69V-40.066	Application Procedure for a Mortgage Lender Branch Office License
69V-40.111	Disciplinary Guidelines
69V-40.155	Lock-in Statement
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-40.265	Mortgage Brokerage and Lending Transaction Journal
69V-40.270	Financial Guaranty in Lieu of Uniform Single Audit

PURPOSE AND EFFECT: The purpose of the rule amendments is to update form titles, readopt certain NMLS forms, update Florida Department of Law Enforcement’s Livescan website link, correct grammatical errors, update fee payment amounts for licensure and clarify procedure for renewals, remove criminal background check fee requirement for control people for license renewals, set forth costs of fingerprint retention, delete and transfer the disciplinary guidelines provisions to a form incorporated into the rule entitled “Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities,” revise and clarify Disciplinary Guidelines provision, amend the section of the Disciplinary Guidelines specifying mitigating and aggravating factors the Office considers in determining appropriate penalties, amend lock-in agreement subsection, amend books and records requirements, amend mortgage broker files requirements and delete penalty provisions, delete penalty provisions in mortgage lender files section, delete penalty provision in mortgage brokerage and lending transaction journal section, delete penalty provisions in Financial Guaranty in Lieu of Uniform Single Audit section; update law implemented, remove unnecessary references to incorporated forms, remove obsolete statutory references in rule text, remove obsolete statutory references in law implemented section of rule text, and provide the current rulemaking authority for certain rules.

The effect of the rule amendments is to update form titles for NMLS MU1, MU2, MU3, and MU4 forms to reflect new title names, remove disciplinary guidelines from rule text and move those guidelines into a form adopted by rule into a new form entitled “Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities,” delete requirement in Rule 69V-40.008, F.A.C. which called for total fees of mortgage brokers to be stated in each contract for services, delete from 69V-40.008(5)(c) provision relating to good faith estimates, update law implemented section in 69V-40.011, update all fdlr livescan weblinks to include a working web address link, provide that loan originators must respond to requests for additional information within 45 days, correct total fee to be paid by those seeking renewal as loan originators, 69V-40.0313 establishes fingerprint retention fee as \$6 as required by Chapter 494, set forth the fee and process for loan originator renewals after reactivation, remove criminal background check fee requirement of \$25.25 for control people during mortgage broker licensure renewal process, removes branch office license renewal fee requirements found in Rule 69V-40.0322, F.A.C. set forth the

fee and process for mortgage broker license renewals after reactivation, set forth the fee and process for mortgage lender license renewals after reactivation, remove criminal background check fee requirement of \$25.25 for control people during mortgage lender licensure renewal process, remove branch office license renewal fee requirements found in Rule 69V-40.0612, F.A.C. specify the penalties for violating Chapter 494, specify the mitigating and aggravating factors the Office shall consider in determining appropriate penalties, specify the fines imposed for violating Chapter 494, specify the duration of suspension for violating Chapter 494, remove penalty provisions found in 69V-40.260, remove penalty provisions related to failure to maintain mortgage brokerage and lending transaction journal found in 69V-40-265, remove penalty provisions found in Rule 69V-40.270, F.A.C. remove all unnecessary references to word registrant, remove unnecessary references to incorporated forms, remove obsolete statutory references in rule text, remove obsolete statutory references in law implemented section of rule text, correct grammatical mistakes, and provide the current rulemaking authority for the rules.

**SUMMARY:** The rule amendments will update form titles, readopt certain NMLS forms, update Florida Department of Law Enforcement's Livescan website link, correct grammatical errors, update fee payment amounts for licensure and clarify procedure for renewals, remove criminal background check fee requirement for control people for license renewals, set forth costs of fingerprint retention, delete and transfer the disciplinary guidelines provisions to a form incorporated into the rule entitled "Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities," revise and clarify Disciplinary Guidelines provision, amend the section of the Disciplinary Guidelines specifying mitigating and aggravating factors the Office considers in determining appropriate penalties, amend lock-in agreement subsection, amend books and records requirements, amend mortgage broker files requirements and delete penalty provisions, delete penalty provisions in mortgage lender files section, delete penalty provision in mortgage brokerage and lending transaction journal section; delete penalty provisions in Financial Guaranty in Lieu of Uniform Single Audit section, update law implemented, remove unnecessary references to incorporated forms, remove obsolete statutory references in rule text, remove obsolete statutory references in law implemented section of rule text, and provide the current rulemaking authority for certain rules.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1); and 2) The new rules will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 494.0011, 494.0011(2), 494.0011(2)(a), 494.0011(2)(c), 494.0016(4), 494.00312(2), 494.00312(2)(h), 494.00313, 494.00313(1), 494.00313(1)(e), 494.00321(1), 494.00321(2)(f), 494.00322, 494.00322(1), 494.00322(1)(e), 494.00331(2), 494.0036, 494.0036(2), 494.0038(2)(b), 494.00611(2), 494.00611(2)(f), 494.00611(2)(h), 494.00612, 494.00612(1), 494.00612(1)(f), 494.0063, 494.0066, 494.0066(2), 494.0069(6), 494.0076(2)(b) FS.

**LAW IMPLEMENTED:** 120.595, 120.695, 494.0011, 494.0011(2), 494.0011(2)(c), 494.0016, 494.0023, 494.0024, 494.0025, 494.00255, 494.00255(1)(a), 494.0026, 494.00312, 494.00313, 494.00321, 494.00322, 494.00331, 494.0035, 494.0036, 494.0038, 494.0039, 494.004, 494.0042, 494.0043, 494.00611, 494.00612, 494.00611(2)(f), 494.0062, 494.0063, 494.0065, 494.0066, 494.0067, 494.0069, 494.0069(1)(f), 494.007, 494.0071, 494.00721, 494.0074, 494.0075, 494.0076 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Sheila Harley, (850)410-9716, sheila.harley@flofr.com

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



69V-40.00112 Effect of Law Enforcement Records on Applications for Loan Originator, Mortgage Broker, and Mortgage Lender Licensure.

(1) General Procedure Regarding Law Enforcement Records. For the purposes of this rule each loan originator applicant and each control person of a mortgage broker and mortgage lender license applicant shall be referred to collectively as “relevant persons.” If the mortgage broker or mortgage lender license applicant is a natural person, he or she is a relevant person under this rule. As part of the application review process, the Office is required to consider a relevant person’s law enforcement record when deciding whether to approve an application for licensure as a loan originator, mortgage broker, or mortgage lender. When conducting this review, the Office reviews the relevant person’s Form ~~MU1~~, MU2 or MU4 (NMLS Individual Form) responses and criminal history information derived from the fingerprint check. 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. The Office will notify the applicant of any specific documents that it requires in order to complete its review. The requested documents must be legible. Documentation that is typically requested includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable. If the requested documentation cannot be obtained, the relevant person shall submit evidence of that fact in order for the application to be deemed complete. Evidence that documentation cannot be obtained shall consist of a written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced.

(2) Classification of Crimes.

(a) The Office makes a general classification of crimes into four classes: A, B, C and D as listed in subsections (13), (14), (15) and (16) of this rule.

(b) These classifications reflect the Office’s evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names and descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes bearing the exact name or description stated.

(d) For purposes of this rule, “trigger date” means the date on which an applicant was found guilty, or pled guilty, or pled nolo contendere to a crime.

(e) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(3) Effect on Licensure of Commitment of Single Crime. The Office finds it necessary to implement the following standards for applications with a relevant person whose law enforcement record includes a single crime, subject to the mitigating factors set forth in this rule before licensure. All periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant is not eligible for licensure.

(b) Class B Crime. The applicant will not be granted a license until 15 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted a license until 7 years have passed since the trigger date.

(d) Class D Crime. The applicant will not be granted a license until 5 years have passed since the trigger date.

(4) Applicants With Multiple Crimes.

(a) The Office requires that applications with a relevant person whose law enforcement record includes multiple class “B”, “C”, or “D” crimes, or any combination thereof, wait longer than those whose law enforcement record includes only a single crime before becoming eligible for licensure in order to assure that such applicant’s greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before licensure can safely be granted. Accordingly, where the relevant person has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the disqualifying period for the most serious class “B”, “C”, or “D” crime, and the combined total disqualifying period then runs from the trigger date of the most recent class “B”, “C”, or “D” crime.

(c) Classification as “Single Crime” versus “Multiple Crimes.” For the purposes of this rule, two (2) or more offenses are considered a single crime if they are based on the same act or transaction or on two (2) or more connected acts or transactions.

(5) Mitigating Factors.

(a) The disqualifying period for a Class “B” crime shall be shortened upon proof of one or more of the following factors. When more than one factor is present the applicant is entitled to add together all of the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the relevant person would pose no significant threat to public welfare if the applicant is licensed as a loan originator, mortgage broker, or mortgage lender.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year will be deducted if the relevant person was under age 21 when the crime was committed and there is only one crime in the relevant person’s law enforcement record.

4. One year is deducted if the applicant furnishes proof that the relevant person was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the applicant and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the applicant believes should decrease the disqualifying period before licensure is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the licensure decision.

(b) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(6) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of plea, e.g., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results wherein the relevant person was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witness or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) Subjective Factors. The Office finds that subjective factors involving state of mind have no mitigating weight.

(7) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of licensure as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny licensure, unless a Florida court specifically stays the Office’s adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of licensure.

(8) Pre-Trial Intervention. If at the time of application a relevant person is participating in a pre-trial intervention program based upon a charge of criminal conduct that would authorize denial of a license under Chapter 494, F.S., the Office will deny the application for license. The Office considers participation in a pre-trial intervention program to be a pending criminal prosecution under Chapter 494, F.S., and finds it necessary to the public welfare to wait until final disposition of all charges of criminal conduct that would authorize denial of a license under Chapter 494, F.S., before an application for licensure may be considered.

(9) Effect of Sealing or Expunging of Criminal Record.

(a) A relevant person is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally a relevant person will have a matter sealed or expunged after an application has been filed, but before a licensing decision is made by the Office. In such situation the Office policy is as follows:

1. If the relevant person properly disclosed the matter on the application, and thereafter has the record sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the relevant person did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Chapter 494, F.S.

(10) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.
2. Found guilty; entered a finding of guilt.
3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.
4. Nolo contendere; no contest; did not contest; did not deny; no denial.
5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.
6. Nolle prosequere; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(11) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not license any applicant under Chapter 494, F.S., while a relevant person is imprisoned, under arrest, or serving a sentence for any crime. Further, the Office shall not license any applicant when a relevant person has been released from imprisonment, based upon a charge of criminal conduct that would authorize denial of licensure under Chapter 494, F.S., until the later of the period otherwise set out in the rules or five (5) years after the date of release. The Office finds it necessary that the person be

released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least five (5) years on good behavior, before licensure can be granted without undue risk to the public welfare. For the purposes of this section, the term "imprisonment" shall include confinement in a state or federal prison or county jail for a period of more than one year.

(b) Community Supervision. The Office shall not grant licensure when a relevant person who at the time of application or at any time during the pendency of the application is under supervision as the result of the commission or a criminal offense and released to the community under the jurisdiction of the courts, paroling authorities, correctional agencies, or other criminal justice agencies based upon a charge of criminal conduct that would authorize denial of a license under Chapter 494, F.S.

(12) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give an applicant a right to licensure after any set period of time. Regardless of the expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to licensure remains on the applicant.

(13) Class "A" Crimes include all felonies involving an act of fraud, dishonesty, or a breach of trust, or money laundering, and the Office finds that such crimes constitute crimes of moral turpitude. The Office finds the following list of crimes are Class "A" crimes. This list is representative only and shall not be construed to constitute a complete or exclusive list of all crimes that are Class "A" crimes. No inference should be drawn from the absence of any crime from this list.

(a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

- (b) Perjury.
- (c) Armed robbery.
- (d) Robbery.
- (e) Extortion.
- (f) Bribery.
- (g) Embezzlement.
- (h) Grand Theft.
- (i) Larceny.
- (j) Burglary.
- (k) Breaking and entering.
- (l) Identity theft.

- (m) Any type of forgery or uttering a forged instrument.
  - (n) Misuse of public office.
  - (o) Racketeering.
  - (p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.
  - (q) Treason against the United States, or a state, district, or territory thereof.
  - (r) Altering public documents.
  - (s) Witness tampering.
  - (t) Tax evasion.
  - (u) Impersonating or attempting to impersonate a law enforcement officer.
  - (v) Money Laundering.
- (14) Class “B” Crimes include the following list of felonies, or similar felonies, and the Office finds that such crimes constitute crimes of moral turpitude.
- (a) Murder in all degrees.
  - (b) Arson.
  - (c) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.
  - (d) Aggravated Assault (e.g., as with a deadly weapon).
  - (e) Aggravated Battery (e.g., as with a deadly weapon).
  - (f) Rape.
  - (g) Sexually molesting any minor.
  - (h) Sexual battery.
  - (i) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.
  - (j) Kidnapping.
  - (k) Video Voyeurism.
- (15) Class “C” Crimes include all felonies not Class “A” or Class “B” Crimes.
- (16) Class “D” Crimes includes any misdemeanor that involves fraud, dishonesty, or any other act of moral turpitude.
- (17) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:
- (a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;
  - (b) The degree of penalty associated with the same or similar crimes in the United States; and
  - (c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States; for example, the right of a defendant to a public trial, the right against self-incrimination, the right of notice of the charges, the right to confront witnesses, the right to call witnesses, and the right to counsel.

(18) For purposes of this rule, “certified” means that there must be a certification or attestation by the issuer of the record that the document is a true copy of a record contained in the issuer’s office and the issuer’s seal, if any.

(19) ~~Forms MU2 or MU4 (NMLS Individual Form) Uniform Mortgage Lender/Mortgage Broker Form, MU1; MU2; and Uniform Individual Mortgage License/Registration & Consent Form, MU4~~ are incorporated by reference in Rule 69V-40.002, F.A.C.

Rulemaking Authority 494.0011(2)(c), 494.00312(2)(h), 494.00313(1)(e), 494.00321(2)(f), 494.00322(1)(e), 494.00611(2)(h), 494.00612(1)(f) FS. Law Implemented 494.0011(2)(c), 494.00312, 494.00313, 494.00321, 494.00322, 494.00611, 494.00612 FS. History—New 10-1-10,\_\_\_\_\_.

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 Rules 69V-40.001-.285, F.A.C.:

(a) Registry Forms:

1. ~~NMLS Company Form (Form MU1), Version 10.0 dated and effective March 31, 2014, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX) Uniform Mortgage Lender/Mortgage Broker Form, MU1, dated January 25, 2010.~~

2. ~~NMLS Individual Form (Form MU2), Version 8.9, dated and effective April 16, 2012, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX) Uniform Mortgage Biographical Statement & Consent Form, MU2, dated January 25, 2010~~

3. ~~NMLS Branch Form (Form MU3), Version 10.0 dated and effective March 31, 2014, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX) Uniform Mortgage Branch Office Form, MU3, dated January 2, 2008~~

4. ~~NMLS Individual Form (Form MU4), Version 8.9, dated and effective April 16, 2012, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX) Uniform Individual Mortgage License/Registration & Consent Form, MU4, dated January 25, 2010.~~

(b) Florida Forms:

1. Mortgage Brokerage Deposit Account Form, Form OFR-494-09, effective March 23, 2008;

2. Mortgage Brokerage Transaction and Lending Journal, Form OFR-494-10, effective March 23, 2008;

3. Calculation of Aggregate Value of Mortgage Loans Serviced, Form OFR-494-11, effective March 23, 2008;

4. Noninstitutional Investor’s Funds Account Form, Form OFR-494-12, effective March 23, 2008.

5. Declaration of Intent to Engage Solely in Loan Processing, Form OFR-494-13, effective October 1, 2010.

6. Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities, effective MM-DD-YYYY, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX)

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

Rulemaking Authority 494.0011(2)(a), 494.0016(4), 494.00312(2), 494.00313(1), 494.00321(1), 494.00322(1), 494.00331(2), ~~494.00331(2)~~, 494.0036(2), 494.00611(2), 494.00612(1), 494.0066(2) FS. Law Implemented 494.0016, 494.00312, 494.00313, 494.00321, 494.00322, 494.00331, 494.0036, 494.00611, 494.00612, 494.0066 FS. History–New 3-23-08, Amended 12-25-08, 10-1-10,\_\_\_\_\_.

69V-40.003 Electronic Filing of Forms and Fees.

(1) All forms adopted under paragraph 69V-40.002(1)(a), F.A.C., must be electronically filed through the Registry.

(2) Unless otherwise specifically instructed in this Rule Chapter all fees required in conjunction with an initial application, amendment, and license renewal must be filed electronically through the Registry.

(3) Annual Financial Audit Reports required in Section 494.0063, F.S., must be filed electronically through the Registry.

Rulemaking Authority 494.0011(2)(a), 494.00611(2)(f), 494.0063 FS. Law Implemented 494.0011, 494.00611(2)(f), 494.0063 FS. History–New 10-21-08, Amended 10-1-10,\_\_\_\_\_.

69V-40.008 Fees and Commissions.

(1) ~~A mortgage broker shall state in each contract for services the total fee to be received.~~ The total fee shall not exceed the maximum as prescribed in Section 494.0042(2), F.S.

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

1. Arranging for a conditional mortgage loan commitment between a borrower and a lender;
2. Taking an application, assembling information and preparing all paperwork and documentation necessary for a conditional mortgage loan commitment;
3. Reviewing, analyzing, and evaluating a borrower’s financial statements, income, and credit history; and
4. Incidental services utilized in arranging for and procuring a conditional loan commitment, such as, courier services, express mailings, and long distance telephone charges, except as provided in subparagraph (3)(a)12., below.
5. Premiums and other charges for insurance written in connection with a loan, except as provided in subparagraph (3)(a)5. below.

(b) The total loan origination 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), F.S.~~

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

1. Appraisal fee charged to obtain a statement of property value for the lender prior to closing. This subparagraph shall not be construed to prevent a licensee or lender from setting reasonable criteria for the selection of an appraiser;
2. Inspection fees required by the lender, its agents, or a governmental body or agency or quasi-governmental body or agency for the security property;
3. Loan assumption fee and a transfer fee charged to enable the buyer to assume existing loans;
4. Pest inspection fee charged to cover inspections for termites or other pest infestations;
5. Charges for title insurance as defined in Section 624.608, F.S., abstract of title, title search fee, and fees for an attorney’s title opinion. A licensee may not receive or accept any monetary consideration or inducement in connection with the issuance of a title insurance policy in a transaction in which he was involved;
6. Survey or topography fees charged to determine the exact location of any structures and the lot line, as well as easements and rights of way;
7. Mortgage guaranty insurance as defined in Section 635.011, F.S.;
8. Credit report fee;
9. Photograph fees for photographs of the property offered as security, if required by the lender in writing and acceptable photographs of the property have not been otherwise provided to the lender;
10. Flood hazard determination fee charged by an entity to assist lenders in determining whether the security property is in a flood hazard area;
11. Real estate tax service fee charged by an entity engaged in the business of assisting lenders or their agents in assuring that real property taxes are paid on the security property;

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

13. Settlement or closing fee charged by a settlement agent for distributing the proceeds of the mortgage loan;

14. Attorney's fees;

15. Charges imposed by federal, state, county or municipal governments or government agencies or quasi-governmental agencies including, but not necessarily limited to, the cost of recording the mortgage, cost of documentary stamps, and intangible taxes for the mortgage;

16. Environmental audit costs required by the lender, or by local ordinances or state or federal law; and

17. Costs incurred in curing title defects affecting the security property.

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

(4)(a) Premiums or other charges for life, credit life, accident, health, or loss-of-income insurance written in connection with a loan are not included in determining the loan origination fee if:

1. The licensee ~~or registrant~~ discloses to the borrower in writing that such insurance is not required to be purchased through the licensee; and

2. The licensee discloses to the borrower in writing the premiums for the initial term.

(b) Premiums or other charges for insurance that is written in connection with a mortgage loan and protects against loss or damage to property or liability arising out of the ownership or use of property are not included in determining the loan origination fee if the borrower may choose the insurance agent and the insurance provider.

(5) The loan origination fee does not include prepaid finance charges of the lender under the Federal Truth in Lending Act, as amended, and Federal Reserve Board Regulation Z that are disclosed on a Truth in Lending Disclosure form provided to the borrower.

(6) The maximum fees or commissions as provided in Section 494.0042(2), F.S., must be based on the net proceeds of the loan.

(7) In determining the maximum fees or commissions on the gross proceeds of a loan, the following method may be used: On loans in excess of \$1,000 and not over \$5,650, add \$1,500 to the gross proceeds of the loan and divide that sum by 11; and, on loans of \$5,760 and over, divide the gross proceeds by 11 and add \$227.27. On loans that are over \$5,650 but less than \$5,750, the maximum fee is the amount in excess of \$5,000.

(8) No person shall charge or exact, directly or indirectly, from the mortgagor or lender a fee or commission in excess of the maximum fees or commissions as set forth herein. All fees paid to or on behalf of the licensee including, but not limited to, bonus plans, advertisement allowances, incentive plans, kick-backs, premiums or discounts whether paid directly or indirectly or to an affiliate firm in which the licensee has an ownership interest, must be included in determining the maximum loan origination fees.

(9) All loan origination fees to other mortgage brokers disbursed from the loan proceeds shown on the closing statement shall reflect the name of each mortgage broker or co-brokering mortgage broker paid.

Rulemaking Authority 494.0016(4), 494.0038(2)(b) FS. Law Implemented ~~494.0038~~, 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 3-23-08, 10-1-10, \_\_\_\_\_.

69V-40.011 Misleading Practice; Penalty.

The taking and recording of a mortgage is tantamount to a commitment, and when funds are not available for immediate disbursement to the mortgagor, such procedure will be considered a misleading and deceptive practice, and to warrant suspension or revocation of the license of the licensee ~~or registrant~~ who does so, unless, prior to such recording, the licensee ~~or registrant~~ informs the mortgagor in writing of a definite date by which payment will be made, and secures the mortgagor's written permission for the delay thus entailed.

Rulemaking Authority 494.0011(2) FS. Law Implemented 120.695, ~~494.00255494.0041~~ FS. History—Revised 9-23-65, Renumbered from 3-3.11 to 3D-40.11 on 9-8-75, Formerly 3D-40.11, Amended 1-5-87, 7-25-96, Formerly 3D-40.011, \_\_\_\_\_.

69V-40.0312 Application Procedure for Loan Originator License.

(1) Each individual desiring to obtain licensure as a loan originator shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed NMLS Individual Form (Form MU4), Uniform Individual Mortgage License/Registration & Consent Form, MU4 filed through the Registry;

(b) The statutory nonrefundable application fee of \$195 filed through the Registry;

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

(d) Evidence that the applicant has been awarded a high school diploma or the equivalent;

(e) Confirmation from the Registry that the applicant has satisfied the requirement to complete a 20-hour pre-license class approved by the Registry.

(f) Confirmation from the Registry that the applicant has satisfied the requirement to pass a test developed by the Registry and administered by a provider approved by the Registry. For the purposes of this rule, a test developed by the Registry and administered by a provider approved by the Registry includes both a national component and a state component.

(g) Submit fingerprints to the Registry for submission to the Federal Bureau of Investigation for a federal criminal background check;

(h) Submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d44efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>

<http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fe6-4e03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement for a state criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(i) Authorize the Registry to obtain and make available to the Office an independent credit report on the applicant.

(2) Request for Additional Information. Within 30 days of receipt the Office shall review each loan originator application and inform the applicant of any request for additional information required to complete its review. The additional information must be received by the Office within ~~45~~ 420 days from the date of the request. Failure by the applicant to respond within ~~45~~ 420 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to ~~provide~~ provide the requested information.

(3) Amendments to Pending Applications. If the information contained in ~~the NMLS Individual Form, (Form MU4) Form MU4~~ or any amendment thereto becomes inaccurate for any reason the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question ~~6~~ 9 on ~~the NMLS Individual Form (Form MU4) Form MU4~~ shall be considered a material change to the application and grounds for denial of the application.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(5) Upon approval of an application, a loan originator license will be issued with an expiration date of December 31 for the year in which the license was issued. ~~Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.~~

(6) ~~NMLS Individual Form (Form MU4) Uniform Individual Mortgage License/Registration & Consent Form, MU4,~~ is incorporated by reference in Rule 69V-40.002, F.A.C.

Rulemaking Authority 494.0011(2), 494.00312(2) FS. Law Implemented 494.0011(2), 494.00312 FS. History—New 10-1-10,\_\_\_\_\_.

#### 69V-40.0313 Loan Originator License Renewal and Reactivation.

(1) In order to renew an active loan originator license a licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of ~~\$195.25~~ \$176.00 paid through the Registry which includes the following:

1. \$150 nonrefundable renewal fee,;
2. \$20 nonrefundable mortgage broker guaranty fund fee; ~~if required by Section 494.00172, F.S., and~~
3. ~~\$6 to cover the cost of fingerprint retention as required to comply with 494.00312 F.S. \$25.25 to cover further costs of criminal background check.~~

(c) Authorize the Registry to obtain and make available to the Office an independent credit report on the licensee.

(2) A loan originator license that is not renewed as required in subsection (1) before January 1 of the renewal year shall revert from active to inactive status. In order to reactivate a loan originator license, a licensee must submit the following to the Office before March 1 of each calendar year in which the licensee wishes to reactivate the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$326.00 paid through the Registry which includes the following:

1. \$150 nonrefundable renewal fee,;
2. \$150 nonrefundable reactivation fee,;
3. \$20 nonrefundable mortgage broker guaranty fund fee;

and:

4. \$6 to cover the cost of fingerprint retention as required to comply with 494.00312 F.S.

(3) A loan originator license that is not reactivated before March 1 after becoming inactive shall permanently expire.

(4)(2) Request for Additional Information. The Office shall review each loan originator renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial of the renewal request for failure to provide ~~provide~~ the requested information.

(5)(3) Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00312, F.S., and Rules 69V-40.00112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the loan originator license which shall be valid until December 31 of the year following the expiration date of the loan originator license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.00313(2), F.S.

Rulemaking Authority 494.0011(2), 494.00313 FS. Law Implemented 494.0011(2), 494.00313 FS. History—New 10-1-10,\_\_\_\_\_.

69V-40.0321 Application Procedure for a 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) NMLS Company Form (Form MU1-4) ~~A completed Uniform Mortgage Lender/Mortgage Broker Form, MU1,~~ filed through the Registry;

(b) The statutory nonrefundable application fee of \$425 filed through the Registry;

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

(d) Designate a qualified principal loan originator who meets the requirements of Section 494.0035, F.S.;

(e) For each of the applicant's control persons, submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>)

<http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fc6-4e03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(f) For each of the applicant's control persons, authorize the Registry to obtain and make available to the Office an independent credit report;

(2) For the purposes of this rule, the requirements in paragraphs (1)(e) and (f) above are not required if the control person is currently licensed as a loan originator.

(3) Request for Additional Information. Within 30 days of receipt the Office shall review each mortgage broker application and inform the applicant of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the applicant to respond within 45 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to provide ~~provide~~ the requested information.

(4) Amendments to Pending Applications. If the information contained in the NMLS Company Form (Form MU1) or any amendment thereto becomes inaccurate for any reason, the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question ~~14~~ 9 on the NMLS Company Form (Form MU1) or question 8 on the NMLS Individual Form Uniform Mortgage Biographical Statement & Consent Form, (Form MU2), shall be considered a material change to the application and grounds for denial of the application.

(5) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(6) Upon approval of an application, a mortgage broker license will be issued with an expiration date of December 31 for the year in which the license was issued. ~~Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.~~

(7) Uniform Mortgage Lender/Mortgage Broker NMLS Company Form (Form MU1), MU1, and NMLS Individual Form Uniform Mortgage Biographical Statement & Consent (Form, MU2), are incorporated by reference in Rule 69V-40.002, F.A.C.

Rulemaking Authority 494.0011(2), 494.00321(1) FS. Law Implemented 494.0011(2), 494.00321 FS. History—New 10-1-10,\_\_\_\_\_.



69V-40.0322 Mortgage Broker License Renewal and Reactivation.

(1) In order to renew an active ~~mortgage broker loan originator~~ mortgage broker license a mortgage broker licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a payment of \$475 through the Registry for the following:

1. \$375 nonrefundable renewal fee; and
2. \$100 nonrefundable mortgage broker guaranty fund fee.

~~(c) Submit \$25.25 to the Office for each control person listed on the licensee's Form MU1 to cover the further costs of criminal background check.~~

~~(c)(4)~~ Authorize the Registry to obtain and make available to the Office an independent credit report on each control person listed on the licensee's NMLS Company Form (Form MU1).

~~(e) Submit a nonrefundable renewal fee of \$225 for each branch office license through the Registry at the time of renewing the mortgage broker license.~~

(2) A mortgage broker license that is not renewed as required in subsection (1) before January 1 of the renewal year shall revert from active to inactive status. In order to reactivate a mortgage broker license, a licensee must submit the following to the Office before March 1 of each calendar year in which the licensee wishes to reactivate the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$725 paid through the Registry which includes the following:

1. \$375 nonrefundable renewal fee;
2. \$250 nonrefundable reactivation fee; and
3. \$100 nonrefundable mortgage broker guaranty fund fee.

(3) A mortgage broker license that is not reactivated before March 1 after becoming inactive shall permanently expire.

(4)(2) For the purposes of this rule, the requirements in paragraphss (1)(c) ~~and (d)~~ above is ~~are~~ not required if the control person is currently licensed as a loan originator and has filed through the Registry a renewal submission of the loan originator license.

~~(5)(3)~~ Request for additional information. The Office shall review each mortgage broker renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond within 30 days from the date of the request shall be construed ~~construed~~ by the Office as grounds for denial of the renewal request.

~~(6)(4)~~ Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00321, F.S., and Rules 69V-40.00112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the mortgage broker license which shall be valid until December 31 of the year following the expiration date of the mortgage broker license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0322(2), F.S.

~~(7)(5) NMLS Company Form (Form MU1) Uniform Mortgage Lender/Mortgage Broker Form, MU1,~~ is incorporated by reference in Rule 69V-40.002, F.A.C. Rulemaking Authority 494.0011(2), 494.00322 FS. Law Implemented 494.0011(2), 494.00322 FS. History—New 10-1-10,\_\_\_\_\_.

69V-40.036 Application Procedure for a Mortgage Broker Branch Office License.

(1) Each mortgage broker desiring to obtain a mortgage broker branch office license shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed NMLS Branch Form (Form MU3) is incorporated by reference in Rule 69V-40.002, F.A.C. Uniform Mortgage Branch Office Form, MU3, filed through the registry; and

(b) The statutory nonrefundable application fee of \$225 filed through the registry.;

(2) Request for additional information. The Office shall review each mortgage broker branch office application and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the licensee to respond within 45 days from the date of the request shall be construed ~~construed~~ by the Office as grounds for denial of the renewal request.

~~(3) Uniform Mortgage Branch Office Form, MU3 is incorporated by reference in Rule 69V-40.002, F.A.C.~~ Rulemaking Authority 494.0011(2), 494.0036(2) FS. Law Implemented 494.0011(2), 494.0036 FS. History—New 10-1-10,\_\_\_\_\_.

69V-40.0611 Application Procedure for a Mortgage Lender License.

(1) Each person desiring to obtain licensure as a mortgage lender shall apply to the Office by submitting the following:

(a) A completed NMLS Company Form (Form MU1) ~~Uniform Mortgage Lender/Mortgage Broker Form, MU1,~~ filed through the Registry;

(b) The statutory nonrefundable application fee of \$500 filed through the Registry;

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

(d) Designate a qualified principal loan originator who meets the requirements of Section 494.0035, F.S.;

(e) For each of the applicant's control persons, submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>

<http://www.fdle.state.fl.us/Content/getdoc/04833e12-3fe6-4e03-9993-379244e0da50/livescan.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor;

(f) For each of the applicant's control persons, authorize the Registry to obtain and make available to the Office an independent credit report;

(g) Submit a copy of the applicant's financial audit report in compliance with Section 494.00611(2)(f), F.S.

(2) Request for Additional Information. Within 30 days of receipt the Office shall review each mortgage lender application and inform the application of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the applicant to respond within 45 days from the date of the request shall be construed by the Office of Financial Regulation as grounds for denial for failure to ~~provide~~ provide the requested information.

(3) Amendments to Pending Applications. If the information contained in NMLS Company Form (Form MU1) or any amendment thereto becomes inaccurate for any reason the applicant shall file an amendment through the Registry correcting such information within 15 days of the change. An amendment changing answers to question ~~14~~ 9 on the NMLS Company Form (Form MU1) or question 8 on the NMLS Individual Form ~~Uniform Mortgage Biographical Statement & Consent~~ (Form, MU2), shall be considered a material change to the application and grounds for denial of the application.

(4) Withdrawal of Application. An applicant may request withdrawal of an application prior to a determination of the application being made by the Office by filing such request through the Registry.

(5) Upon approval of an application, a mortgage lender license will be issued with an expiration date of December 31 for the year in which the license was issued. ~~Any license granted from October 1, 2010 to December 31, 2010 expires on December 31, 2011.~~

~~(6) Uniform Mortgage Lender/Mortgage Broker Form, MU1, NMLS Company Form (Form MU1) and NMLS Individual Form (Form MU2) Uniform Mortgage Biographical Statement & Consent Form, MU2, are incorporated by reference in Rule 69V-40.002, F.A.C.~~

~~Rulemaking Authority 494.0011, 494.00611(2) FS. Law Implemented 494.0011(2), 494.00611 FS. History—New 10-1-10,\_\_\_\_\_.~~

69V-40.0612 Mortgage Lender License Renewal and Reactivation.

(1) In order to renew an active mortgage lender license a mortgage lender licensee must submit the following to the Office no later than December 31 of each calendar year in which the licensee wishes to renew the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a payment of \$575 through the Registry for the following:

1. \$475 nonrefundable renewal fee; and
2. \$100 nonrefundable mortgage ~~broker~~ guaranty fund fee., if required by Section 494.00172, F.S.

~~(c) Submit \$25.25 to the Office for each control person listed on the licensee's Form MU1 to cover the further costs of a criminal background check.~~

~~(c)(d)~~ Authorize the Registry to obtain and make available to the Office an independent credit report on each control person listed on the licensee's NMLS Company Form (Form MU1).

~~(d)~~ Submit a nonrefundable renewal fee of \$225 for each branch office license through the Registry at the time of renewing the mortgage lender license.

(2) A mortgage lender license that is not renewed as required in subsection (1) before January 1 of the renewal year shall revert from active to inactive status. In order to reactivate a mortgage lender license, a licensee must submit the following to the Office before March 1 of each calendar year in which the licensee wishes to reactivate the license:

(a) A completed renewal submission as required by the Registry submitted through the Registry.

(b) Submit a total payment of \$1050 paid through the Registry which includes the following:

1. \$475 nonrefundable renewal fee.;
2. \$475 nonrefundable reactivation fee; and
3. \$100 nonrefundable mortgage guaranty fund fee.

(3) A mortgage lender license that is not reactivated before March 1 after becoming inactive shall permanently expire.

~~(4)(2)~~ For the purposes of this rule, the requirements in paragraphs (1)(c) and (d) above are not required if the control person is currently licensed as a loan originator and has filed through the Registry a renewal submission of the loan originator license.

~~(5)(3)~~ Request for additional information. The Office shall review each mortgage lender renewal request and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 30 days from the date of the request. Failure by the licensee to respond 30 days from the date of the request shall be construed ~~contrued~~ by the Office as grounds for denial of the renewal request.

~~(6)(4)~~ Upon the Office determining that a renewal request has been completed the Office shall determine if the licensee continues to meet the minimum standards for licensure as set forth in Section 494.00611, F.S., and Rules 69V-40.00112 and 69V-40.0113, F.A.C. If a licensee continues to meet the minimum standards for licensure the Office shall renew the mortgage lender broker license which shall be valid until December 31 of the year following the expiration date of the mortgage lender broker license. If a licensee does not continue to meet the minimum standards for licensure the Office shall deny the renewal request pursuant to Section 494.0612(2), F.S.

~~(7)(5)~~ NMLS Company Form (Form MU1) Uniform Mortgage Lender/Mortgage Broker Form, MU1, is incorporated by reference in Rule 69V-40.002, F.A.C.

Rulemaking Authority 494.0011(2), 494.00612 FS. Law Implemented 494.0011(2), 494.00612 FS. History—New 10-1-10,\_\_\_\_\_.

69V-40.066 Application Procedure for a Mortgage Lender Branch Office License.

(1) Each mortgage lender desiring to obtain a mortgage lender branch office license shall apply to the Office of Financial Regulation by submitting the following:

(a) A completed NMLS Branch Form (Form MU3) is incorporated by reference in Rule 69V-40.002, F.A.C.

~~Uniform Mortgage Branch Office Form, MU3,~~ filed through the Registry; and

(b) The statutory nonrefundable application fee of \$225 filed through the Registry.;

(2) Request for additional information. The Office shall review each mortgage lender branch office application and inform the licensee of any request for additional information required to complete its review. The additional information must be received by the Office within 45 days from the date of the request. Failure by the licensee to respond within 45 days from the date of the request shall be construed ~~contrued~~ by the Office as grounds for denial of the renewal request.

~~(3) Uniform Mortgage Branch Office Form, MU3, is incorporated by reference in Rule 69V-40.002, F.A.C.~~

Rulemaking Authority 494.0011(2), 494.0066 FS. Law Implemented 494.0011(2), 494.0066 FS. History—New 10-1-10,\_\_\_\_\_.

69V-40.111 Disciplinary Guidelines.

(1) Pursuant to Sections ~~494.00255 494.0041 and 494.0072,~~ F.S., Disciplinary Guidelines for Mortgage Loan Originators and Mortgage Entities, effective MM-DD-YYYY, available on the Office's website at [www.flotr.com](http://www.flotr.com) and available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX), are applicable to each ground for disciplinary action that may be imposed by the Office against a listed below is a range of disciplinary guidelines from which disciplinary penalties will be imposed upon any person for a violation of guilty of violating Chapter 494, F.S. The disciplinary guidelines are based upon a single act violation of each provision listed. Multiple acts of the violated provisions or a combination of violations may result in a higher penalty than that for a single, isolated violation. For purposes of this rule, the order of penalties, ranging from lowest to highest is: notice of noncompliance, reprimand, fine, ~~probation,~~ suspension, and revocation. ~~Nothing in this rule shall preclude any discipline~~

~~imposed upon a person pursuant to a stipulation or settlement agreement, nor shall the range of penalties set forth in this rule preclude the Office of Financial Regulation from issuing a letter of guidance when appropriate. In determining an appropriate penalty within the range of penalties prescribed in this rule for each citation as based upon the violation, the Office shall consider the circumstances set forth in subsection (3). The third column of the guidelines provides a summary of the statutory violations solely for the purpose of ease of reference. Persons subject to the rule should review the full text of the Florida Statute cited in the second column of the guidelines for the complete description of the violation. For purposes of this rule, the term "citation" means any final order docketed by the agency that specifies a violation of Chapter 494, F.S., or any rule promulgated under that chapter.~~

~~(2) In accordance with this rule:~~

~~(a) Depending on the severity and repetition of specific violations, the Office may impose an administrative fine, suspension of a person, or revocation of a person or any combination thereof;~~

~~(b) The Office may impose a cease and desist order, a suspension, or both in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances; and~~

~~(c) The Office will consider the person's disciplinary history for the past 5 years in determining an appropriate penalty; and may impose a more severe penalty when the disciplinary history includes past violations.~~

~~(3) In accordance with Section 494.00255, F.S., the Office shall consider the following circumstances in determining an appropriate penalty within the range of penalties prescribed in this rule for each violation. The Office also shall consider these circumstances when determining whether a deviation from the range of sanctions prescribed in the disciplinary guidelines is warranted:~~

~~(a) The following circumstances are considered mitigating factors:~~

~~1. If the violation rate is less than 5% when compared to the overall sample size reviewed;~~

~~2. No prior administrative actions by the Office against the licensee or control person within the past 10 years;~~

~~3. If the licensee detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;~~

~~4. If the violation is attributable to an single control person or employee, and if the licensee removed or otherwise disciplined the individual prior to detection or intervention by the Office;~~

~~5. If the licensee is responsive to the Office's requests or inquiries or made no attempt to impede or delay the Office in its examination or investigation of the underlying misconduct; or~~

~~6. Other control, case-specific circumstances.~~

~~(b) The following circumstances are considered aggravating factors:~~

~~1. If the violation rate is more than 95% when compared to the overall sample size reviewed (sample size must be equal to or greater than 25 transactions and cover a date range of at least 6 months);~~

~~2. The potential for harm to the customers or the public is significant;~~

~~3. Prior administrative action by the Office against the licensee or an affiliated party of the licensee within the past 5 years;~~

~~4. If the licensee's violation was the result of willful misconduct or recklessness;~~

~~5. The licensee attempted to conceal the violation or mislead or deceive the Office; or~~

~~6. Other control relevant, case-specific circumstances.~~

~~(4) The list of violations cited in this rule is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Section 494.00255, F.S.~~

~~(5) The ranges for administrative fines imposed by this rule are \$1,000 to \$3,500 for an "A" level fine; \$3,500 to \$7,500 for a "B" level fine; and \$7,500 to \$10,000 for a "C" level fine.~~

~~(6) The ranges for suspensions imposed by this rule are 3 to 10 days for an "A" level suspension; 10 to 20 days for a "B" level suspension; 20 to 30 days for a "C" level suspension; and up to 90 days for a "D" level suspension. A "D" level suspension may be terminated early if licensee cures the violation.~~

~~(2) As provided in Sections 494.0041 and 494.0072, F.S., the Office of Financial Regulation may, in addition to other disciplinary penalties, place a licensee, registrant, or applicant on probation. The placement of the licensee, registrant, or applicant on probation shall be for such a period of time and subject to such conditions as the Office of Financial Regulation may specify.~~

(3) The maximum penalties are a fine of up to \$5,000.00 and/or as listed below for each count or separate offense:

- (a) 494.0016(1) Revocation
- (b) 494.0016(2) Probation
- (c) 494.0016(3) Revocation
- (d) 494.0016(4) Revocation
- (e) 494.0023(1)(a)-(e) Probation
- (f) 494.0024 Revocation
- (g) 494.0025(1) Revocation
- (h) 494.0025(2) Revocation
- (i) 494.0025(3) Revocation
- (j) 494.0025(4)(a)-(e) Revocation
- (k) 494.0025(5) Revocation
- (l) 494.0025(6) Revocation
- (m) 494.0025(7) Revocation
- (n) 494.0025(8) Revocation
- (o) 494.0025(9) Revocation
- (p) 494.0025(10) Revocation
- (q) 494.0025(11) Revocation
- (r) 494.0025(12) Revocation
- (s) 494.0026(1) Revocation
- (t) 494.0026(2) Revocation
- (u) 494.0026(3) Revocation
- (v) 494.0026(4) Revocation
- (w) 494.0028(2) Probation
- (x) 494.0028(3) Probation
- (y) 494.0033(1) Revocation
- (z) 494.0033-1 Probation
- (aa) 494.0035(1) Probation
- (bb) 494.0035(2) Probation
- (cc) 494.0036(1) Probation
- (dd) 494.0037(1) Revocation
- (ee) 494.0037(2) Probation
- (ff) 494.0037(3) Revocation
- (gg) 494.0038(1)(a)-(b) Probation
- (hh) 494.0038(2)(a)-(e) Probation
- (ii) 494.0038(3)(a)-(e) Probation
- (jj) 494.0038(4) Revocation
- (kk) 494.0038(5) Revocation
- (ll) 494.0038(6) Revocation
- (mm) 494.0039(1)(a) Revocation
- (nn) 494.0039(1)(b) Probation
- (oo) 494.0039(2) Probation
- (pp) 494.0039(3) Reprimand
- (qq) 494.004(1) Revocation
- (rr) 494.004(2) Probation
- (ss) 494.004(3) Probation
- (tt) 494.004(4) Revocation
- (uu) 494.0041(2)(a)-(q) Revocation
- (vv) 494.0042(2) Revocation
- (ww) 494.0042(3) Revocation

- (xx) 494.0042-1 Revocation
- (yy) 494.0043(1)(a)-(d) Revocation
- (zz) 494.0043(2) Revocation
- (aaa) 494.0043(3) Revocation
- (bbb) 494.0043(4) Revocation
- (ccc) 494.0061(1)(e) Revocation
- (ddd) 494.0062(1)(e) Revocation
- (eee) 494.0063 Revocation
- (fff) 494.0065(2) Revocation
- (ggg) 494.0067(1) Probation
- (hhh) 494.0067(2) Probation
- (iii) 494.0067(3) Revocation
- (jjj) 494.0067(4) Probation
- (kkk) 494.0067(5) Revocation
- (lll) 494.0067(6) Probation
- (mmm) 494.0067(7) Reprimand
- (nnn) 494.0067(8) Probation
- (ooo) 494.0067(9) Probation
- (ppp) 494.0068(1)(a)-(d) Probation
- (qqq) 494.0068(2) Probation
- (rrr) 494.0068(3) Revocation
- (sss) 494.0068(4) Probation
- (ttt) 494.0069(1) Probation
- (uuu) 494.0069(2) Revocation
- (vvv) 494.0069(3) Revocation
- (www) 494.0069(4)(a)-(e) Revocation
- (xxx) 494.007(1) Probation
- (yyy) 494.007(2) Revocation
- (zzz) 494.007-1 Revocation
- (aaaa) 494.0072(2)(a)-(q) Revocation
- (bbbb) 494.00721(1) Revocation
- (cccc) 494.00721(2) Suspension
- (dddd) 494.00721(3) Revocation
- (eeee) 494.0075(1)(a)-(d) Revocation
- (ffff) 494.0075(2) Revocation
- (gggg) 494.0075(3) Revocation
- (hhhh) 494.0075(4) Probation
- (iiii) 494.0075(5) Revocation
- (jjjj) 494.0076(1)(a)-(e) Revocation
- (kkkk) 494.008(1) Revocation
- (llll) 494.008(2) Revocation
- (mmmm) 494.008(3) Revocation
- (nnnn) 494.008(4) Revocation
- (oooo) 494.008(5) -Revocation
- (pppp) 494.008(6) -Revocation
- (qqqq) 494.008(7) -Revocation

~~(34)(a) In the presence of aggravating or mitigating circumstances which are supported by clear and convincing evidence, the Office of Financial Regulation shall be entitled to deviate from the above guidelines in imposing discipline upon any person.~~

~~(b) Aggravating or mitigating circumstances may include, but are not limited to, the following:~~

- ~~1. The severity of the violation.~~
- ~~2. The degree of harm to the consumer or public.~~
- ~~3. The number of times the violations previously have been committed by the person.~~
- ~~4. The disciplinary history of the person.~~
- ~~5. The status of the person at the time the violation was committed.~~

Rulemaking Authority 494.0011(2) FS. Law Implemented 494.0016, 494.0024, 494.0025, 494.00255, 494.0026, ~~494.0028~~, 494.00312, 494.00331, ~~494.0033~~, 494.0035, 494.0036, ~~494.0037~~, 494.0038, 494.0039, 494.004, ~~494.0041~~, 494.0042, 494.0043, ~~494.0061~~, 494.00611, 494.0062, 494.0065, 494.0067, ~~494.0068~~, 494.0069, 494.007, 494.0071, ~~494.0072~~, 494.00721, 494.0074, 494.0075, 494.0076, ~~494.008~~ FS. History—New 3-20-91, Amended 7-25-96, Formerly 3D-40.111,\_\_\_\_\_.

69V-40.155 Lock-in Agreement Statement.

(1) A lock-in agreement which includes applicable information as required by Sections 494.0069(1)(a)-(e), F.S., and the following statement meets the requirement of Section 494.0069(1)(f), F.S.

~~(a)(1)~~ Florida law requires that the The mortgage lender shall make a good faith effort to process the mortgage loan application and stand ready to fulfill the terms of its lock-in agreement before the expiration date of the lock-in agreement or any extension thereof.

~~(b)(2)~~ Any lock-in agreement received by the lender by mail or through a mortgage broker must be signed by the lender in order to become effective. The borrower may rescind any lock-in agreement until a written confirmation of the agreement has been signed by the lender and mailed to the borrower or to the mortgage broker pursuant to its contractual relationship with the borrower. If a borrower elects to so rescind, the lender shall promptly refund any lock-in fee paid.

~~(c)(3)~~ If the loan does not close before the expiration date of the lock-in agreement through no substantial fault of the borrower, the borrower may withdraw the application, whereupon the lender shall promptly refund to the borrower any lock-in fee paid by the borrower.

(2) A lock-in agreement may be issued by a licensed Mortgage Broker provided the issuing Mortgage Broker has a written lock-in agreement issued by a lender that has unconditionally approved the mortgage loan. The issued lock-in agreement must satisfy the requirements of 494.0069, FS, and must be substantially similar in content to the lock-in issued by the approving lender.

Rulemaking Authority 494.0069(6) FS. Law Implemented 494.0069(1)(f) FS. History—New 12-3-91, Formerly 3D-40.155, Amended 10-1-10,\_\_\_\_\_.

69V-40.156 Third-party Fee Accounts.

All third-party fees and refundable application fees received by a mortgage broker shall be recorded on Form OFR-494-09, Mortgage Brokerage Deposit Account Form, or on a format which is substantially similar to Form OFR-494-09. Failure to maintain a record of account activity in a current manner is a violation of this rule. Form OFR-494-09 is incorporated by reference in subsection 69V-40.002(1), F.A.C.

Rulemaking Authority 494.0016(4) FS. Law Implemented 120.695, 494.00255(1)(a), 494.0038, ~~494.0068~~ FS. History—New 12-3-91, Amended 7-25-96, 12-12-99, Formerly 3D-40.156, Amended 3-23-08, 10-1-10,\_\_\_\_\_.

69V-40.170 Books and Records.

(1) Books, accounts, and records that are required to be maintained at the principal place of business shall be made available to the Office of Financial Regulation for review, upon the Office of Financial Regulation’s request.

(2)(a) A licensee may maintain required books, accounts, and records at a location other than the principal place of business. Each licensed mortgage broker or mortgage lender which proposes to change the location of books, accounts, and records must file an amendment to NMLS Company Form (Form MU1) through the Registry not later than 30 days prior to the effective date of the change.

(b) The books, accounts, and records must be stored in 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) If the Office of Financial Regulation is notified by a licensee that it will maintain the books, accounts, and records at a location other than the principal place of business, such books, accounts, and records shall be made available to the Office of Financial Regulation for review within 3 business days from the date of a written request by the Office of Financial Regulation and at a reasonable and convenient location in this State designated by the Office of Financial Regulation.

(4) All books, accounts, and records must be maintained for 3 years from the date of “original entry”. For the purpose of this rule, “original entry” means the date the documentation was originated by the licensee or received by the licensee.

~~(5) 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.~~

(5)(6) NMLS Company Form (Form MU1) is incorporated by reference in Rule 69V-40.002, F.A.C., Uniform Mortgage Lender/Mortgage Broker Form, MU1, Rulemaking Authority 494.0011(2), 494.0016(4) FS. Law Implemented 120.595, 494.0016, 494.00255 FS. History—New 2-16-92, Amended 7-25-96, 12-12-99, 1-16-03, Formerly 3D-40.170, Amended 3-23-08, 10-1-10,\_\_\_\_\_.

69V-40.175 Mortgage Brokerage Files.

(1) Each mortgage broker shall maintain a file for each mortgage broker transaction. The files shall be maintained in a central location and in an alphabetical or numerical sequence.

(2) Each file shall contain at least the following:

~~(a) Mortgage broker agreement pursuant to Section 494.0038, F.S.; if issued;~~

~~(a)(b) Copy of signed closing statement or documentation of denial or cancellation of the mortgage loan application; and~~

~~(b)(e) A copy of the good faith estimate of costs, pursuant to Section 494.0038(3)(e), F.S.~~

(3) Supporting documentation shall be maintained for all expenses or fees paid by the licensee on behalf of the client indicating the amount and the date paid. A canceled check maintained in a separate file shall be considered proof of payment of fees and expenses.

(4) If the mortgage broker issues to the client a written commitment for the loan on behalf of the lender then the following must be maintained in the file:

(a) A copy of the written commitment issued by the mortgage broker; and

(b) A copy of the written commitment provided by the lender.

(5) If the mortgage broker issues to the client a written lock-in for the loan on behalf of the lender then the following must be maintained in the file:

(a) A copy of the written lock-in issued by the mortgage broker; and

(b) A copy of the written lock-in provided by the lender.

(6) If the mortgage broker receives a mortgage loan application, then the mortgage broker shall maintain a copy in the file.

(7) If the loan is funded by a noninstitutional investor then the file must also include the following:

(a)1. A copy of the appraisal or opinion of value of the mortgage property and a signed and dated acknowledgment by the noninstitutional investor of receipt of the appraisal or opinion of value, or

2. A copy of a waiver of the appraisal dated and executed by the noninstitutional investor.

(b)1. A receipt acknowledging that the noninstitutional investor has been furnished with title insurance or a legal opinion of title, or

2. A written waiver thereof.

(c) On a junior mortgage, documentation that the noninstitutional lender has been furnished with a statement showing the balance owed and status of the liens that will be superior to the lien being funded by the noninstitutional investor.

(d) A signed and dated acknowledgment by the noninstitutional investor of receipt of the recorded mortgage or other instrument securing a note or assignment.

(e) If applicable, documentation that said licensee has disclosed that it is acting (directly or indirectly) as a borrower or principal in that transaction.

(8) In addition to the foregoing specific documentation, all documentation originated, received, or related to the mortgage loan from the application through the final disposition must be maintained for three (3) years from the date of the original entry. “Original entry” means the date the documentation was originated by the mortgage broker or received by the mortgage broker. For each broker transaction, files and documentation shall be maintained and remain complete for three (3) years from the date of “original entry” of the last document in the file.

~~(9)(a) The penalty for failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) shall be:~~

~~1. If the licensee has numerous instances of incomplete files and missing documentation, the fine shall be \$300. For the purpose of this rule, “numerous” shall mean at least three (3), and a percentage equal or greater to 20% of the files examined.~~

~~2. If the licensee fails to maintain files and documentation such that an audit trail of all mortgage transactions is provided, the penalty shall be a fine of \$1,000 and a six month suspension of the licensee.~~

~~(b)1. The failure to provide a good faith estimate of costs shall be a fine of \$250 per file.~~

~~2. Providing a commitment to a client without first obtaining a written commitment by the lender shall be a fine of \$250 per file.~~

~~3. Providing a lock in for a loan without first obtaining a written lock in by the lender shall be a fine of \$250 per file.~~

~~4. The total fine under paragraph (9)(b) shall not exceed \$2,500.00 per administrative complaint in addition to other penalties.~~

~~(e)1. The penalty for failure to provide a disclosure required in subsection (7) above shall be a fine of \$250 per file.~~

~~2. The penalty for gross negligence in maintaining documentation required in subsection (7) shall be revocation.~~

~~3. The penalty for failure to provide a noninstitutional investor with the documentation required in subsection (4) herein shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.~~

~~(10) For purposes of Section 120.695, F.S., a violation of the above rule, other than subsection (7) and subparagraph (9)(a)2. above shall be considered a minor violation. Any portion of this section that is deemed to be a minor violation for a first offense shall be a notice of noncompliance.~~

Rulemaking Authority 494.0016(4) FS. Law Implemented 494.0016, 494.00255, 494.0038, 494.0043 FS. History—New 2-16-92, Amended 7-25-96, 8-7-97, 1-16-03, Formerly 3D-40.175, Amended 10-1-10, \_\_\_\_\_.

#### 69V-40.260 Mortgage Lender Files.

(1) Each mortgage lender shall maintain a file for each mortgage loan application received. The files shall be maintained in a central location and in an alphabetical or numerical sequence.

(2) Each file shall contain the following:

(a) A copy of the good faith estimate.

(b) The original mortgage loan application, or copy thereof, ~~containing the disclosures set forth in subsection 494.0068(1), F.S.~~

(c) Copy of the closing statement as required by subsection 494.0016(3), F.S., or documentation demonstrating that the mortgage loan application was cancelled or denied.

(d) Copy of any written lock-in agreement, if issued, containing the requirements set forth in Section 494.0069, F.S.

(e) Copy of any written commitment, if issued, containing the disclosures set forth in Section 494.007, F.S.

(f) Copy of written disclosures of any conflict of interest as required by Section 494.0023, F.S.

(3) Each mortgage lender shall maintain supporting documentation of all expenses or fees paid by the mortgage lender. The supporting documentation shall indicate the name and address of the person paid, the amount and date of the payment, and a description of the products or services purchased. Invoices from third parties involving multiple loans, maintained in a central file, need not be copied and placed in each individual loan file. A cancelled check maintained in a separate file shall be considered proof of payment of fees and expenses.

(4) If the mortgage lender sells a mortgage loan to a noninstitutional investor then each file must contain the following:

(a)1. A copy of the appraisal or opinion of value of the mortgage property and a signed and dated acknowledgement of receipt of same by the noninstitutional investor; or

2. A copy of a waiver of the appraisal or opinion of value dated and executed by the noninstitutional investor.

(b)1. A receipt acknowledging that the noninstitutional investor has been furnished with mortgagee's title insurance, or a legal opinion of title by an attorney licensed in Florida, pursuant to subsection 494.0075(1)(b), F.S.; or

2. A written waiver thereof with the wording required by subsection 494.0075(1)(b)3., F.S.

(c) On a junior mortgage, a copy of the statement furnished to the noninstitutional investor showing the balance owed and the status of the liens that will be superior to the liens being recorded in the favor of the noninstitutional investor in this loan transaction.

(d) A copy of the written disclosure to the noninstitutional investor if the mortgage lender is directly or indirectly acting as a borrower or principal in the transaction.

(e) A signed and dated acknowledgement by the noninstitutional investor of receipt of the recorded mortgage or other instrument securing a note or assignment, or a signed acknowledgement by the licensee attesting that the aforementioned documentation was delivered to the noninstitutional investor. However, the mortgage lender may hold such documents in its possession for the use and benefit of the noninstitutional investor if:

1. The noninstitutional investor shall request same in writing; and

2. Said written request acknowledges the right of the noninstitutional investor to the possession of the original documents at any time; and



3. Said written request confirms the right of the noninstitutional investor to at any time terminate the agreement with the mortgage lender and request that the mortgage lender deliver all such documents to the noninstitutional investor forthwith.

The written request, which includes subparagraphs 1. through 3. above, may be maintained in one location separate from the mortgage loan file.

(f) A copy of the original note evidencing proper endorsement of the note by the lender to the noninstitutional investor.

(g) A copy of the written servicing agreement if the loan is to be serviced by the mortgage lender.

(5) If the mortgage lender acts as a mortgage broker it must comply with the file requirement set forth in Rule 69V-40.175, F.A.C.

(6) A mortgage lender which services a mortgage loan for a noninstitutional investor shall enter into a written servicing agreement with the noninstitutional investor prior to servicing the mortgage loan. The mortgage lender may enter into a master servicing agreement with the noninstitutional investor, and such master agreement may be maintained in one central location. A master servicing agreement is not required to be copied and placed in each individual loan file.

(7) All documentation originated or received by a mortgage lender must be maintained for three years from the date of original entry. "Original entry" means the date the documentation was originated or received by the licensee. For each lending transaction, files and documentation shall be maintained and remain complete for three years from the original entry date of the last document.

~~(8)(a) The penalty for failure to maintain files and required documentation (incidental and isolated clerical errors or omissions shall not be considered a violation) shall be:~~

~~1. If the mortgage lender has numerous instances of incomplete files and missing documentation the fine shall be \$300 for a first offense. For the purpose of this rule "numerous" shall mean at least three incomplete files and a percentage equal or greater than 20% of the files examined.~~

~~2. If the mortgage lender fails to maintain an audit trail of all mortgage transactions, the penalty shall be a fine of \$1,000 and a six month suspension of the license of the mortgage lender.~~

~~(b) The penalty for failure to provide or maintain a copy of the good faith estimate of costs shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.~~

~~(c)1. The penalty for failure to provide a noninstitutional investor with the documentation required in subsection (4) herein shall be a fine of \$250 per file up to an aggregate of \$2,500 per administrative complaint in addition to other penalties.~~

~~2. The penalty for gross negligence in maintaining documentation required in subsection (4) shall be revocation of the license.~~

~~(d) Repeat violations of the requirements of this rule shall subject the licensee to the maximum penalties under Section 494.00255(2), F.S.~~

~~(9) For purposes of Section 120.695, F.S., a violation of the above rule, other than subsection (4) and subparagraph (8)(a)2. above, shall be considered a minor violation. Any portion of this section that is deemed to be a minor violation for a first offense shall be a notice of noncompliance.~~

Rulemaking Authority 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.00255, 494.0023, 494.0067(8), 494.0068, 494.0069, 494.007, 494.0075 FS. History—New 1-10-93, Amended 7-25-96, 8-7-97, Formerly 3D-40.260, Amended 10-1-10,\_\_\_\_\_.

#### 69V-40.265 Mortgage Brokerage and Lending Transaction Journal.

(1) Each mortgage broker and 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-494-10, Mortgage Brokerage and Lending Transaction Journal, or a form substantially similar.

(3) In lieu of maintaining Form OFR-494-10, a mortgage lender or mortgage broker may maintain the Home Mortgage Disclosure Act loan/application register, Form FR HMDA-LAR, found at 12 C.F.R., part 203, Appendix A (2010) if all lending transactions are recorded on this form. The form is hereby incorporated by reference and may be accessed through the Government Printing Office website <http://www.gpoaccess.gov/cfr/>.

(4) The Mortgage Brokerage and Lending Transaction Journal shall be maintained in the principal office or in each branch office where the transactions are originated. The Mortgage Brokerage and Lending Journal shall be kept current. The failure to initiate an entry to the Mortgage Brokerage and Lending Transaction Journal within 7 business days from the date the transaction was entered into, shall be deemed to be a failure to keep the Mortgage Brokerage and Lending Transaction Journal current.

~~(5) The penalty for failure to maintain the Mortgage Brokerage and Lending Transaction Journal or to keep the same current (incidental or isolated clerical errors or omissions shall not be considered a violation) 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. The penalty for intentional or continued violations of this rule shall be a fine of \$500 and suspension of the license.~~

~~(5)(6) Form OFR-494-10 is incorporated by reference in subsection 69V-40.002(1), F.A.C. Rulemaking Authority 494.0016(4) FS. Law Implemented 120.695, 494.0016, 494.00255 FS. History--New 1-10-93, Amended 7-25-96, 12-12-99, Formerly 3D-40.265, Amended 3-23-08, 10-1-10, 7-30-12,\_\_\_\_\_.~~

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-494-11, Calculation of Aggregate Value of Mortgage Loans Serviced. 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-494-11.

~~(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.~~

~~(4)(6) Form OFR-494-11 is incorporated by reference in subsection 69V-40.002(1), F.A.C.~~

~~Rulemaking Authority 494.0011(2), 494.0076(2)(b) FS. Law Implemented 120.695, 494.00255, 494.0072, 494.0076 FS. History--New 2-16-92, Amended 7-25-96, 12-12-99, Formerly 3D-40.270, Amended 3-23-08,\_\_\_\_\_.~~

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gregory Oaks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: May 5, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 28, 2015

**DEPARTMENT OF FINANCIAL SERVICES**

**Finance**

RULE NOS.:	RULE TITLES:
69V-560.1000	Disciplinary Guidelines
69V-560.1012	Adoption of Forms
69V-560.1013	Electronic Filing of Forms and Fees
69V-560.102	Application or Appointment Procedures and Requirements
69V-560.103	Definitions
69V-560.302	Renewal Fees, Deadlines, and Requirements
69V-560.504	Reimbursement Rates for Examinations Conducted by the Office
69V-560.505	Reimbursement Rates for Examinations Conducted by a Third Party
69V-560.602	Quarterly Reports
69V-560.606	Annual Filing of Financial Audit Reports by Part II Licensees
69V-560.608	Currency Transaction Report Filings
69V-560.609	Suspicious Activity Report Filings
69V-560.610	Report of International Transportation of Currency or Monetary Instruments
69V-560.702	Payment Instrument Sellers
69V-560.703	Money Transmitters
69V-560.704	Records to Be Maintained by Check Cashers
69V-560.705	Foreign Currency Exchangers

**PURPOSE AND EFFECT:** The purpose and effect of the amended rule is to remove the disciplinary guidelines as found in the rule text and to transfer the disciplinary guidelines provisions to a form incorporated into the rule entitled "Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Money Services Businesses," to amend the section specifying the mitigating and aggravating factors the Office shall consider in determining appropriate penalties, to adopt new forms, to readopt old forms and revise names of old forms, to update rule text to clarify the Division's name and zip code, to delete and amend definition language, to update Florida Department of Law Enforcement's Livescan website link, to remove provisions allowing for extra calculated time for dates falling on the weekend or legal holidays, to revise and clarify reimbursement rates for examinations, to clarify the records required to be maintained related to inbound and outbound transmissions, to update citations to federal laws and rules, to clarify the documents required to be maintained in customer files, to delete certain definitions found in Rule 69V-560.704, F.A.C. to define the phrase "its own commercial account" as referenced in section 560.309(3), F.S., to clarify termination of electronic log requirements, to specify information required to be submitted into the check cashing database, to update and clarify current statutory citations in rule text, to provide the current rulemaking authority for the rules, and to remove obsolete statutory references in the law implemented section of rule text.

**SUMMARY:** The rule amendments will remove the disciplinary guidelines form the body of the rule and incorporate the disciplinary matrix by reference, make updates and technical changes, and revise the examination fees charged to licensees which will result in a cost savings to the industry.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:**

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1), F.S.; and 2) The new rules will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 215.405, 560.105, 560.1091, 560.1092, 560.118, 560.123, 560.126, 560.141, 560.1141, 560.2085, 560.205, 560.209, 560.309, 560.310, 560.403 FS.

**LAW IMPLEMENTED:** 215.405, 560.103, 560.105, 560.109, 560.1091, 560.1092, 560.1105, 560.1105(1), 560.111, 560.114, 560.1141, 560.118, 560.118(2), 560.123, 560.1235, 560.125, 560.126, 560.128, 560.1401, 560.141, 560.142, 560.143, 560.204, 560.205, 560.208, 560.2085, 560.209, 560.210, 560.211, 560.213, 560.303, 560.309, 560.310, 560.403, 560.404, 560.405, 560.406, 943.053 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Sheila Harley, 850/410-9716, sheila.harley@flofr.com

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

69V-560.1000 Disciplinary Guidelines.

Pursuant to Section 560.1141, F.S., ~~listed below are~~ Disciplinary Guidelines for Money Services Businesses, incorporated by reference and adopted by this rule, effective XX/XX/XXXX, available on the Office's website at www.flofr.com and

www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX are applicable to each ground for disciplinary action that may be imposed by the Office against a person Chapter 560, F.S., licensee for a material violation of Chapter 560, F.S. In determining an appropriate penalty within the range of penalties prescribed in this rule for each violation as based upon the citation number, the Office shall consider subsections (1) and (2) the circumstances set forth in subsection (148). For purposes of this rule, the term "citation" means any final order docketed by the agency written notice provided to and received by the licensee that specifies a violation of Chapter 560, F.S., or any rule promulgated under that chapter.

#### SEE PUBLISHED RULE FOR TABLE

(1) Consistent with the guidelines contained in the Disciplinary Guidelines for Money Services Businesses, the Office may issue orders to revoke or suspend a license; orders to impose an administrative fine; orders of prohibition including ceasing and desisting, and injunction; orders of appointment; orders of removal; orders denying applications; and/or Notices of Non-compliance.

(147) In accordance with this rule:

(a) Depending on the severity and repetition of specific violations, the Office may impose an administrative fine, suspension of a license, or revocation of a license or any combination thereof;

(b) The Office may impose a cease and desist order in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances;

(c) Notwithstanding this rule, the Office may, when appropriate, enter orders of removal or prohibition or orders denying applications, and may seek the entry of an injunction and appointment of a receiver by a court of competent jurisdiction; and

(d) The Office will consider the licensee's disciplinary history for the past five years in determining an appropriate penalty, and may impose a more severe penalty when the disciplinary history includes past violations.

(2)(148) In accordance with Sections 560.1141(2), (3), F.S., the Office shall consider the number of records sampled compared to the number of violations to determine the violation rate (percentage). The violation rate shall be applied to the fine range to determine the amount of the fine within the range. For example if the violation rate is fifty percent (50%), then the fine amount will be the medium of the fine range. If the violation relates to a single violation, the fine amount will be the minimum of the fine range. following circumstances in determining an appropriate penalty within the range of penalties prescribed in this rule for each violation as based upon the citation number.

(3) The Office also shall consider the following these circumstances in determining a penalty that deviates from the range of penalties prescribed for each violation and citation number as a result of such circumstances:

(a) The Office will consider the money services business' disciplinary history with the Office for the past 5 years in determining an appropriate penalty, and may impose a more severe penalty when the disciplinary history includes past violations.

(b) The following circumstances are considered mitigating factors:

1. If the violation rate is less than 5% when compared to the overall sample size reviewed;

2. No prior administrative actions by the Office against the money services business or its affiliated party within the past 10 years;

3. If the money services business detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;

4. If the violation is attributable to a single officer, director, responsible person, employee, or authorized vendor (other than the compliance officer), and if the money services business removed or otherwise disciplined the individual prior to detection and intervention by the Office;

5. If the money services business is responsive to the Office's requests or inquiries or made no attempt to impede or delay the Office in its examination or investigation of the underlying misconduct;

6. Other relevant, case-specific circumstances.

(c) The following circumstances are considered aggravating factors:

1. If the violation rate is more than 95% when compared to the overall sample size reviewed (sample size must be equal to or greater than 25 transactions and cover a date range of at least 6 months);

2. The potential for harm to the customers or the public is significant;

3. Prior administrative action by the Office against the money services business or its affiliated party within the past 5 years;

4. If the money services business' violation was the result of willful misconduct or recklessness;

5. If the violation is a result of willful misconduct or recklessness attributable to the compliance officer;

6. The money services business attempted to conceal the violation or mislead or deceive the Office;

7. Other relevant, case-specific circumstances.

(a) Whether the violation rate is less than 5% when compared to the overall sample size reviewed;

- ~~(b) The degree of harm to the customers or the public;~~
  - ~~(c) The disciplinary history of the licensee;~~
  - ~~(d) Whether the licensee detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;~~
  - ~~(e) Whether the licensee's violation was the result of willful misconduct or recklessness;~~
  - ~~(f) Whether at the time of the violation, the licensee had developed and implemented reasonable supervisory, operational or technical procedures, or controls to avoid the violation;~~
  - ~~(g) Where the violation is attributable to an individual officer, director, responsible person, or authorized vendor, whether the licensee removed or otherwise disciplined the individual prior to detection and intervention by the Office;~~
  - ~~(h) Whether the licensee attempted to conceal the violation or mislead or deceive the Office;~~
  - ~~(i) The length of time over which the licensee engaged in the violations;~~
  - ~~(j) Whether the licensee engaged in numerous violations or a pattern of misconduct;~~
  - ~~(k) The number, size and character of the transactions in question;~~
  - ~~(l) Whether the licensee provided substantial assistance to the Office in its examination or investigation of the underlying misconduct;~~
  - ~~(m) Other relevant, case specific circumstances.~~
  - ~~(3)(449)~~ The list of violations cited in this rule is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Section 560.114, F.S.
  - ~~(4)(450)~~ The ranges for administrative fines imposed by this rule are \$1,000 – \$3,500 for an “A” level fine; \$3,500 – \$7,500 for a “B” level fine; and \$7,500 – \$10,000 for a “C” level fine.
  - ~~(5)(454)~~ The ranges for suspensions imposed by this rule are 3 to 10 days for an “A” level suspension; 10 to 20 days for a “B” level suspension; ~~and~~ 20 to 30 days for a “C” level suspension; ~~and up to 90 days for a “D” level suspension. A “D” level suspension may be terminated early if the money services business cures the violation.~~
- Rulemaking Authority 560.105, 560.1141 FS. Law Implemented 560.109, 560.1105, 560.111, 560.114, 560.1141, 560.118, 560.123, 560.1235, 560.125, 560.126, 560.128, 560.204, 560.208, 560.2085, 560.209, 560.210, 560.211, 560.213, 560.303, 560.309, 560.310, 560.403, 560.404, 560.405, 560.406 FS. History—New 6-7-09,\_\_\_\_\_.

69V-560.1012 Adoption of Forms.

- (1) The following forms are incorporated by reference and readopted by this rule for the purposes of Rules 69V-560.102-.913, F.A.C.:
  - (a) Application for Licensure as a Money Services Business, Form OFR-560-01, effective 10-18-09, amended 1-2-14, <http://www.flrules.org/Gateway/reference.asp?No=Ref-01231>.
  - (b) Location Notification Form, Form OFR-560-02, effective 1-13-09.
  - (c) Declaration of Intent to Engage in Deferred Presentment Transactions, Form OFR-560-03, effective 1-13-09.
  - (d) Money Services Business Quarterly Report Form, Form OFR-560-04, effective 1-13-09.
  - (e) Pledge Agreement, Form OFR-560-05, effective 1-13-09.
  - (f) Money Services Business Surety Bond Form, Form OFR-560-06, effective 1-13-09.
  - (g) Security Device Calculation Form, Form OFR-560-07, effective 10-18-09.
  - (h) Request for Exemption from Electronic Filing Requirements, Form OFR-560-08, effective 3/16/2011, available \_\_\_\_\_ at <http://www.flrules.org/Gateway/reference.asp?No=Ref-00145>.
  - (i) BSA Currency Transaction Report, OMB No. 1506-0064, Version Number 1.2 Currency Transaction Report, FinCEN Form 112 404, effective 05-16-2013, 4-13-09, and available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).
  - (j) BSA Suspicious Activity Report, OMB No. 1506-0065, Version Number 1.1 Suspicious Activity Report by Money Services Business, FinCEN Form 111 409, effective 03-22-2012, and available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).
  - (k) Report of International Transportation of Currency or Monetary Instruments, FinCEN Form 105, (March 2011), OMB No. 1506-0014, effective 03-01-2011 4-13-09, and available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX).
- (1) Disciplinary Guidelines for Money Services Businesses, incorporated by reference and adopted by this rule, effective XX/XX/XXXX, available at [www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX](http://www.flrules.org/Gateway/reference.asp?No=Ref-XXXXX)
- (2) All forms adopted by this rule are available on the Office's website at [www.flrfr.com](http://www.flrfr.com) and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

Rulemaking Authority 215.405, 560.105, 560.118, 560.126, 560.141, 560.2085, 560.209, 560.403 FS. Law Implemented 560.118, 560.140~~560.140~~, 560.141, 560.126, 560.205, 560.2085, 560.209, 560.403, 943.053 FS. History—New 1-13-09, Amended 10-18-09, 3-16-11, 5-29-12, 1-2-14, \_\_\_\_\_.

#### 69V-560.1013 Electronic Filing of Forms and Fees.

(1) For purposes of this rule, “REAL System” means the Office of Financial Regulation’s Regulatory Enforcement and Licensing System, which is accessible through the Office’s website at [www.flofr.com](http://www.flofr.com).

(2) All forms adopted under paragraphs 69V-560.1012(1)(a) through (1)(d)(~~g~~) and (1)(g), F.A.C., must be filed electronically with the Office through the REAL system.

(3) All fees required to be filed with the Office under Chapter 69V-560, F.A.C., must be paid electronically through the REAL System.

(4) Any person may request an exemption from the electronic filing requirements of this rule by submitting Form OFR-560-08, Request for Exemption from Electronic Filing Requirements, to: Office of Financial Regulation, Division of Consumer Finance, Bureau of Regulatory Review, 200 E. Gaines Street, Tallahassee, Florida 32399-~~0354~~ 0376. The Office of Financial Regulation will provide any person granted an exemption under this subsection with instructions on how to file forms and fees in paper format. Form OFR-560-08 is incorporated by reference in Rule 69V-560.1012, F.A.C. Rulemaking Authority 560.105 FS. Law Implemented 560.105 FS. History—New 1-13-09, Amended 3-16-11, \_\_\_\_\_.

#### 69V-560.102 Application or Appointment Procedures and Requirements.

(1) Applications for money service business licenses must be made in accordance with the provisions of Sections 560.~~1401~~ 140, 560.141, and 560.143, F.S. Further, application for a money services business license involving payment instrument sales or money transmission must also comply with Section 560.205, F.S. The application form for applying hereunder is Application for Licensure as a Money Services Business, OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C.

(2) Each person listed in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, must submit fingerprints through a live-scan vendor approved by the Florida Department of Law Enforcement. A list of approved vendors is published on the Florida Department of Law Enforcement’s website (<http://www.fdle.state.fl.us/Content/home.aspx>). Such

fingerprints will be submitted to the Florida Department of Law Enforcement for a state criminal background check and the Federal Bureau of Investigation for a Federal criminal background check. The cost of the fingerprinting process shall be borne by the applicant and paid directly to the live-scan vendor.

(3) Request for Additional Information. Any request for additional information will be made by the Office within thirty (30) days after receipt of the application. The additional information must be received by the Office within forty-five (45) days from the date of the request. Failure to provide all information within forty-five (45) days from the date of the request will result in the Office denying the application.

(4) Withdrawal of Application. An application may be withdrawn if the applicant submits a request through the REAL system (<https://real.flofr.com/>) for same before the application is approved or denied.

(5) Amendments to Pending Applications. If the information contained in any application form for licensure as a money services business, 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-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C. 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. The Office will grant permission to amend the application, unless the amendment constitutes a material change to the application. Requests to make changes which are material to the application will be deemed by the Office to be grounds for denial, and a new application, accompanied by the appropriate filing fee, will be required. Material changes include:

- (a) Changes in net worth;
- (b) The substitution or addition of a director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, partner, member, joint venturer, responsible person, or controlling shareholder;
- (c) Any change relating to the bond or collateral security item;
- (d) A change to a response to the disclosure questions listed in section 6 on Form OFR-560-01; and

(e) A change to disclosure questions listed in section 3 on the biographical summary on Form OFR-560-01.  
 Rulemaking Authority 215.405, 560.105, 560.118, 560.209, 560.403 FS. Law Implemented 215.405, 560.118, ~~560.140~~, 560.126, 560.141, 560.143, 560.1235, 560.204, 560.205, 560.209, 560.303, ~~560.307~~, 560.403, 943.053 FS. History—New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.102, Amended 7-15-07, 6-17-08, 12-25-08, 1-13-09, 1-2-14,\_\_\_\_\_.

69V-560.103 Definitions.

For the purposes of this chapter, the following definitions shall apply:

~~(1) “Financial Statements” shall be defined as those reports, schedules and statements, prepared in accordance with United States Generally Accepted Accounting Principles.~~

~~(1)(2) “FinCEN” means the Financial Crimes Enforcement Network of the United States Treasury Department.~~

~~(3) “Holiday” means such days as are designated by Section 110.117, F.S.~~

~~(4) “Quarter” and “quarterly” mean March 31, June 30, September 30, and December 31 of each calendar year.~~

Rulemaking Authority 560.105 FS. Law Implemented 560.103, 560.118, 560.140~~1~~, 560.141, 560.205 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.103, Amended 9-14-04, 7-15-07, 1-13-09,\_\_\_\_\_.

69V-560.302 Renewal Fees, Deadlines, and Requirements.

(1) Chapter 560, F.S., licenses must be renewed in accordance with the provisions of Section 560.142, F.S.

(2) Licensees initially approved on or after October 1, 2013, shall submit a nonrefundable fee of \$12.00 for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, which is incorporated by reference in Rule 69V-560.1012, F.A.C., to cover the costs of fingerprint retention. Failure to remit renewal fees as prescribed in Section 560.143(2) and 560.141(1)(c)4 ~~560.141(2)~~, F.S., and fingerprint retention fees as required in this paragraph by the license expiration date will automatically result in the license becoming expired. An expired license may be reinstated within 60 days following expiration pursuant to Section 560.142, F.S.

(3)(a) Licensees initially approved before October 1, 2013, shall submit fingerprints for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, for live-scan processing pursuant to Section 560.141(1)(c)7., F.S. Such fingerprints must be submitted before renewing a license that is scheduled to expire between April 30, 2014, and December 31, 2015. The Office shall screen the background results to determine if the licensee meets licensure requirements. Any request for additional information must be received by the Office within forty-five (45) days from the date of the request. For purposes of this paragraph, each of the applicant’s control persons required to submit fingerprints shall submit such fingerprints to a live-scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement’s website (<http://www.fdle.state.fl.us/Content/Criminal-History/documents/ApplicantLivescanService-ProvidersVendors.aspx> ~~http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3e9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx~~) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of the fingerprinting process shall be borne by the applicant and paid directly to the live scan vendor.

(b) Licenses renewed pursuant to paragraph (a) shall submit a nonrefundable fee of \$12.00 for each person currently listed in the records of the Office in question 5G of the Application for Licensure as a Money Services Business, OFR-560-01, to cover the costs of fingerprint retention. This requirement applies to licensees renewing licenses that expire on or after April 1, 2016 that were approved before October 1, 2013. Failure to remit renewal fees as prescribed in Section 560.141(1)(c)(4) and 560.143(2) ~~560.141(4)~~, F.S., and fingerprint retention fees as required in this paragraph by the license expiration date will automatically result in the license becoming expired. An expired license may be reinstated within 60 days following expiration pursuant to Section 560.142(4), F.S.

~~(4) If any date established in accordance with Section 560.142, F.S., falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the required renewal fees and any applicable late fees must be received by the Office by the close of business on the next business day.~~

Rulemaking Authority 560.105 FS. Law Implemented 560.142, 560.403, 560.141, 560.143 FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.302, Amended 7-15-07, 1-13-09, 1-2-14,\_\_\_\_\_.

69V-560.504 Reimbursement Rates for Examinations Conducted by the Office.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by Office examiners under Sections 560.1091 and 560.1092, F.S.

(2) Fees for examiner and management time shall be calculated based on ~~the direct compensation of the examiner conducting the examination. Rates will be assessed by examiner classification and shall be charged at the following rates a rate of \$28.00 per hour:~~

- (a) ~~Financial Examiner/Analyst I \$28 per hour.~~
- (b) ~~Financial Examiner Analyst II \$30 per hour.~~
- (c) ~~Financial Specialist \$34 per hour.~~
- (d) ~~Financial Control Analyst \$35 per hour.~~
- (e) ~~Financial Examiner Analyst Supervisor \$37 per hour.~~

(f) ~~Area Financial Manager and above \$42 per hour.~~

(3) Examiner per diem and other travel expense shall be charged in accordance with Section 112.061, F.S.

(4) Fees for administrative support staff providing clerical or research work in connection with the examination will be calculated at the rate of \$12.00 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days from the date of the invoice to remit payment for invoiced expenses to the Office.

Rulemaking Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History—New 1-13-09,\_\_\_\_\_.

69V-560.505 Reimbursement Rates for Examinations Conducted by a Third Party.

(1) This rule establishes rates for reimbursement to the Office for examination and per diem and travel expenses for examinations of licensees conducted by third party contractors under Sections 560.1091 and 560.1092, F.S. Rates will be the direct charges billed to the Office by the third party contractor. Such rates will be established by contract with the Office.

(2) The Office shall select third party contractors from the list of persons or firms who are qualified by the Department of Management Services to render “Financial and Performance Audit Services” under State of Florida Contract #973-001-06-1, which is hereby incorporated by reference.

(3) Licensees will be charged for the third party contractor’s actual and reasonable per diem and other travel costs. Per diem and other travel costs shall not, without prior written approval of the Office, exceed:

- (a) Fifty-eight and one-half cents per mile.

b) Maximum per diem rates for domestic travel approved by the United States General Services Administration for Florida for Fiscal Year ~~20142009~~ as set forth in “Domestic Per Diem Rates”, which may be found at [www.gsa.gov/perdiem](http://www.gsa.gov/perdiem) and is hereby incorporated by reference.

(4) Licensees will also be billed for administrative support and research directly related to the examination. Such work will be performed by administrative support staff of the Office and shall be charged at a rate of \$12 per hour.

(5) The Office will invoice licensees for the costs of the examination and licensees will have 30 days after the date of the invoice to remit payment for invoiced expenses to the Office.

Rulemaking Authority 560.105, 560.1091, 560.1092 FS. Law Implemented 560.1091, 560.1092, 560.109 FS. History—New 1-13-09,\_\_\_\_\_.

69V-560.602 Quarterly Reports.

Every money services business licensed pursuant to Chapter 560, F.S., shall submit a complete and accurate quarterly report to the Office by filing a completed Form OFR-560-04, Money Services Business Quarterly Report Form, which is incorporated by reference in Rule 69V-560.1012, F.A.C. A completed quarterly report form shall be received by the Office no later than forty-five (45) days after the conclusion of each calendar quarter. ~~Should the forty fifth day fall on a Saturday, Sunday or holiday, the reports must be received by the Office no later than the next business day.~~ A report is “past due” if it is received by the Office one or more days beyond the period set forth in this rule.

Rulemaking Authority 560.105, 560.118 FS. Law Implemented 560.118(2) FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.602, Amended 7-15-07, 1-13-09,\_\_\_\_\_.

69V-560.606 Annual Filing of Financial Audit Reports by Part II Licensees.

(1) Each licensed money transmitter and payment instrument seller shall annually submit financial audit reports to the Office in accordance with Sections 560.209(1) and (2), F.S., for the licensee’s most recent fiscal year.

(2) Annual financial audit reports must be received by the Office within one hundred twenty (120) days after the licensee’s fiscal year end.

(3) A report is “past due” if it is received by the Office one or more days beyond the period defined in subsection (2).

(4) For purposes of adding new locations or authorized vendors, a Part II licensee may rely upon its annual financial audit reports that were received by the Office in a timely manner as required in subsections (1) and (2) of this rule. The Office reserves the right to require additional documentation up to and including the submission of interim financial statements to substantiate the licensee’s net worth.



Rulemaking Authority 560.105, 560.118, 560.205 FS. Law Implemented 560.118, 560.205, 560.209 FS. History—New 11-4-01, Formerly 3C-560.606, Amended 7-15-07, 1-13-09, \_\_\_\_\_.

69V-560.608 Currency Transaction Report Filings.

BSA Currency Transaction Reports, required by Section 560.123, F.S., must be filed with FinCEN using BSA E-Filing and FinCEN Form 112 as required by 31 U.S.C. s. 5313 ~~404~~, which is incorporated by reference in Rule 69V-560.1012, F.A.C. Reports filed in this manner shall be deemed to have also been filed with the Office.

Rulemaking Authority 560.105, 560.123 FS. Law Implemented 560.123, 560.1235 FS. History—New 1-13-09, \_\_\_\_\_.

69V-560.609 Suspicious Activity Report Filings.

(1) Pursuant to Section 560.1235(1), F.S., licensees and authorized vendors must comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, 31 C.F.R. Chapter X s.1022.320 s. 103.20 (2007), relating to reports by money services businesses of suspicious transactions. For purposes of Section 560.1235(1), F.S., the federal law requirement to report suspicious transactions applies to the following money services businesses: payment instrument sellers that sell money orders or traveler's checks, money transmitters, and foreign currency exchangers. These entities ~~must be required to~~ report suspicious transactions to FinCEN using FinCEN Form 111, which is incorporated by reference in Rule 69V-560.1012, F.A.C., as required by 31 C.F.R. Chapter X s.1022.320, 409 BSA Suspicious Activity Report ~~by Money Service Business~~, and failure to do so is a violation of Section 560.1235, F.S.

(2) Under federal law, check cashers may, but are not required to, file reports of suspicious transactions; however, pursuant to Section 560.309(5), F.S., check cashers are required to report suspicious activity to the ~~Office office~~ or an appropriate regulator based on the criteria set forth in 31 C.F.R. Chapter X s. 1022.320 103.20 (2007). The Commission designates FinCEN as the appropriate regulator to receive such reports, which shall be submitted to FinCEN on FinCEN Form 111 409, which is incorporated by reference in Rule 69V-560.1012, F.A.C., BSA Suspicious Activity Report ~~by Money Service Business~~. BSA Suspicious Activity Reports filed with FinCEN shall be deemed to have also been filed with the Office. Failure of a check casher to report suspicious activity to FinCEN is a violation of Section 560.309(5), F.S.

(3) FinCEN Form 111 409, BSA Suspicious Activity Report ~~by Money Service Business~~ is incorporated by reference in Rule 69V-560.1012, F.A.C. Federal regulation 31 C.F.R. ~~103.20 (2007)~~ Chapter X s. 1022.320 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.

Rulemaking Authority 560.105, 560.309 FS. Law Implemented 560.1235, 560.309 FS. History—New 1-13-09, \_\_\_\_\_.

69V-560.610 Report of International Transportation of Currency or Monetary Instruments.

Pursuant to Section 560.1235, F.S., all money services businesses shall file with FinCEN using a Report of International Transportation of Currency or Monetary Instruments, electronically or in paper form, on FinCEN Form 105, which is incorporated by reference in Rule 69V-560.1012, F.A.C., as required by 31 CFR Chapter X. s. 1010.306 ~~not later than 15 calendar days from the date of the transaction.~~

Rulemaking Authority 560.105 FS. Law Implemented 560.1235 FS. History—New 1-13-09, \_\_\_\_\_.

69V-560.702 Payment Instrument Sellers.

(1) A payment instrument seller shall maintain records of the following information, which must be obtained for each issuance or sale of a payment instrument, regardless of the amount:

- (a) The date of purchase;
- (b) The serial number(s) or confirmation number of the payment instrument(s) purchased; and
- (c) The amount in dollars of each of the instruments purchased.

(2) For all transactions that exceed \$3,000, the payment instrument seller shall also obtain and record the information required by 31 C.F.R. Chapter X s. 1010.415 103.29(a)(2), ~~as it existed on September 4, 2008~~. For purposes of this section multiple payment instruments purchased in one or more transactions on a single day shall be aggregated.

(3) Every payment instrument seller shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.

(4) Every payment instrument seller shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. The policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:

- (a) Chapter 560, F.S.
  - (b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.
  - (c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, ~~as these regulations existed on September 4, 2008.~~
  - (d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).
  - (e) Sections 817.568 and 817.5681, F.S., regarding fraudulent use of personal information and breaches of information security.
- (5) Every payment instrument seller shall maintain individual files for each authorized vendor that document the establishment and termination of these relationships. The file shall include the written contract between the payment instrument seller and authorized vendor as required by Section 560.2085, F.S.
- (6) Subpoenas, warrants, and other requests from regulatory, law enforcement, or prosecutorial agencies and records relating to training as required by 31 C.F.R. Chapter X s. 1022.210 s. 103.125, ~~as it existed on September 4, 2008~~, shall be maintained so that they are retrievable as required by Section 560.1105(1), F.S.
- (7) Records of all payment instrument sales shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.
- (8) All federal laws and regulations referenced in this rule are hereby incorporated by reference and 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.  
 Rulemaking Authority 560.105, 560.2085 FS. Law Implemented 560.1105(1), 560.1235, 560.2085, 560.211 FS. History—New 9-24-97, Formerly 3C-560.702, Amended 1-13-09, \_\_\_\_\_.

69V-560.703 Money Transmitters.

- (1) A money transmitter shall maintain records of the following information for all inbound and outbound transmissions, which must be obtained for each money transmission, regardless of the amount:
- (a) The name and address of the sender;
  - (b) A numbered receipt or confirmation number for each transaction;
  - (c) The address of the location or foreign affiliate where the transaction was conducted;

- (d) The name and address of the beneficiary or recipient;
  - (e) Any instructions or messages relating to the transmission;
  - (f) The method of payment (e.g., currency, check, credit card, etc.);
  - (g) Transaction date;
  - (h) Time of the transaction;
  - (i) Transaction amount in U.S. Dollars;
  - (j) Fees charged;
  - (j) Authorized vendor name; and
  - (k) Authorized vendor/foreign affiliate code/identifier as assigned by the licensee.
- (2) For all transactions that exceed \$3,000, the money transmitter shall, in addition to the items in subsection (1), obtain and record:
- (a) Social security number, passport number, or alien registration of the sender; the Federal Employer Identification Number for the entity if sender is not a natural person;
  - (b) Name and account number of recipient's financial institution, if applicable; ~~and~~
  - (c) If the sender is a natural person, sender's ~~Sender's~~ photo identification number, type, and state/country of issuance.
  - (d) Photo Identification of the individual making the transmission on behalf of the sender, if the sender is not a natural person.
- (3) Every money transmitter shall maintain a schedule of all outstanding receivables due from authorized vendors to include amounts and numbers of days outstanding. This schedule shall be updated, at a minimum, monthly.
- (4) Every money transmitter shall develop and implement written policies and procedures to monitor compliance with applicable state and federal law by its authorized vendors. These policies and procedures should include, but are not limited to compliance with the following applicable statutes and regulations:
- (a) Chapter 560, F.S.
  - (b) Anti-money laundering requirements referenced in Section 560.1235(1), F.S.
  - (c) Office of Foreign Asset Control regulations: 31 C.F.R. Part 500; 31 C.F.R. s. 594.201; 31 C.F.R. s. 594.204; 31 C.F.R. s. 501.603; and 31 C.F.R. s. 501.604, ~~as these regulations existed on September 4, 2008.~~
  - (d) Gramm-Leach-Bliley Act regarding protection of personal information: 15 U.S.C. ss. 6801, 6802, and 6803 (Thomson Reuter/West 2008 (current through P.L. 110-316 (excluding P.L. 110-234, 110-246, and 110-315))).
  - (e) Sections 817.568 and 817.5681, F.S., regarding fraudulent use of personal information and breaches of information security.

(5) Every money transmitter shall maintain individual files for each authorized vendor/foreign affiliate that documents the establishment and termination of these relationships. The file shall include the written contract between the money transmitter and authorized vendor as required by Section 560.2085, F.S.

(6) Subpoenas, warrants and other requests from regulatory, law enforcement, and prosecutorial agencies, and records related to training as required by 31 C.F.R. s. ~~Chapter X s. 1022.210 103.125, as it existed on September 4, 2008,~~ and shall be maintained so that they are retrievable as required by Section 560.1105(1), F.S.

(7) Records of all money transmissions shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

(8) All federal laws and regulations referenced in this rule are 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.

Rulemaking Authority 560.105 FS. Law Implemented 560.1105(1), 560.211 FS. History—New 9-24-97, Formerly 3C-560.703, Amended 1-13-09,\_\_\_\_\_.

69V-560.704 Records to Be Maintained by Check Cashers.

(1) For purposes of this rule the term:

(a) “Corporate payment instrument”, as referenced in Section ~~560.310(2)(a) 560.310(1),~~ F.S., means a payment instrument on which the payee named on the face of the payment instrument is not a natural person.

~~(b) “Conductor” means a natural person who presents a payment instrument to a check casher for the purpose of receiving currency.~~

~~(c) “Customer file” in regard to a “corporate payment instrument” means the corporate entity shown as payee. In regard to “third party payment instruments”, the term “customer file” means the individual negotiating the payment instrument.~~

~~(d) “Dormant customer” shall include any customer who has not transacted business with the licensee within the past 180 days.~~

~~(e) “Third party payment instrument”, as referenced in Section 560.310(1), F.S., means a payment instrument being negotiated by a party other than the payee named on the face of the payment instrument.~~

(c) The phrase “its own commercial account” as referenced in Section 560.309(3) means a depository account in a federally insured financial institution listing the licensee as an owner of the account. The authorized signatories must have a controlling interest as described in Section 560.127.

(2) Every check casher shall maintain legible records of all payment instruments cashed. The records shall include the following information with respect to each payment instrument accepted by the ~~licensee registrant:~~

(a) A copy of all payment instruments accepted and endorsed by the licensee to include the face and reverse (front and back) of the payment instrument. Copies shall be made after each payment instrument has been endorsed with the legal name of the licensee. Endorsements on all payment instruments accepted by the check casher shall be made at the time of acceptance.

(b) The fee charged to cash the payment instrument;

(c) The verification fee, if any, imposed on the customer.

(3) The following additional information shall be maintained:

(a) Records relating to all returned payment instruments that shall include the following:

1. A copy, face and reverse (front and back), of all returned payment instruments;

2. The date of deposit by the licensee;

3. The date the payment instrument was returned to the licensee;

4. Documentation of all fees and charges paid by the customer in the collection of the returned item; and

5. The date on which collection is made from the customer or charged-off by the licensee.

(b) A daily summary of the business activities including the following documents:

1. Bank deposit receipts;

2. Copies of checks or withdrawal receipts evidencing withdrawal of funds from accounts maintained by the licensee; and

3. A daily cash reconciliation summarizing each day’s activities and reconciling cash on hand at the close of business. The daily cash reconciliation shall be sufficiently detailed to provide an audit trail of each day’s business activity. Where the licensee provides multiple business services through the same legal entity the daily cash reconciliation shall be maintained in such manner as to separate business activities such as check cashing.

(c) Bank statements of the licensee received and maintained no less often than monthly for all accounts from which the licensee operates.

(4) In addition to the records required in subsections (2) and (3) (1) and (2), for payment instruments exceeding \$1,000.00, the check casher shall:

(a) Affix an original thumbprint of the conductor to the original of each payment instrument accepted which is taken at the time of acceptance;

(b) Secure and maintain a copy of the original payment instrument, including the thumbprint of the conductor;

(c) Secure and maintain a legible copy of the personal identification, as defined by Section 560.310(2)(b) ~~560.310(1)(b)~~, F.S., presented by conductor at the time of acceptance;

(d) Create and maintain a customer file for each entity listed as the payee on corporate payment instruments and third party payment instruments accepted by the licensee. Each customer file must include, at a minimum, the following information:

1. Documentation from the Secretary of State verifying registration as a corporation or fictitious entity showing the listed officers and FEID registration number. If a sole proprietor uses a fictitious name or is a natural person, then the customer file shall include the social security number of the business owner and documentation of the fictitious name filing with the Secretary of State.

2. Articles of Incorporation or other such documentation which establishes a legal entity in whatever form authorized by law. For purposes of this rule a sole proprietor operating under a fictitious name registered with the Secretary of State shall not have to present such documentation.

3. Documentation of the business license/occupational license, business tax receipt, or its equivalent occupational license from the municipality county where the entity is located.

4. A copy of the search results screen page from Compliance Proof of Coverage Query Page webpage from the Florida Department of Financial Services – Division of Workers’ Compensation website (<https://apps8.fldfs.com/proofofcoverage/Search.aspx>) [http://www.fldfs.com/WCAPP/Compliance\\_POC/wPages/query.asp](http://www.fldfs.com/WCAPP/Compliance_POC/wPages/query.asp)).

5. Documentation of individuals authorized to negotiate payment instruments on the corporation or fictitious entity’s behalf including corporate resolutions or powers of attorney. Payment instruments for insurance claims where there are multiple payees shall be exempt from this provision provided that the maker of the check is an insurance company and the licensee has obtained and retained documentation as to the identity of the natural person listed as a payee on such payment instrument.

(e) All check cashers shall review ~~Review~~ and update all active customer files at least annually. The required review and update shall be attested to by the compliance officer or their designee, and such documentation shall be maintained within each customer’s file. For purposes of this rule it shall not be necessary to update dormant customer files. Should a customer previously identified as being dormant, resume transacting business with the licensee, the customer file information shall be updated before accepting any payment instrument.

(5)(a) In addition to the records required in subsections (1) and (2) for payment instruments \$1,000.00 or more, the check casher shall create and maintain an electronic log of payment instruments accepted which includes, at a minimum, the following information:

1. Transaction date;
2. Payor name;
3. Payee name;
4. Conductor name, if other than the payee;
5. Amount of payment instrument;
6. Amount of currency provided;
7. Type of payment instrument;
  - a. Personal check;
  - b. Payroll check;
  - c. Government check;
  - d. Corporate check;
  - e. Third party check; or
  - f. Other payment instrument;
8. Fee charged for the cashing of the payment instrument;
9. Branch/Location where instrument was accepted;
10. Identification type presented by conductor; and
11. Identification number presented by conductor.

(b) Electronic logs shall be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.

(6) Check Cashing Database: Commencing on September 3, 2015, but no later than October 1, 2015, every check casher must submit the following information into the check cashing database prior to the check casher providing currency (or payment instrument if a Part II licensee):

1. Transaction date.
2. Payor name as displayed on the payment instrument.
3. Payee name as displayed on the payment instrument.
4. Conductor name, if different from the payee name.
5. Amount of the payment instrument.
6. Amount of currency provided.
7. Type of payment instrument.
8. Amount of the fee charged for cashing of the payment instrument.

9. Branch or location where the payment instrument was accepted.

10. The type of identification and identification number presented by the payee or conductor.

11. Payee's workers' compensation insurance policy number or exemption certificate number, if a corporate payment instrument and an active policy exists.

12. Payee Corporate Document Number as issued by the Secretary of State, if a corporate payment instrument.

13. Payee Federal Employer Identification Number, if a corporate payment instrument.

(7) Upon commencement of a check casher entering check cashing transaction into the database pursuant to paragraph (6) a check casher will no longer be required to record check cashing transaction on an electronic log as required pursuant to paragraphs (5)(a) & (b). The check casher must continue to retain the electronic log in its records for all transactions recorded prior to utilizing the check cashing database.

Rulemaking Authority 560.105, 560.310, FS. Law Implemented 560.310 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.704, Amended 1-13-09, \_\_\_\_\_.

69V-560.705 Foreign Currency Exchangers.

(1) A foreign currency exchanger shall maintain receipts for each transaction, regardless of the amount. The receipts must include the date of the transaction, the amount and type of currency received and given in exchange.

(2) In addition to the above records, foreign currency exchangers must maintain records of the amount of each bank deposit, including currency deposited.

(3) A foreign currency exchanger shall maintain all monthly financial institution bank statements.

(4) A foreign currency exchanger shall maintain all records of purchases and sales of foreign currencies from financial institutions including dates, amounts, and rates of exchange.

Rulemaking Authority 560.105 FS. Law Implemented ~~560.310~~ 560.1105 FS. History—New 9-24-97, Formerly 3C-560.705, Amended 1-13-09, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gregory Oaks

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 23, 2015

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: July 28, 2015

**DEPARTMENT OF FINANCIAL SERVICES**

**Finance**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
69V-560.7041	Check Cashing Database Access
69V-560.7042	Check Cashing Database Access Transaction Requirements
69V-560.7043	Check Cashing Database Availability

**PURPOSE AND EFFECT:** To specify who will operate and maintain the check cashing database, to specify who may access the check cashing database, to specify termination of access to check cashing database, to specify check cashing database transaction requirements, and to specify check cashing database availability.

**SUMMARY:** Implement specifications related to check cashing database.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:** The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: 1) No requirement for a SERC was triggered under Section 120.541(1), F.S.; and 2) The new rules will not exceed any one of the economic analysis criteria in a SERC, as set forth in Section 120.541(2)(a), F.S.

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.

**RULEMAKING AUTHORITY:** 560.105, 560.310 FS.

**LAW IMPLEMENTED:** 560.310 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Sheila Harley, (850)410-9716, sheila.harley@flofr.com

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

69V-560.7041 Check Cashing Database Access.

(1) The database vendor shall operate and maintain a website with the URL and domain name www.FLCCDB.com on behalf of the Office of Financial Regulation, which shall be the means by which real-time access to the database is made available through an internet connection for check cashers to comply with Chapter 560, F.S. The database vendor shall operate and maintain the database and shall give check cashers access to the database on the following terms and conditions:

(a) Only check cashers licensed under Chapter 560 may access the database.

(b) A check casher shall designate to the database vendor at least one administrator to create and manage other administrators', supervisors', and users' identification and passwords for personnel authorized by the check casher to submit transactions to the database; to maintain transactional information on the website and database; and to ensure the accuracy of database transaction information, including that the user identification and password for the employee are associated with the appropriate location from which the transaction is conducted. Only one security administrator identification and password will be administered by the database vendor. The check casher's administrators will be responsible for all other personnel user identification numbers and passwords within the check casher's organization:

(2) A check casher's access to the database, including all locations of such check casher, will be terminated by the database vendor at such time as the Office of Financial Regulation provides notice to the database vendor via the nightly license information update or electronic mail that the check casher's:

(a) Check casher license is revoked, expired, or terminated; or

(3) A check cashers access to the database, including all users and locations of such check cashers, will be restricted by the database vendor at such time as the Office of Financial Regulation provides notice to the database vendor via the nightly license information update or electronic mail that the check casher's license becomes inactive or suspended. For purposes of the paragraph the term "restricted" means that the check casher cannot access the database, but its administrator and user accounts are not permanently disabled. The licensee's status will be reinstated if the license is reinstated to active status.

(6) The Office of Financial Regulation will provide the database vendor with nightly updates Monday through Friday of each week. Any addition or change of access to the database shall be effective the next business day.

Rulemaking Authority 560.105, 560.310, FS. Law Implemented 560.310 FS. History—New \_\_\_\_\_.

69V-560.7042 Check Cashing Database Transaction Requirements.

(1) Each check cashing transaction for which the payment instrument cashed is in excess of \$1000 shall be submitted to the database and receive a transaction confirmation number evidencing the transaction as recorded in the database prior to a check casher giving currency (or a payment instrument if a Part II licensee).

(2) Each check casher must also submit to the database multiple payment instruments accepted from any one person on any given day which when aggregated total in excess of \$1000. Payment instruments cashed pursuant to the paragraph must be entered into the database within two (2) business days of the date on which the aggregate transactions occurred.

(3) The check casher may void or cancel a check cashing transaction within one calendar year from the date of the transaction.

(4) The check casher may amend a check cashing transaction within (45) forty five calendar days from the date of the transaction.

Rulemaking Authority 560.105, 560.310, FS. Law Implemented 560.310 FS. History—New \_\_\_\_\_.

69V-560.7043 Check Cashing Database Availability.

(1) The database shall be accessible 24 hours a day every day of the year except for routine scheduled system maintenance and upgrades performed by the database vendor. During times of scheduled maintenance or system upgrades, check cashers will be given no less than 24 hours notice in the form of electronic mail to the designated administrator for each check casher or a broadcast message on the database website.

(2) In the event the database is unavailable, check cashers shall adhere to the following procedures:

(a) The check casher shall be authorized to conduct transactions during the specific period of unavailability.

(b) The check casher shall confirm that the database remains unavailable by attempting to access the database with every person seeking a check cashing transaction unless they have been notified via electronic mail by the database vendor of an expected period of time necessary to correct whatever problem is causing the database to remain unavailable;

(c) Transactions conducted during a period of unavailability must be submitted to the database within 24 hours of notification by the database vendor, that the database is available; provided, however, that if the database is unavailable for more than 24 hours, then the period for submission shall be extended by 24 hours for each additional 24-hour period of unavailability.

Rulemaking Authority 560.105, 560.310, FS. Law Implemented 560.310 FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Gregory Oaks  
 NAME OF AGENCY HEAD WHO APPROVED THE  
 PROPOSED RULE: Financial Services Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY  
 HEAD: June 23, 2015  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
 PUBLISHED IN FAR: July 28, 2015

**Section III**  
**Notice of Changes, Corrections and**  
**Withdrawals**

**WATER MANAGEMENT DISTRICTS**

**Southwest Florida Water Management District**

RULE NO.: RULE TITLE:  
 40D-8.624 Guidance and Minimum Levels for Lakes  
**NOTICE OF CORRECTION**

Notice is hereby given that the following correction has been made to the proposed rule in Vol. 41 No. 144, July 27, 2015 issue of the Florida Administrative Register.

Correction is made to Table 8-2 contained in the Notice of Proposed Rule for rule 40D-8.624 which stated that the high guidance, high minimum lake and minimum lake levels of Lake Padgett S-24, T-26S, R-18E were 71.0”, 70.0” and 68.6”, respectively. Those levels should, instead, have been: 71.0’, 70.0’ and 68.6’.

**Section IV**  
**Emergency Rules**

NONE

**Section V**  
**Petitions and Dispositions Regarding Rule**  
**Variance or Waiver**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

Division of Hotels and Restaurants

RULE NO.: RULE TITLE:  
 61C-4.010 Sanitation and Safety Requirements

NOTICE IS HEREBY GIVEN that on July 2, 2015, the Florida Department of Business and Professional Regulation, Division of Hotels and Restaurants, received a petition for a

Routine Variance for subsection 61C-4.010(5), F.A.C., paragraph 61C-1.004(1)(a), F.A.C., Paragraph 4-301.12(A), 2009 FDA Food Code, Section 5-203.13, 2009 FDA Food Code, and subsection 61C-4.010(7), F.A.C., from La Granja 2 located in Margate. The above referenced F.A.C. addresses the requirement that each establishment have dishwashing facilities for manually washing, rinsing and sanitizing equipment and utensils are provided; that at least one service sink be provided for the cleaning of mops or similar cleaning tools and the disposal of mop water; and at least one accessible bathroom be provided for use by customers and employees. They are requesting to share the dishwashing, mopsink and bathroom facilities for use by customers only located within an adjacent establishment under the same ownership.

The Division of Hotels and Restaurants will accept comments concerning the Petition for 14 days from the date of publication of this notice. To be considered, comments must be received before 5:00 p.m.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Bianca.Kirkland@myfloridalicense.com, Division of Hotels and Restaurants, 1940 North Monroe Street, Tallahassee, Florida 32399-1011.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
 REGULATION**

Board of Professional Engineers

RULE NO.: RULE TITLE:  
 61G15-20.007 Educational Requirements for Applicants Without EAC/ABET Accredited Engineering Degrees

NOTICE IS HEREBY GIVEN that on July 23, 2015, the Board of Professional Engineers received a petition for variance or waiver of subparagraph 61G15-20.007(1)(a)2., F.A.C., filed by Pedram Zohrevand, Ph.D., regarding the requirement that applicants having engineering degrees from programs that are not accredited by EAC/ABET must demonstrate 32 college semester credit hours of higher mathematics and basic sciences, including courses in general chemistry and calculus-based general physics. The Board will consider this petition at its meeting currently scheduled for August 13, 2015.

Comments on this petition should be filed with the Board of Professional Engineers, 2639 North Monroe Street, Suite B-112, Tallahassee, FL 32303; within 14 days of publication of this notice.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Zana Raybon, Executive Director, at the above address or telephone: (850)521-0050.

DEPARTMENT OF HEALTH

Division of Emergency Preparedness and Community Support

RULE NO.: RULE TITLE:

64J-2.001 Definitions

The Department of Health, Division of Emergency Preparedness & Community Support, Bureau of Emergency Medical Oversight hereby gives notice:

On July 23, 2015, the Division issued an Order. The Order was in response to an emergency petition for a permanent Variance from Tallahassee Memorial Healthcare, Inc., filed June 26, 2015, and advertised on July 2, 2015, in Vol. 41, No. 128, of the Florida Administrative Register. No comments were received in response to the petition. The Order on the Variance grants the Petitioner a variance from subsection 64J-2.011(3), F.A.C., regarding having an oral/maxillofacial surgeon on call 24 hours a day. The Petitioner has demonstrated that the purpose of the underlying statute has been met and that Petitioner would suffer a substantial hardship if required to comply with this rule.

A copy of the Order or additional information may be obtained by contacting: Susan Bulezca, Administrator, Trauma Program, 4052 Bald Cypress Way, Bin #A20, Tallahassee, Florida 32399-1722.

DEPARTMENT OF CHILDREN AND FAMILIES

Family Safety and Preservation Program

RULE NO.: RULE TITLE:

65C-15.017 Personnel

NOTICE IS HEREBY GIVEN that on July 13, 2015, the Department of Children and Families received a petition for waiver of subsection 65C-15.017(3), F.A.C., from Youth and Family Alternatives, Inc. & Nicole Cashen. Subsection 65C-15.017(3) F.A.C., requires staff who perform casework services in licensed child-placing agencies to possess at least a bachelor's degree in social work or a related field from an accredited college or university.

A copy of the Petition for Variance or Waiver may be obtained by contacting: Agency Clerk, Department of Children and Families, 1317 Winewood Blvd., Bldg. 2, Room 204, Tallahassee, FL 32399-0700.

Section VI

Notice of Meetings, Workshops and Public Hearings

DEPARTMENT OF LEGAL AFFAIRS

Division of Victim Services and Criminal Justice Programs

The Council on the Social Status of Black Men and Boys announces a telephone conference call to which all persons are invited.

DATE AND TIME: Thursday, August 6, 2015, 3:00 p.m. – 4:00 p.m.

PLACE: Toll-free dial-in number: 1(888)670-3525; participant code: 7505082915

GENERAL SUBJECT MATTER TO BE CONSIDERED:

This meeting will center its attention on the special needs of the Council, policies and procedures in government.

The Council shall make a systematic study of the conditions affecting black men and boys, including, but not limited to, homicide rates, arrest and incarceration rate, poverty, violence, drug abuse, death rates, disparate annual income levels, school performance in all grade levels including postsecondary levels, and health issues.

A copy of the agenda may be obtained by contacting: <http://www.cssbmb.com>.

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: Bureau of Criminal Justice Programs at (850)414-3300. 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).

For more information, you may contact: Bureau of Criminal Justice Programs at (850)414-3300.

DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Consumer Services

The Board of Professional Surveyors and Mappers announces a public meeting to which all persons are invited.

DATE AND TIME: August 6, 2015, 10:00 a.m.

PLACE: Hilton Ocala, Saratoga Room, 3600 S.W. 36th Avenue, Ocala, Florida 34474

GENERAL SUBJECT MATTER TO BE CONSIDERED:

This will be a meeting of the Board of Professional Surveyors and Mappers, Rules Workgroup. The Board has charged the Workgroup to review Rule Chapter 5J-17, F.A.C., discuss potential improvements to the rules, and prepare recommendations for the Board. Any recommendations by the Workgroup will be reviewed and discussed by the full Board in a separate meeting or rule workshop.

A copy of the agenda may be obtained by contacting: Jenna Harper, Executive Director, Board of Professional Surveyors and Mappers, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3674. One week prior to the meeting date, the agenda will also be available online at: [www.freshfromflorida.com/Public-Notices/](http://www.freshfromflorida.com/Public-Notices/).



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: Jenna Harper at (850)410-3674. 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).

For more information, you may contact: Jenna Harper, Executive Director, Board of Professional Surveyors and Mappers, 2005 Apalachee Parkway, Tallahassee, Florida 32399-6500, (850)410-3674.

**DEPARTMENT OF EDUCATION**

The Florida Rehabilitation Council announces public meetings to which all persons are invited.

**DATES AND TIMES:** August 11, 2015, 9:00 a.m. – 6:00 p.m.; August 12, 2015, 9:00 a.m. – 12:00 Noon, ET

**PLACE:** Hilton Hotel@Palm Beach Airport, 150 Australian Ave., West Palm Beach, FL 33406; conference call: 1(888)670-3525, passcode: 7513637441

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Florida Rehabilitation Council quarterly general business meeting.

A copy of the agenda may be obtained by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

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: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org. 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).

For more information, you may contact: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

**DEPARTMENT OF EDUCATION**

The Florida Rehabilitation Council announces a telephone conference call to which all persons are invited.

**DATE AND TIME:** August 5, 2015, 12:00 Noon – 1:00 p.m.

**PLACE:** Conference call: 1(888)670-3525, passcode: 7513637441

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Florida Rehabilitation Council Executive Committee General Business.

A copy of the agenda may be obtained by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

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: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org. 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).

For more information, you may contact: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

**DEPARTMENT OF EDUCATION**

The Florida Rehabilitation Council announces a telephone conference call to which all persons are invited.

**DATE AND TIME:** August 6, 2015, 5:00 p.m. – 6:00 p.m., ET

**PLACE:** Conference call: 1(888)670-3525, passcode: 7513637441

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** Florida Rehabilitation Council Evaluation Committee General Business.

A copy of the agenda may be obtained by contacting: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

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: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org. 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).

For more information, you may contact: Roy Cosgrove, (850)245-3317, roy.cosgrove@vr.fldoe.org.

**DEPARTMENT OF EDUCATION**

State Board of Education

The State Board of Education announces a workshop to which all persons are invited.

**DATE AND TIME:** August 5, 2015, 10:00 a.m.

**PLACE:** Hyatt Regency Orlando Airport, 9300 Jeff Fuqua Boulevard, Mirabel and Kai Tak Room, Orlando, Florida 32827

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The State Board of Education will participate in a workshop to discuss potential policy and legislative issues for 2016.

A copy of the agenda may be obtained by contacting: Cathy Schroeder, (850)245-9661, cathy.schroeder@fldoe.org or by visiting the Department's website at <http://www.fldoe.org/policy/state-board-of-edu/meetings>.

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 seven days before the workshop/meeting by contacting: Cathy Schroeder, (850)245-9661, cathy.schroeder@fldoe.org. 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). For more information, you may contact: Cathy Schroeder, (850)245-9661, cathy.schroeder@fldoe.org.

**REGIONAL PLANNING COUNCILS**

**Southwest Florida Regional Planning Council**

The Southwest Florida Regional Planning Council announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 6, 2015, 9:00 a.m.

**PLACE:** SWFRPC's Offices, 1926 Victoria Avenue, Fort Myers, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** The SWFRPC's monthly meeting.

A copy of the agenda may be obtained by contacting: Nichole Gwinnett at (239)338-2550, ext. 232 or ngwinnett@swfrpc.org.

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: SWFRPC Offices at (239)338-2550. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may visit the SWFRPC's website: [www.swfrpc.org](http://www.swfrpc.org).

**WATER MANAGEMENT DISTRICTS**

**Northwest Florida Water Management District**

The Northwest Florida Water Management District announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 11, 2015, 2:30 p.m., EDT

**PLACE:** District Headquarters, 81 Water Management Drive, Havana, FL 32333

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** In accordance with the timeframe set forth in Section 120.525, Florida Statutes, a public opening is hereby noticed within the timeline for the Invitation to Bid (ITB) 15B-015 for the Sale of Surplus Modular Office Building.

A copy of the agenda may be obtained by contacting: Bill Cleckley, (850)539-5999, Bill.cleckley@nfwwater.com.

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 72 hours before the workshop/meeting by contacting: Division of Administration, (850)539-5999. 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).

For more information, you may contact: Bill Cleckley, (850)539-5999, Bill.cleckley@nfwwater.com.

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Florida Building Commission**

The Florida Building Commission, "THE COMMISSION", Accessibility Advisory Council announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 10, 2015, 2:00 p.m. until completion

**PLACE:** Meeting to be conducted using teleconference and webinar.

1. Join the meeting Monday, August 10, 2015 at 2:00 p.m., Eastern Daylight Time at <https://global.gotomeeting.com/join/188875149>
2. Call in using your telephone in the United States (toll-free): 1(877)309-2070, or you may use your microphone and speakers (VoIP) - a headset is recommended; access code: 188-875-149; audio PIN: shown after joining the meeting; meeting ID: 188-875-149; public point of access: Florida Building Commission, Office of Codes and Standards, Department of Business and Professional Regulation, Suite 90A, 1940 North Monroe Street, Tallahassee, Florida.

**GENERAL SUBJECT MATTER TO BE CONSIDERED:** To consider and provide recommendations to the Commission regarding requests for waivers (as listed below) and other business for the Commission in accordance with the Council's agenda.

1. Spruce Creek HS, 801 Taylor Rd., Port Orange, FL
2. 336 Collins Ave, 336 Collins Ave., Miami Beach, FL
3. Fickeled Fin, 101 Bridge St., Bradenton Beach, FL
4. Gobblers Lodge, 385 Gobblers Lodge Rd., Volusia County, FL
5. Hell n Blazes, 1002 E New Haven Ave., Melbourne, FL
6. New Walton County Middle School #79, 605 Bruce Ave., Defuniak Springs, FL
7. Square Grouper Tiki Bar, 1920 Seaway Drive, Ft. Pierce, FL
8. North Trail RV Sales Center, 5270 Orange River Blvd., Ft Myers, FL

9. Existing Two-Story Buildings, 7541 Byscane Blvd., Miami, FL

7541 Biscayne Boulevard Miami, FL

10. UCF Global Garage Addition, 4000 Central Florida Blvd., Orlando, FL

11. Sobe Village Condominium, 440 14th Street & 1355 Drexel Ave., Miami Beach, FL

12. Bass Museum of Art Renovation/Expansion, 2100 Collins Ave., Miami Beach, FL

A copy of the agenda may be obtained by contacting: Mr. Chip Sellers, Building Codes and Standards Office, Department of Business and Professional Regulation, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)487-1824 or by visiting our website: [www.floridabuilding.org](http://www.floridabuilding.org).

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 10 days before the workshop/meeting by contacting: Ms. Barbara Bryant, Building Codes and Standards Office, Department of Business and Professional Regulation, 1940 N. Monroe Street, Tallahassee, Florida 32399-2100, (850)487-1824 or fax: (850)414-8436. 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).

If any person decides to appeal any decision made by the Board with respect to any matter considered at this meeting or hearing, he/she will need to ensure that a verbatim record of the proceeding is made, which record includes the testimony and evidence from which the appeal is to be issued.

For more information, you may contact: Mr. Chip Sellers, Building Codes and Standards Office, Department of Business and Professional Regulation, 1940 N. Monroe Street, Tallahassee, Florida 32399, (850)487-1824 or visit our website: [www.floridabuilding.org](http://www.floridabuilding.org).

**DEPARTMENT OF ENVIRONMENTAL PROTECTION**

The Department of Environmental Protection announces a public meeting to which all persons are invited.

DATE AND TIME: August 6, 2015, 1:00 p.m.

PLACE: Gainesville Regional Utilities, Multi-purpose Room, 301 SE 4th Avenue, Gainesville, FL 32601

GENERAL SUBJECT MATTER TO BE CONSIDERED: Annual meeting of the Orange Creek Basin Working Group will be held on August 6 at the Gainesville Regional Utilities  
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This meeting will present an overview of water quality data and activities undertaken over the past year to improve water quality as well as next steps in defining additional activities needed to improve water quality. The second phase Orange Creek Basin Management Action Plan (BMAP) was adopted in July 2014. The BMAP addresses bacterial problems in streams and nutrient water quality problems in lakes in the Orange Creek Basin.

A copy of the agenda may be obtained by contacting: Ms. Mary Paulic, Department of Environmental Protection, 2600 Blair Stone Road, MS 3565, Tallahassee, Florida 32399-2400, (850)245-8560.

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: Ms. Mary Paulic, Department of Environmental Protection, 2600 Blair Stone Road, MS 3565, Tallahassee, Florida 32399-2400, (850)245-8560. 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).

**DEPARTMENT OF HEALTH**

Board of Orthotists and Prosthetists

The Board of Orthotists and Prosthetists announces a public meeting to which all persons are invited.

DATE AND TIME: Wednesday, July 29, 2015, 9:00 a.m.

PLACE: Sanibel Harbour Marriott Resort & Spa, 17260 Harbour Pointe Drive, Fort Myers, FL 33908, (239)466-4000

GENERAL SUBJECT MATTER TO BE CONSIDERED: This meeting has been cancelled. A new meeting noticed will be provided once it has been rescheduled.

For more information, you may contact: Edith Rogers at [edith.rogers@flhealth.gov](mailto:edith.rogers@flhealth.gov).

**DEPARTMENT OF HEALTH**

Division of Emergency Preparedness and Community Support  
The Bureau of Emergency Medical Oversight/Injury Prevention Section announces a telephone conference call to which all persons are invited.

DATE AND TIME: Tuesday, August 11, 2015, 11:00 a.m. – 2:00 p.m., Eastern Time

PLACE: Bureau of Emergency Medical Oversight/Injury Prevention Section, 4042 Bald Cypress Way, Second Floor, Tallahassee, Florida, 32399

Join the conference call: United States, 1(888)670-3525 toll-free; access code: 6082454114.

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**  
Discussion of older adult falls prevention activities for the 2015 Injury Prevention State Plan.

A copy of the agenda may be obtained by contacting: Monica McKenzie, by email: [Monica.McKenzie@flhealth.gov](mailto:Monica.McKenzie@flhealth.gov) or by telephone: (850)245-4440, ext. 2736.

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**DEPARTMENT OF CHILDREN AND FAMILIES**

The Department of Children and Families announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 11, 2015, 9:00 a.m.

**PLACE:** 1002 E. Palm Avenue, Tampa, FL

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**  
Ongoing Hillsborough County Alliance business.

A copy of the agenda may be obtained by contacting: Gabriela Reece, (813)337-5805.

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: Gabriela Reece, (813)337-5805. 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).

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**DEPARTMENT OF CHILDREN AND FAMILIES**

Family Safety and Preservation Program

**RULE NO.:** RULE TITLE:

65C-22.008 School Age Child Care

The Department of Children and Families announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 14, 2015, 10:00 a.m.

**PLACE:** Department of Children and Families, 1317 Winewood Boulevard, Building 4, Tallahassee, Florida 32399-0700

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**  
The Agency is soliciting input from the public regarding the school-aged child care rule. In preparation for future rule promulgation the Agency is exploring the idea of "Tiered Licensure" for programs that care for school-aged children only.

A copy of the agenda may be obtained by contacting: Dinah Davis, Child Care Regulation Program Office, 1317 Winewood Boulevard, Building 6, Room 389A, Tallahassee, Florida 32399-0700, (850)488-4900.

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: Dinah Davis, Child Care Regulation Program Office, 1317 Winewood Boulevard, Building 6, Room 389A, Tallahassee, Florida 32399-0700, or by calling (850)488-4900.

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).

For more information, you may contact: Dinah Davis, Child Care Regulation Program Office, 1317 Winewood Boulevard, Building 6, Room 389A, Tallahassee, Florida 32399-0700 or call (850)488-4900.

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**DEPARTMENT OF ECONOMIC OPPORTUNITY**

Division of Workforce Services

The Reemployment Assistance Appeals Commission announces a public meeting to which all persons are invited.

**DATE AND TIME:** August 5, 2015, 9:00 a.m.

**PLACE:** Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**  
Deliberation for cases pending before the Reemployment Assistance Appeals Commission that are ready for final review and the Chairman's report. No public testimony will be taken.

A copy of the agenda may be obtained by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

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 24 hours before the workshop/meeting by contacting: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685. 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).

For more information, you may contact: Reemployment Assistance Appeals Commission, 101 Rhyne Building, 2740 Centerview Drive, Tallahassee, Florida 32399-4151, (850)487-2685.

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**ENTERPRISE FLORIDA, INC.**

The Team Florida Marketing Partnership announces a public meeting to which all persons are invited.

**DATE AND TIME:** Wednesday, August 19, 2015, 1:30 p.m. – 2:30 p.m.

**PLACE:** Sawgrass Marriott, 1000 PGA Tour Boulevard, Ponte Vedra Beach, Florida 32082; telephone conference: 1(800)501-8979, access code: 9565628#

**GENERAL SUBJECT MATTER TO BE CONSIDERED:**  
This meeting will discuss on-going issues, developing issues and other matters.

A copy of the agenda may be obtained by contacting: Kim Wilmes, (407)956-5628, kwilmes@enterprise-florida.com. 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 1 day before the workshop/meeting by contacting: Kim Wilmes, (407)956-5628, kwilmes@enterprise-florida.com. 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).

**ENTERPRISE FLORIDA, INC.**

The Team Florida Marketing Partnership announces a public meeting to which all persons are invited.

DATE AND TIME: Thursday, July 30, 2015, 10:00 a.m. – 2:00 p.m.

PLACE: Courtyard Marriot, 730 North Magnolia Avenue, Orlando, Florida 32803

GENERAL SUBJECT MATTER TO BE CONSIDERED: Team Florida Investor Meeting.

This meeting will discuss on-going issues, developing issues and other matters.

A copy of the agenda may be obtained by contacting: Kim Wilmes, (407)956-5628, kwilmes@enterprise-florida.com.

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 1 day before the workshop/meeting by contacting: Kim Wilmes, (407)956-5628, kwilmes@enterprise-florida.com. 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).

**Section VII**

**Notice of Petitions and Dispositions  
Regarding Declaratory Statements**

**DEPARTMENT OF BUSINESS AND PROFESSIONAL  
REGULATION**

Division of Alcoholic Beverages and Tobacco

NOTICE IS HEREBY GIVEN that The Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco has received the petition for declaratory statement from Nixon Peabody, LLP, DS 2015-087. The petition seeks the agency’s opinion as to the applicability of Section 561.42, F.S; and Chapter 61a-1.010, F.A.C., as it applies to the petitioner.

The Petitioner, Nixon Peabody, LLP, on behalf of their clients, Citibank, and an Australian Winery, want to ensure that their proposed business promotion will abide by the rules and qualifications set forth in Section 561.42, F.S; and Chapter 61a-1.010, F.A.C. During this promotion, customers that use their Citibank card for a minimum purchase in participating restaurants would receive discounts on future food purchases and a voucher for a bottle of wine, with the total discount and wine selections increasing with the amount of each purchase.

A copy of the Petition for Declaratory Statement may be obtained by contacting: Kelly.Vickery@myfloridalicense.com. Please refer all comments to: Sean J. Anderson, Assistant General Counsel, Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, 1940 North Monroe Street, Tallahassee, Florida 32399-1020.

**Section VIII**

**Notice of Petitions and Dispositions  
Regarding the Validity of Rules**

Notice of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

**NONE**

Notice of Disposition of Petition for Administrative Determination has been filled with the Division of Administrative Hearings on the following rules:

**NONE**

**Section IX**

**Notice of Petitions and Dispositions  
Regarding Non-rule Policy Challenges**

**NONE**

**Section X**

**Announcements and Objection Reports of  
the Joint Administrative Procedures  
Committee**

**NONE**

**Section XI**  
**Notices Regarding Bids, Proposals and**  
**Purchasing**

DEPARTMENT OF TRANSPORTATION  
 Request for Proposal

NOTICE

FLORIDA DEPARTMENT OF TRANSPORTATION  
 DISTRICT 4 OFFICE OF RIGHT OF WAY  
 3400 WEST COMMERCIAL BOULEVARD  
 FORT LAUDERDALE, FL 33309-3421

July 29, 2015

LEASE OF A DEPARTMENT-OWNED PARK & RIDE  
 LOT IN HOLLYWOOD, FLORIDA  
 FOR JOINT USE/TRANSIT ORIENTED DEVELOPMENT  
 (TOD)

The Florida Department of Transportation (FDOT) requests proposals for the leasing of the Sheridan Street Park & Ride Lot, owned by FDOT in Hollywood, FL, for the purposes of constructing, operating and maintaining mixed-use commercial/residential Transit Oriented Development (TOD) facilities, while preserving the existing transportation-related facilities, as detailed in the project Request For Proposals (RFP) document. Qualified proposers must submit a proposal in accordance with the RFP. A copy of the RFP may be obtained by submitting a written request to: SheridanStation.TOD@dot.state.fl.us. Please provide a contact name and email address when submitting your request. Questions about the RFP should also be directed to the aforementioned email address. Notice of changes (addenda) to the RFP will be posted on the FDOT Procurement website at <http://www.dot.state.fl.us/procurement/TODLeaseSheridanStation.shtm>.

It is the responsibility of all potential proposers to monitor the website for any changing information prior to submitting your proposal. Proposals must be submitted by the time and date indicated in the RFP. Pursuant to Section 337.251 (2), Florida Statutes, an application fee of \$10,000 is required from each proposer upon submittal of its proposal to FDOT.

**Section XII**  
**Miscellaneous**

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
 NOTICE OF CONTINUATION OF THE GENERIC  
 PERMIT FOR DISCHARGES  
 FROM CONCRETE BATCH PLANTS

RULE NO.: RULE TITLE:  
 62-621.300 Permits

The Department gives notice of the continuation of the Generic Permit for Discharges from Concrete Batch Plants (CBP GP) which is adopted by subsection 62-621.300(3), F.A.C. As part of the Department's National Pollution Discharge Elimination System program, the CBP GP regulates point source discharges from concrete batch plants. The current CBP GP became effective on March 10, 1997. Permit coverage under the CBP GP is limited to a term not to exceed five years from the effective date of coverage.

The Department reviews and evaluates the CBP GP on a recurring basis and will update the permit as necessary to account for changes in technology, and applicable state and federal regulatory requirements. The CBP GP may be re-opened by the Department or any person having a substantial interest in the rule may petition the Department to initiate rulemaking in accordance with Section 120.54(7), F.S.

Questions regarding this notice may be directed to: Abel Agosto – Industrial Wastewater Program, Florida Department of Environmental Protection, 2600 Blair Stone Road, MS 3545, Tallahassee, Florida, [abel.agosto@dep.state.fl.us](mailto:abel.agosto@dep.state.fl.us).

DEPARTMENT OF HEALTH  
 Board of Nursing

Notice of Emergency Action

On July 28, 2015, the State Surgeon General issued an Order of Emergency Restriction of License with regard to the license of Lori Leigh Buckley, R.N. (Formerly Lori Leigh Buchman, R.N.), License #: 9342342. This Emergency Restriction Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2013-2015). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

DEPARTMENT OF HEALTH

Board of Nursing

Notice of Emergency Action

On July 28, 2015, the State Surgeon General issued an Order of Emergency Restriction of License with regard to the license of Shaskia Celestin-Blaise, L.P.N., License #: PN 5213373. This Emergency Restriction Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6), Florida Statutes (2013-2015). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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DEPARTMENT OF HEALTH

Board of Pharmacy

Notice of Emergency Action

On July 28, 2015, the State Surgeon General issued an Order of Emergency Suspension of License with regard to the license of Daniel L. Heinis, R.Ph, License #: PS 34633. This Emergency Suspension Order was predicated upon the State Surgeon General's findings of an immediate and serious danger to the public health, safety and welfare pursuant to Sections 456.073(8) and 120.60(6) Florida Statutes (2014). The State Surgeon General determined that this summary procedure was fair under the circumstances, in that there was no other method available to adequately protect the public.

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Section XIII

Index to Rules Filed During Preceding  
Week

NOTE: The above section will be published on Tuesday beginning October 2, 2012, unless Monday is a holiday, then it will be published on Wednesday of that week.

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