

## Section II Proposed Rules

### DEPARTMENT OF EDUCATION

#### State Board of Education

RULE NO.: 6A-1.099821  
RULE TITLE: Voluntary Prekindergarten (VPK)  
Provider Kindergarten Readiness Rate

**PURPOSE AND EFFECT:** The purpose of this rule is to describe the methodology used and the activities related to calculating the VPK Provider Kindergarten Readiness Rate. The effect of the rule will be the adoption of the process and methodology for the Department of Education's calculation of the VPK Provider Kindergarten Readiness Rate.

**SUMMARY:** This rule sets forth the methodology used and activities related to calculating the VPK Provider Kindergarten Readiness Rate.

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

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

**SPECIFIC AUTHORITY:** 1002.73(2)(d) FS.

**LAW IMPLEMENTED:** 1002.69(5),(6) FS.

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Shan Goff, Executive Director, Office of Early Learning, 325 West Gaines Street, Room 1524, Tallahassee, Florida 32399-0400

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

6A-1.099821 Voluntary Prekindergarten (VPK) Provider Kindergarten Readiness Rate.

(1) Statewide kindergarten screening. The Department shall adopt a statewide kindergarten screening that provides objective data concerning each student's readiness for kindergarten and progress in attaining Florida's Voluntary Prekindergarten (VPK) Education Program Performance Standards. School districts are required to administer the statewide screening to each kindergarten student in the school district within the first 30 school days of each school year.

(2) Voluntary Prekindergarten (VPK) Provider Kindergarten Readiness Rate. The Department of Education shall:

(a) Annually calculate each private prekindergarten provider's and public school's kindergarten readiness rate, which must be expressed as the percentage of the provider's or school's students who are assessed as ready for kindergarten;

kindergarten readiness rates must be based exclusively on the results of the screening for students who completed the VPK program, and

(b) Periodically adopt a minimum kindergarten readiness rate that, if achieved by a private prekindergarten provider or public school, would demonstrate the provider's or school's satisfactory delivery of the VPK program. The minimum rate must not exceed the rate at which more than fifteen (15) percent of the kindergarten readiness rates of all private prekindergarten providers and public schools delivering the VPK Program would fall below the minimum rate.

(3) Accuracy of Data.

(a) Prior to the calculation of the VPK Provider Readiness Rate, as described in subsection (4) of this rule, private and public school VPK providers shall have the opportunity to review a list of all of the children served in their program and the total number of hours attended, including allowable absences.

(b) Documentation of any proposed changes shall be submitted by the private or public provider, within the timelines specified, shall be reviewed by the Department in collaboration with the Agency for Workforce Innovation and the respective Early Learning Coalition. The private or public provider shall be notified whether the information submitted was accepted by Department for the purpose of calculating the VPK Provider Kindergarten Readiness Rate.

(4) Criteria for Inclusion in the VPK Provider Kindergarten Readiness Rate.

(a) After the conclusion of the review of the data described in subsection (3) of this rule, the Department shall calculate the Kindergarten Readiness Rate for each private or public school VPK provider of either the school year (five hundred forty (540) hour) or summer (three hundred (300) hour) program that served at least four (4) children who:

1. Attended the VPK program for eighty-five (85) percent of more of the total number of instructional hours, including the allowable absences, and

2. Participated in the kindergarten screening as described in subsection (1) of this rule.

(b) If a private or public school provider does not meet the criteria described above, information as to why the provider was not included in the VPK Provider Readiness Rate calculation shall be displayed on the VPK Provider Profile required by Section 1002.53(5), Florida Statutes.

(5) Procedures for Calculating the VPK Provider Kindergarten Readiness Rate.

(a) The "Percent of Children Ready for Kindergarten" shall be calculated as the number "Children Ready for Kindergarten" on each screening measure divided by the total number of "Children Screened" on that measure.

(b) One point is assigned for each percent of "Children Ready for Kindergarten" on each screening measure.

(c) The VPK Provider Kindergarten Readiness Rate shall be the sum of the "Percent of Ready for Kindergarten" on each screening measure with a maximum of three hundred (300) points.

(d) The Kindergarten Readiness Rate for private and public school VPK Providers will be displayed as follows:

	<u>Screening Measure #1</u>	<u>Screening Measure #2</u>	<u>Screening Measure #3</u>
<u>Children Ready for Kindergarten</u>		<u>22</u>	<u>15</u>
<u>12</u>			
<u>Children Screened</u>	<u>22</u>	<u>20</u>	<u>20</u>
<u>Percent of Children Ready for Kindergarten</u>	<u>100</u>	<u>75</u>	<u>60</u>
<u>VPK Provider Readiness Rate</u>	<u>235</u>		

(e) All providers shall be ranked according to their final score.

(6) Appeal of VPK Provider Readiness Rate Calculation.  
After the initial issuance of VPK Provider Kindergarten Readiness Rates, private and public school providers may appeal the Department's decision to accept or reject additional information submitted under subsection (3) of this rule.

(7) Minimum Readiness Rate. After the conclusion of the appeals process, described in subsection (6) of this rule, the State Board of Education shall adopt a minimum readiness rate.

(8) Low Performing VPK Providers. If the readiness rate of a private public VPK provider falls below the minimum rate adopted by the State Board, the provider shall be designated as a low performing VPK provider, acknowledge such designation in the manner prescribed by the Department, and submit and implement an improvement plan in accordance with the requirements of Rule 60BB-8.700, F.A.C.

Specific Authority 1002.73(2)(d) FS. Law Implemented 1002.69(5),(6) FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Shan Goff, Executive Director, Office of Early Learning, 325 West Gaines Street, Room 1524, Tallahassee, Florida 32399-0400

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: John L. Winn, Commissioner, Department of Education

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 19, 2005

## DEPARTMENT OF EDUCATION

### State Board of Education

RULE NO.: 6A-3.0141  
RULE TITLE: Employment of School Bus Operators

PURPOSE AND EFFECT: The purpose of the rule amendment is to implement required changes to the Basic School Bus Driver Curriculum Instructor manual to ensure the safest, most efficient operators of buses for the transportation of Florida's public school students. The intended effect is to ensure that a high level of safety and efficiency is provided by Florida's public school bus operators.

SUMMARY: The proposed revisions update the Basic School Bus Driver Curriculum Instructor manual for school district trainers by updating procedures on railway crossings, student loading and unloading, and other safety areas.

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

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

SPECIFIC AUTHORITY: 1012.45 FS.

LAW IMPLEMENTED: 1012.45 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 20, 2007, 9:00 a.m.

PLACE: 400 South Monroe Street, Room LL03, The Capitol, Tallahassee, Florida 32399

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Charlie Hood, Director, Office of School Transportation, Department of Education, 325 West Gaines Street, Tallahassee, Florida; (850)245-9924

THE FULL TEXT OF THE PROPOSED RULE IS:

6A-3.0141 Employment of School Bus Operators.

(1) through (3) No change.

(4) Prior to transporting students on a school bus each operator shall meet the following requirements:

(a) No change.

(b) Successfully complete forty (40) hours of preservice training consisting of at least twenty (20) hours of classroom instruction and eight (8) hours of behind-the-wheel training based upon the Department's Basic School Bus Operator Curriculum, Revised 2006, which is hereby incorporated by reference and made a part of this rule. This document may be obtained from the Bureau of Career Development, Department of Education, The Florida Education Center, Tallahassee, Florida 32399, at a cost not to exceed actual production and distribution costs.

(c) through (e) No change.

(5) through (11) No change.

Specific Authority 316.615(3), 1001.02(1), 1006.22, 1012.45 FS. Law Implemented 112.044(3), 322.03(1), (3), 1006.22, 1012.32(2)(a), 1012.45 FS. History-New 8-1-86, Amended 7-5-89, 11-15-94, 4-18-96, 6-24-03, 11-26-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Charlie Hood, Director, Office of School Transportation,  
Department of Education

NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Linda Champion, Deputy  
Commissioner for Finance and Operations, Department of  
Education

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 15, 2006

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

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

### **STATE BOARD OF ADMINISTRATION**

<b>RULE NOS.:</b>	<b>RULE TITLES:</b>
19-8.010	Reimbursement Contract
19-8.029	Insurer Reporting Requirements
19-8.030	Insurer Responsibilities

**PURPOSE AND EFFECT:** The State Board of Administration,  
Florida Hurricane Catastrophe Fund, seeks to amend the rules  
listed above to implement Section 215.555, Florida Statutes,  
including the changes made to the law during the 2007 Special  
Legislative Session.

**SUMMARY:** Rule 19-8.010, F.A.C., Reimbursement  
Contract.: The proposed amendments to Rule 19-8.010, F.A.C.,  
adopt the Reimbursement Contract for the Contract Year  
2007-2008, including the three addenda. As outlined below,  
each addenda addresses one of the three new optional FHCF  
coverage selections created during the 2007 Special  
Legislative Session.

Addendum No. 1: This addendum incorporates the additional  
\$10 million dollar coverage option available to insurers taking  
advantage of a similar program in 2006, to insurers qualifying  
as limited apportionment companies under Section 627.351(6),  
Florida Statutes, which began writing property insurance in  
2007 and to insurers that were approved to participate in 2006  
or that are approved in 2007 to participate in the Section  
215.5595, Florida Statutes, Insurance Capital Build-Up  
Incentive Program. This optional coverage is below the  
mandatory FHCF layer of coverage.

Addendum No. 2: This addendum incorporates the Temporary  
Emergency Options for Additional Coverage "TEACO"  
program. This program allows insurers to purchase its FHCF  
premium share of a \$1 billion, \$2 billion, or a \$3 billion layer  
of coverage below the mandatory FHCF layer of coverage.

Addendum No. 3: This addendum incorporates the Temporary  
Increase in Coverage Limit Options "TICL" program. This  
program allows insurers to choose from one of twelve options  
for increasing their level of FHCF coverage above and beyond  
the mandatory FHCF coverage.

Rule 19-8.029, F.A.C., Insurer Reporting Requirements: The  
proposed amendments to Rule 19-8.029, F.A.C., updates and  
adopts the forms for insurer exposure and loss reporting to the  
Florida Hurricane Catastrophe Fund for the 2007-2008  
Contract Year.

Rule 19-8.030, F.A.C., Insurer Responsibilities: The proposed  
amendments to Rule 19-8.030, F.A.C., incorporate the 2007  
Special Legislative Session's changes to the law, and update  
and adopt forms for insurer exposure and loss examinations  
and reporting to the Florida Hurricane Catastrophe Fund for  
the 2007-2008 Contract Year.

**SUMMARY OF STATEMENT OF ESTIMATED  
REGULATORY COST:** The Board has prepared a statement  
and found the cost of the proposed amendments to be minimal.

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

**SPECIFIC AUTHORITY:** 215.555(3) FS.

**LAW IMPLEMENTED:** 215.555(2), (3), (4), (5), (6), (7), (10),  
(16), (17) FS.

**A HEARING WILL BE HELD AT THE DATE, TIME AND  
PLACE SHOWN BELOW:**

**DATE AND TIME:** March 20, 2007, 9:00 a.m. – 12:00 Noon

**PLACE:** Room 116 (Hermitage Conference Room), 1801  
Hermitage Blvd., Tallahassee, FL 32308

Pursuant to the provisions of the Americans with Disabilities  
Act, any person requiring special accommodations to  
participate in this workshop/meeting is asked to advise the  
agency at least 5 days before the workshop/meeting by  
contacting: Tracy Allen, (850)413-1341 or by mail at P. O. Box  
13300, Tallahassee, Florida 32317-3300. 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).

**THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS:** Jack E. Nicholson, Senior FHCF  
Officer of the Florida Hurricane Catastrophe Fund, State Board  
of Administration, P. O. Box 13300, Tallahassee, FL  
32317-3300; telephone (850)413-1340

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

19-8.010 Reimbursement Contract.

(1) through (12) No change.

(13) The reimbursement contract for the 2007-2008  
contract year, including Addenda 1., 2., and 3., required by  
Section 215.555(4), F.S., which is called Form FHCF-2007K-

“Reimbursement Contract” or “Contract” between (name of insurer) (the “Company”)/NAIC #() and The State Board of Administration of the State of Florida (“SBA”) which Administers the Florida Hurricane Catastrophe Fund (“FHCF”), is hereby adopted and incorporated by reference into this rule. This contract is effective from June 1, 2007 through May 31, 2008.

~~(14)(13)~~ Copies of the reimbursement contract may be obtained from the State Board of Administration. The mailing address is P. O. Box 13300, Tallahassee, FL 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308, (850)413-1346.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-31-94, Amended 8-29-95, 5-19-96, 6-19-97, 5-28-98, 5-17-99, 9-13-99, 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 11-13-05, 5-10-06, 9-5-06, \_\_\_\_\_.

#### 19-8.029 Insurer Reporting Requirements.

(1) through (4)(g) No change.

(h) For the 2006/2007 Contract Year, the reporting shall be in accordance with Form FHCF-D1A, “Florida Hurricane Catastrophe Fund 2006 Data Call,” rev. 05/06, hereby adopted and incorporated by reference. The form may be obtained from the Fund’s Administrator at the address stated in subsection (6) below. A new participant writing covered policies on or after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the Contract Year, to the Administrator.

(i) For the 2007/2008 Contract Year, the reporting shall be in accordance with Form FHCF-D1A, “Florida Hurricane Catastrophe Fund 2007 Data Call,” rev. 05/07, hereby adopted and incorporated by reference. The form may be obtained from the Fund’s Administrator at the address stated in subsection (6) below. A new participant writing covered policies on or after June 1 but prior to December 1, shall report its actual exposure as of December 31 of the Contract Year on or before March 1 of the Contract Year, to the Administrator.

#### (5) Loss Reimbursement Reporting Requirements.

(a) As directed by the Board, after a covered event occurs, insurers shall report all their estimated ultimate net losses (as defined in the Reimbursement Contract, adopted and incorporated into Rule 19-8.010, F.A.C.) for Covered Policies on the Form FHCF-L1A, “Florida Hurricane Catastrophe Fund Interim Loss Report,” for the applicable Contract Year, as specified in subsection (7) herein ~~rev. 05/2006, which is hereby adopted and incorporated by reference~~, in no less than fourteen days from the date of the notice from the Board that such a report is required. The Board may request subsequent Interim Loss Reports. To obtain copies of this form, see subsection (6), below. Prompt reporting in the format requested will aid the Board in determining whether to seek additional sources of funds to pay for reimbursable losses. The losses reported on the Interim Loss Report are expected to result from a good faith effort, using best business practices for the insurance

industry, on the part of the insurer to report as accurately as possible. Preliminary reports will not be binding. Reimbursements by the Fund will be made on the basis of the Proof of Loss Report, adopted in (b) below.

(b) Insurers shall report their ultimate net losses (as defined in the Reimbursement Contract, adopted and incorporated into Rule 19-8.010, F.A.C.) for each loss occurrence on the Form FHCF-L1B, “Florida Hurricane Catastrophe Fund Proof of Loss Report,” rev. 05/2006, which is hereby adopted and incorporated by reference. for the applicable Contract Year, as specified in subsection (7) herein. To obtain copies of this form, see subsection (6), below. To qualify for reimbursement, the Proof of Loss Report must have the original signatures of two executive officers authorized by the Company to sign the report. Proof of Loss Reports may be faxed only if the Company does not qualify for a reimbursement. While a Company may submit a Proof of Loss Report requesting reimbursement at any time following a loss occurrence, all Companies shall submit a mandatory Proof of Loss Report for each loss occurrence no earlier than December 1 and no later than December 31 of the Contract Year during which the Covered Event(s) occurs using the most current data available, regardless of the amount of Ultimate Net Loss or the amount of loss reimbursements or advances already received. After the mandatory December Proof of Loss Report, quarterly Proof of Loss Reports are required. For purposes of this rule, quarterly Proof of Loss Reports shall be those reports submitted at each quarter end date after December 31 of the Contract Year in which the loss occurrence occurs and continuing until all claims and losses resulting from loss occurrences commencing during the Contract Year are fully discharged, including any adjustments to such losses due to salvage or other recoveries, in accordance with the reporting requirements in this paragraph. “Fully Discharged” means the earlier of the date on which the insurer has paid its policyholders in full or the commutation clause, in Article X of the Reimbursement Contract, adopted in Rule 19-8.010, F.A.C., takes effect. For the quarterly report due on March 31 ~~3/31~~, any insurer whose losses exceed 50% of its FHCF retention for a specific loss occurrence shall submit a Proof of Loss Report for that loss occurrence. For the quarterly report due on June 30 ~~6/30~~, any insurer whose losses exceed 75% of its FHCF retention for a specific loss occurrence submit a Proof of Loss Report for that loss occurrence. For the quarterly reports due on September 30, ~~9/30~~ and thereafter, any insurer which anticipates that its losses will exceed its FHCF retention for a specific loss occurrence shall submit quarterly Proof of Loss Reports until all its losses are paid to its policyholders and the insurer has received reimbursement from the Fund. Annually, all Companies which experienced losses for a specific loss occurrence, but are not required to report quarterly loss reports for that loss occurrence because they received their full coverage under the Contract Year in which the loss occurrence(s) occurred, ~~do not meet the quarterly requirements~~

~~outlined in this section~~ shall submit a mandatory year-end Proof of Loss Report for each loss occurrence, using the most current data available unless the Company has no losses. This Proof of Loss Report shall be filed no earlier than December 1 and no later than December 31 of each year and shall continue until the earlier of the expiration of the commutation period or until all claims and losses resulting from the loss occurrence are fully discharged including any adjustments to such losses due to salvage or other recoveries.

(c) through (6) No change.

(7)(a) For the 2005/2006 and earlier Contract Years the applicable Interim Loss Report is that form that was in effect for the Contract Year as reflected by the revision date on the form. For example, the applicable Interim Loss Report for the Contract Year 2004-2005 is the FHCF-L1A, with the revision date of 5/05.

(b) For the 2006/2007 Contract Year, the applicable Interim Loss Report is the "Contract Year 2006 Interim Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1A, rev. 05/06, which is hereby adopted and incorporated by reference. The applicable Proof of Loss Report is the "Contract Year 2006 Proof of Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1B, rev. 05/06, which is hereby adopted and incorporated by reference.

(c) For the 2007/2008 Contract Year, the applicable Interim Loss Report is the "Contract Year 2007 Interim Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1A, rev. 05/07, which is hereby adopted and incorporated by reference. The applicable Proof of Loss Report is the "Contract Year 2007 Proof of Loss Report, Florida Hurricane Catastrophe Fund (FHCF)", FHCF-L1B, rev. 05/07, which is hereby adopted and incorporated by reference.

Specific Authority 215.555(3) FS. Law Implemented 215.555(2), (3), (4), (5), (6), (7), (15) FS. History—New 5-17-99, Amended 6-19-00, 6-3-01, 6-2-02, 11-12-02, 5-13-03, 5-19-04, 8-29-04, 5-29-05, 5-10-06,\_\_\_\_\_.

19-8.030 Insurer Responsibilities.

(1) through (7) No change.

(a) Advance Examination Record Requirements: Within 30 days from the date on the letter from the FHCF, Companies are required to provide the FHCF with the records indicated in the applicable Contract Year's Form FHCF-EAP1, "Exposure Examination Advance Preparation Instructions" rev. 05/06 or in the applicable Contract Year's Form FHCF-LAP1 "Loss Reimbursement Examination Advance Preparation Instructions", 05/06. An extension of 30 days may be granted if the Insurer can show that the need for the additional time is due to circumstances beyond the reasonable control of the participant. These forms are hereby adopted and incorporated by reference into this rule. Copies of these forms may be obtained from the FHCF website, [www.sbafla.com/fhcf/](http://www.sbafla.com/fhcf/) or by contacting the State Board of Administration. The mailing

address is P. O. Box 13300, Tallahassee, FL 32317-3300. The street address is 1801 Hermitage Blvd., Tallahassee, Florida 32308.

(b) through (c) No change.

(d) Resubmissions/Updates as a Result of a Completed Examination: A Company required to resubmit exposure data ~~or update a Proof of Loss Report~~ as a result of the examination must do so within 30 days of the date on the letter from the FHCF notifying the Company of the need to resubmit. An extension of 30 days will be granted if the Company can show that the need for additional time is due to circumstances beyond the reasonable control of the Company.

(8) Loss Reporting. Participating Insurers are required to file the following two types of loss reports at the times prescribed in Rule 19-8.029, F.A.C. Form FHCF-L1A, "Florida Hurricane Catastrophe Fund Interim Loss Report," for the applicable Contract Year rev. 05/06 and Form FHCF-L1B, "Florida Hurricane Catastrophe Fund Proof of Loss Report," for the applicable Contract Year rev. 05/06. For the Contract Year 2006-2007, the applicable "Florida Hurricane Catastrophe Fund Interim Loss Report," is the FHCF-L1A rev. 05/06 and the applicable "Florida Hurricane Catastrophe Fund Proof of Loss Report," is the FHCF-L1B rev. 05/06. For the Contract Year 2007-2008, the applicable "Florida Hurricane Catastrophe Fund Interim Loss Report," is the FHCF-L1A rev. 05/07 and the applicable "Florida Hurricane Catastrophe Fund Proof of Loss Report," is the FHCF-L1B rev. 05/07. Both of These forms are hereby adopted and incorporated by reference into this rule.

(a) Companies must submit a detailed claims listing (in a delimited ASCII format) to support the losses reported in the FHCF-L1B at the same time it submits its first Proof of Loss Report for a specific Covered Event that qualifies the company for reimbursement under that Covered Event, and should be prepared to supply a detailed claims listing for any subsequent Proof of Loss Report upon request. Refer to Form FHCF-LAP1 for the required file layout. The FHCF-L1B and the detailed claims listing are required to be sent to the FHCF Administrator, Paragon Strategic Solutions Inc, 3600 American Boulevard West, Minneapolis, MN 55431. If your company submits its Proof of Loss Reports electronically through the FHCF's Online Claims System at [www.sbafla.com/fhcf/](http://www.sbafla.com/fhcf/), the detailed claims listing may be attached to the Company's submission.

(9) through (10) No change.

(11) Optional Coverage Programs: Except as provided in this subsection, this Rule applies to the Additional Coverage option created in Section 215.555(4)(b)4., Florida Statutes ("Section (4)(b)4. Additional Coverage Option"), the Temporary Emergency Additional Coverage Option ("TEACO") created in Section 215.555(16), Florida Statutes and the Temporary Increase in Coverage Limit option created in Section 215.555(17), Florida Statutes ("TICL").

(a) The definition of Premium in paragraph (3)(m), above, does not apply to the Section (4)(b)4. Additional Coverage Option. With respect to this Option, the word "Premium" when used in this Rule shall refer to the amount payable under Section 215.555(4)(b)4., Florida Statutes, for this optional coverage.

(b) The definition of Premium in paragraph (3)(m), above, does not apply to TEACO. With respect to this Option, the word "Premium" when used in this Rule shall refer to the amount payable under Section 215.555(16)(f), Florida Statutes, for this optional coverage.

Specific Authority 215.555(3) FS. Law Implemented 215.555 FS. History—New 5-13-03, Amended 5-19-04, 5-29-05, 5-10-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jack E. Nicholson, Senior FHCF Officer, State Board of Administration.

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: The Trustees of the State Board of Administration of Florida

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 5, 2007, Vol. 33, No. 1

## WATER MANAGEMENT DISTRICTS

### Suwannee River Water Management District

RULE NOS.:	RULE TITLES:
40B-4.1020	Definitions
40B-4.1090	Publications and Agreements Incorporated by Reference
40B-4.3030	Conditions for Issuance of Works of the District Development Permits

PURPOSE AND EFFECT: The purpose of the rule development is to update these sections of Chapter 40B-4, Florida Administrative Code, to adopt the most current version of the items incorporated by reference. The effect of the proposed rule amendments will update the language and incorporate the new flood insurance studies for the Suwannee River and its tributaries.

SUMMARY: These proposed amendments will address items incorporated by reference and will update all relevant terminology.

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

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

SPECIFIC AUTHORITY: 373.044, 373.113, 373.171 F.S.

LAW IMPLEMENTED: 120.60, 373.019, 373.083, 373.084, 363.085, 373.086, 373.403, 373.413, 373.416 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Linda Welch, Administrative Assistant, Suwannee River Water Management District, 9225 C.R. 49, Live Oak, Florida 32060, (386)362-1001 or (800)226-1066 (FL only)

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 40B-4.1020 Definitions.

(1) "100-Year Flood/One Percent Annual Chance of Flood" means that flood which has a one-percent probability of recurrence in any one year. The 100-year flood/one percent annual chance of flood elevation is the highest elevation of flood waters during the 100-year flood/one percent annual chance of flood and is calculated or estimated from the best available information. The 100-year flood/one percent annual chance of flood elevation shall not include coastal storm surge elevations unless such elevations have been developed in an approved Federal Emergency Management Agency Flood Insurance Study and such approved storm surge elevations have been accepted for implementation by the appropriate unit of local or state government.

(2) through (11) No change.

(12) "Floodway" or "Regulatory Floodway" means the channel of a river, stream, or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood/one percent annual chance of flood without cumulatively increasing the 100-year flood/one percent annual chance of flood elevation more than a designated height. Unless otherwise noted, all regulatory floodways in the Suwannee River Water Management District provide for no more than one-foot rise in water surface elevations.

(13) through (30) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.019, 373.403 FS. History—New 9-25-85, Amended 12-22-92, 10-3-95, \_\_\_\_\_.

40B-4.1090 Publications and Agreements Incorporated by Reference.

(1) The Governing Board hereby adopts by reference: Final Survey – Review Report Suwannee River Georgia and Florida, July 1989, US Army Corps of Engineers, Jacksonville District used to establish the floodway for the Works of the dDistrict identified in Chapter 40B-4, Part III, F.A.C.

(2) The following Flood Insurance Studies are hereby incorporated by reference and supersede subsection 40B-4.1090(1), F.A.C., for each county listed below:

(a) Alachua County, Florida and Incorporated Areas, Effective June 16, 2006;

(b) Dixie County, Florida and Incorporated Areas, Effective September 29, 2006;

(c) Gilchrist County, Florida and Incorporated Areas, Revised September 29, 2006;

(d) Lafayette County, Florida and Incorporated Areas, Effective September 29, 2006.

Specific Authority 373.044 FS. Law Implemented 373.083, 373.084, 373.085, 373.086, 373.413, 373.416 FS. History--New 11-21-02, Amended \_\_\_\_\_.

40B-4.3030 Conditions for Issuance of Works of the District Development Permits.

(1) No change.

(2) The district will not approve the issuance of a works of the district development permit for any work, structures, road, or other facilities which have the potential of individually or cumulatively reducing floodway conveyance or increasing water-surface elevations above the 100-year flood/one percent annual chance of flood elevation, or increasing soil erosion.

(3) No change.

(4) Buildings in the floodway shall be elevated on piles without the use of fill such that the lowest structural member of the building is at an elevation at least one foot above the 100-year flood/one percent annual chance of flood elevation.

(5) through (8) No change.

(9) For any structure placed within a floodway, the district shall require as a condition for issuance of a work of the district development permit that an engineer certify that such a structure will not obstruct flows or increase 100-year flood/one percent annual chance of flood elevations. Such certification shall include step-backwater calculations using the 100-year flood/one percent annual chance of flood discharge rate.

(10) through (11) No change.

Specific Authority 373.044, 373.113, 373.171 FS. Law Implemented 373.084, 373.085, 373.086 FS. History--New 9-25-85, Amended 2-12-87, 2-1-89, 12-22-92, 10-17-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Jon Dinges, Director, Resource Management, Suwannee River Water Management District, 9225 County Road 49, Live Oak, Florida 32060, (386)362-1001

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the Suwannee River Water Management District

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 8, 2006

## WATER MANAGEMENT DISTRICTS

### St. Johns River Water Management District

RULE NO.:

RULE TITLE:

40C-1.106

Interagency Agreements

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to incorporate by reference an amended operating agreement between the St. Johns River Water Management District and the Department of Environmental Protection regarding regulatory responsibilities under Part IV, Chapter 373, F.S. The operating agreement addresses the division of responsibilities between the two agencies for permitting, compliance, enforcement, and for wetland determinations.

SUMMARY: The proposed rule amendment contains the following revisions: (1) the Florida Department of Environmental Protection (DEP) will accept regulatory responsibility for any shore protection structures, including seawalls, within the Mosquito Lagoon, Banana River, or Indian River, including all tributaries thereto, that serve residential dwelling units that are the responsibility of DEP to review; (2) DEP will accept regulatory responsibility for review of non-exempt aquaculture activities; (3) DEP will accept regulatory responsibility for review of all activities on sovereignty submerged lands leased by DEP's Division of Recreation and Parks (except for activities proposed by DEP); (4) numerous clarifications are made regarding the division of responsibilities with respect to various facilities and mining activities regulated by DEP; (5) clarifications are made regarding the procedures to be followed for incorrectly submitted applications and petitions, and for permit modifications; (6) expansion of the instances when the District and DEP can deviate from the general division of responsibilities when one agency has a proprietary interest (such as a conservation easement) in the project; (7) DEP will relinquish much of their current mitigation bank and regional offsite mitigation area ("ROMA") agreement proposal review so that DEP will only review permit applications for mitigation banks and ROMA agreement proposals filed by: (a) entities proposing to use District-owned lands; (b) governmental entities (excluding DEP), solely to offset impacts to single-family residential units for which DEP reviews and takes final action; and (c) the District; and (8) the District will coordinate compliance and enforcement actions with DEP for environmental resource permit (ERP) violations that also constitute a sovereignty submerged lands (SSL) violation, where the resolution of the ERP violation does not fully resolve the SSL violation (so that DEP can address the SSL violation).

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

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

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113 FS.

LAW IMPLEMENTED: 373.016(5), 373.046, 373.103, 373.421(2) FS.

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

DATE AND TIME: April 10, 2007, Following the regularly scheduled Governing Board Regulatory Meeting, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177-2529

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: Ann Freeman at (386)329-4101 or (386)329-4450 (TDD). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Norma K. Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32178-2529, (386)329-4459, Suncom 860-4459, email address nmesser@sjrwmd.com

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

40C-1.106 Interagency Agreements.

(1) No change.

(3) The following agreements have been entered into by the District and are hereby incorporated by reference:

(a) through (g) No change.

(h) Operating Agreement ~~C~~oncerning Regulation ~~U~~nder Part IV, Chapter 373, F.S., and ~~A~~quaculture ~~G~~eneral ~~P~~ermits ~~U~~nder ~~S~~ection ~~403.814~~, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007 ~~12-3-98~~.

(i) through (l) No change.

PROPOSED EFFECTIVE DATE July 1, 2007.

Specific Authority 373.044, 373.046, 373.113 FS. Law Implemented ~~420.53~~, 373.016(5), 373.046, 373.103, ~~373.421(2)~~ FS. History—New 8-1-89. Amended 11-12-92, 10-3-95, 12-3-98, 11-11-03, 7-1-07.

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Mayton, Sr. Assistant General Counsel, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4108, suncom 860-4108

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2006

#### WATER MANAGEMENT DISTRICTS

##### St. Johns River Water Management District

RULE NOS.:

RULE TITLES:

40C-4.091

Publications Incorporated by Reference

40C-4.302

Additional Conditions for Issuance of Permits

PURPOSE AND EFFECT: The purpose and effect of this proposed rule amendment is to incorporate by reference an amended operating agreement between the St. Johns River Water Management District and the Department of Environmental Protection regarding regulatory responsibilities under Part IV, Chapter 373, F.S. The operating agreement addresses the division of responsibilities between the two agencies for permitting, compliance, enforcement, and for wetland determinations.

SUMMARY: The proposed rule amendment contains the following revisions: (1) the Florida Department of Environmental Protection (DEP) will accept regulatory responsibility for any shore protection structures, including seawalls, within the Mosquito Lagoon, Banana River, or Indian River, including all tributaries thereto, that serve residential dwelling units that are the responsibility of DEP to review; (2) DEP will accept regulatory responsibility for review of non-exempt aquaculture activities; (3) DEP will accept regulatory responsibility for review of all activities on sovereignty submerged lands leased by DEP's Division of Recreation and Parks (except for activities proposed by DEP); (4) numerous clarifications are made regarding the division of responsibilities with respect to various facilities and mining activities regulated by DEP; (5) clarifications are made regarding the procedures to be followed for incorrectly submitted applications and petitions, and for permit modifications; (6) expansion of the instances when the District and DEP can deviate from the general division of responsibilities when one agency has a proprietary interest (such as a conservation easement) in the project; (7) DEP will relinquish much of their current mitigation bank and regional offsite mitigation area ("ROMA") agreement proposal review so that DEP will only review permit applications for mitigation banks and ROMA agreement proposals filed by: (a) entities proposing to use District-owned lands; (b) governmental entities (excluding DEP), solely to offset impacts to single-family residential units for which DEP reviews and takes final action; and (c) the District; and (8) the District will



coordinate compliance and enforcement actions with DEP for environmental resource permit (ERP) violations that also constitute a sovereignty submerged lands (SSL) violation, where the resolution of the ERP violation does not fully resolve the SSL violation (so that DEP can address the SSL violation).

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

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

SPECIFIC AUTHORITY: 373.044, 373.046, 373.113 FS.

LAW IMPLEMENTED: 373.016(5), 373.046, 373.103, 373.421(2) FS.

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

DATE AND TIME: April 10, 2007, Following the regularly scheduled Governing Board Regulatory Meeting, which begins at 1:00 p.m.

PLACE: St. Johns River Water Management District Headquarters, 4049 Reid Street, Palatka, Florida 32177-2529

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: Ann Freeman at (386)329-4101 or (386)329-4450 (TDD). If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Norma K. Messer, Rules Coordinator, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32178-2529, (386)329-4459, Suncom 860-4459, email address nmesser@sjrwmd.com

THE FULL TEXT OF THE PROPOSED RULES IS:

40C-4.091 Publications Incorporated by Reference.

(1) The Governing Board hereby adopts by reference:

(a) Part I "Policy and Procedures," Part II "Criteria for Evaluation," Subsections 18.0, 18.1, 18.2, and 18.3 of Part III and Appendix K "Legal Description Upper St. Johns River Hydrologic Basin," "Legal Description Ocklawaha River Hydrologic Basin," "Legal Description of the Wekiva River Hydrologic Basin," "Legal Description of the Econlockhatchee River Hydrologic Basin," "Legal Description of the Sensitive Karst Areas Basin, Alachua County," "Legal Description Tomoka River Hydrologic Basin," "Legal Description Spruce Creek Hydrologic Basin," "Legal Description of the Sensitive

Karst Areas Basin, Marion County," and "Legal Descriptions of the Lake Apopka Hydrologic Basin," and Appendix M "Regional Watersheds for Mitigation Banking," of the document entitled "Applicant's Handbook: Management and Storage of Surface Waters," effective July 1, 2007 2-1-05.

(b) Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., ~~and Aquaculture General Permits Under Section 403.814, F.S.~~ Between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007 8-25-94.

(c) No change.

(2) No change.

PROPOSED EFFECTIVE DATE July 1, 2007.

Specific Authority 373.044, 373.046(4), 373.113, 373.4136, 373.414, 373.415, 373.416, 373.418, 373.421, 373.461 FS. Law Implemented 120.60, 373.016(2), 373.042, 373.0421, 373.046, 373.085, 373.086, 373.103, 373.109, 373.146(1), 373.406, 373.413, 373.4135, 373.4136, 373.414, 373.4141, 373.415, 373.416, 373.417, 373.418, 373.421(2)-(6), 373.423, 373.426, 373.461(3), 380.06(9), 403.813(2) FS. History--New 12-7-83, Amended 10-14-84, Formerly 40C- 4.091, Amended 5-17-87, Formerly 40C-4.0091, Amended 8-20-87, 10-1-87, 10-11-87, 11-26-87, 8-30-88, 1-1-89, 8-1-89, 10-19-89, 4-3-91, 9-25-91, 11-12-91, 3-1-92, 7-14-92, 9-8-92, 9-16-92, 11-12-92, 11-30-92, 1-6-93, 1-23-94, 2-27-94, 11-22-94, 10-3-95, 8-20-96, 11-25-98, 12-3-98, 1-7-99, 1-11-99, 8-21-00, 7-8-01, 10-11-01, 4-10-02, 9-26-02, 3-7-03, 11-11-03, 2-1-05, 7-1-07.

40C-4.302 Additional Conditions for Issuance of Permits.

(1) No change.

(2) When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to delegation, or any District rules adopted pursuant to part IV, Chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations. The Department's delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement ~~C~~ concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under

Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Rule 40C-4.091, F.A.C.

PROPOSED EFFECTIVE DATE July 1, 2007.

Specific Authority ~~373.016~~, 373.044, 373.046, 373.103, 373.113, ~~373.171~~, 373.414(9), 373.418, FS. Law Implemented 373.016(2), ~~373.042~~, ~~373.409~~, 373.413, 373.414, 373.416, 373.418, 373.426, ~~380.23~~, FS. History—New 10-3-95. Amended 10-11-01, 7-1-07.

#### APPLICANT'S HANDBOOK SECTION

- 10.1.2 When determining whether a permit applicant has provided reasonable assurances that District permitting standards will be met, the District shall take into consideration the applicant's violation of any Department rules adopted pursuant to Sections 403.91-403.929, F.S., (1984 Supp.), as amended, which the District had the responsibility to enforce pursuant to delegation, or any District rules adopted pursuant to part IV, chapter 373, F.S., relating to any other project or activity and efforts taken by the applicant to resolve these violations. The Department's delegation to the District to enforce Department rules is set forth in the Operating Agreement concerning Stormwater Discharge Regulation and Dredge and Fill Regulation, dated January 4, 1988; Operating Agreement concerning Management and Storage of Surface Waters Regulation and Wetland Resource Regulation between the St. Johns River Water Management District and Department of Environmental Regulation, dated August 28, 1992; and Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated August 25, 1994; Operating Agreement Concerning Regulation under Part IV, Chapter 373, F.S., and Aquaculture General Permits Under Section 403.814, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated December 3, 1998; and Operating Agreement Concerning Regulation Under Part IV, Chapter 373, F.S., between St. Johns River Water Management District and Department of Environmental Protection dated July 1, 2007, all incorporated by reference in Rule section 40C-4.091, F.A.C.

NAME OF PERSON ORIGINATING PROPOSED RULE: Thomas Mayton, Sr. Assistant General Counsel, Office of General Counsel, St. Johns River Water Management District, 4049 Reid Street, Palatka, Florida 32177-2529, (386)329-4108, suncom 860-4108

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Governing Board of the St. Johns River Water Management District

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 22, 2006

#### AGENCY FOR HEALTH CARE ADMINISTRATION

##### Medicaid

RULE NO.:

RULE TITLE:

59G-5.020

Provider Requirements

PURPOSE AND EFFECT: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider General Handbook, January 2007. The major handbook revisions include updated information on Medicaid's managed care plans, enrollment policy changes as a result of the National Provider Identifier (NPI), and the revised newborn enrollment policy for HMOs. In addition, the revised handbook includes policy clarifications and updated statutory references, definitions, and addresses and phone numbers. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider General Handbook, January 2007.

SUMMARY: The purpose of this rule amendment is to incorporate by reference the revised Florida Medicaid Provider General Handbook, January 2007. The effect will be to incorporate by reference in the rule the revised Florida Medicaid Provider General Handbook, January 2007.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.905, 409.906, 409.907, 409.908, 409.912, 409.913 FS.

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

DATE AND TIME: Monday, March 19, 2007, 1:30 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building #3, Conference Room B, Tallahassee, Florida  
THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Karen Girard, Agency for Health Care Administration, Bureau of Medicaid Services, 2727 Mahan Drive, MS 20, Tallahassee, Florida 32308, (850)488-9711, girardk@ahca.myflorida.com

THE FULL TEXT OF THE PROPOSED RULE IS:

## 59G-5.020 Provider Requirements.

(1) All Medicaid providers enrolled in the Medicaid program and billing agents who submit claims to Medicaid on behalf of an enrolled Medicaid provider must comply with the provisions of the Florida Medicaid Provider General Handbook, January 2007 ~~October 2003, updated January 2004~~, which is incorporated by reference and available from the fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. A Paper copy of the handbook may be obtained by calling Provider Enrollment at (800)377-8216.

(2) The following forms that are included in the Florida Medicaid Provider General Handbook are incorporated by reference: ~~IR05-07/2001, State of Florida, Provider Inquiry Form, Florida Medicaid Program~~; Temporary Emergency Medicaid Identification Card Form, January 2007 ~~2004~~, one page; CF-ES 2681, Feb 2003, Notice and Proof of Presumptive Eligibility for Medicaid for Pregnant Women, one page; CF-ES Form 2014, Feb 2003, Authorization for Medicaid/Medikids Eligibility, one page; AHCA Form 5240-006, Unborn Activation ~~Activitation~~ Form, January 2007 ~~2004~~, one page; CF-ES 2039, Sep 2002, Medical Assistance Referral, two pages; and the CTEC-07, Revised 03/2003, Crossover with TPL Claim and/or Adjustment Form, one page; ~~and ACS Florida Medicaid Claims Order Form, January 2004~~. The CF-ES forms are available from the Department of Children and Family Services. The other forms are available from the Medicaid fiscal agent's website at <http://floridamedicaid.acs-inc.com>. Click on Provider Support, and then on Handbooks. Paper copies of the forms may be obtained by calling Provider Enrollment at (800)377-8216.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.905, 409.906, 409.907, 409.908, 409.912, 409.913 FS. History—New 9-22-93, Formerly 10P-5.020, Amended 7-8-97, 1-9-00, 4-24-01, 8-6-01, 10-8-03, 1-19-05,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Karen Girard

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Andrew Agwunobi, M.D.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: October 13, 2006

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Board of Architecture and Interior Design

RULE NO.: RULE TITLE:

61G1-11.013 Definitions

PURPOSE AND EFFECT: The Board proposes the rule amendment in order to remove the definition of "intern-architect" from the rule.

SUMMARY: The definition of "intern-architect" will be removed from the rule.

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

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

SPECIFIC AUTHORITY: 481.2055 FS.

LAW IMPLEMENTED: 481.203, 481.211, 481.221(4), (8), 481.229(1)(c) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Juanita Chastain, Executive Director, Board of Architecture and Interior Design, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G1-11.013 Definitions.

(1) No change.

(2) ~~An "intern-architect" as a term is used in Rule 61G1-13.0021, F.A.C., means an individual who has completed all requirements of the first three academic years in a professional program in architecture which is approved by the Board, and has an approved application for licensure as an architect (by examination) on file with the Board office.~~

(2)(3) No change.

(3)(4) No change.

Specific Authority 481.2055 FS. Law Implemented 481.203, 481.211, 481.221(4), (8), 481.229(1)(c) FS. History—New 12-23-79, Amended 2-24-83, 10-27-83, 12-29-83, Formerly 21B-11.13, Amended 11-12-89, 2-14-91, 5-5-91, 12-26-91, Formerly 21B-11.013, Amended 11-15-93, 11-21-94, 1-10-99, 2-12-04,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Board of Architecture and Interior Design

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Architecture and Interior Design

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 16, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 2, 2007

## DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

### Florida Real Estate Appraisal Board

RULE NO.: RULE TITLE:

61J1-6.001 Experience Requirement

PURPOSE AND EFFECT: The Board proposes to amend the experience requirements in this rule to comply with Appraisal Committee Policy Statement #10.

SUMMARY: The experience requirements in this rule are amended to comply with Appraisal Committee Policy Statement #10.

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

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

SPECIFIC AUTHORITY: 475.614, 475.615(2) FS.

LAW IMPLEMENTED: 455.213, 475.611(1)(o), 475.615(2), 475.617, 475.628 FS.

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

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

THE FULL TEXT OF THE PROPOSED RULE IS:

61J1-6.001 Experience Requirement.

(1) through (4) No change.

(5)(a) through (b)4. No change.

~~5. Experience will be verified by affidavit from the county property appraiser for whom the applicant works. In the case of the county property appraiser making application for certification, an affidavit as to experience from the applicant will suffice.~~

(c) through (e) No change.

(6) No change.

~~(7) An applicant for certification who is employed by state or local government in Florida or by the federal government may have the experience requirement verified by an official statement when the applicant, due to statutory restrictions on the release of appraisal related work product, is unable to verify experience in such a manner as provided by the Department. The experience for such an applicant must be verified by an official statement from a licensed or certified real estate appraiser who is in an appraisal supervisory capacity to the applicant. The filing of an official statement is enforceable pursuant to Section 837.06, Florida Statutes.~~

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

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

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

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 10, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: January 10, 2007

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

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

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

RULE NO.: RULE TITLE:

62-302.800 Site Specific Alternative Criteria

PURPOSE AND EFFECT: On March 29, 2006, the Orange County Water Reclamation Division submitted a petition to initiate rulemaking to establish a site specific alternative criterion for pH in the discharge wetlands at the Orange County Eastern Water Reclamation Facility (EWRf). The Department conducted a public workshop in Orlando on November 28, 2006. The proposed rule establishes a site specific alternative criterion for pH in the discharge wetlands at the Orange County EWRf of not greater than 8.5 standard units. The proposed site specific alternative criterion is fully protective of the Class III designated use of the wetlands.

SUMMARY: The proposed rule amendment establishes a site specific alternative criterion for pH of not greater than 8.5 standard units in the discharge wetlands at the Orange County Eastern Water Reclamation Facility.

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

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

SPECIFIC AUTHORITY: 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS.

LAW IMPLEMENTED: 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.201, 403.502 FS.

A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: March 29, 2007, 1:30 p.m.

PLACE: Orange County Eastern Water Reclamation Facility, 1621 South Alafia Trail, Orlando, Florida

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 five days before the workshop/meeting by contacting: Eric Shaw with the Water Quality Standards and Special Projects Program at (850)245-8429. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Eric Shaw, Division of Water Resource Management, Mail Station 3560, Florida Department of

Environmental Protection, 2600 Blair Stone Road, Tallahassee, Florida 32399-2400, telephone (850)245-8429, email: Eric.Shaw@dep.state.fl.us, or facsimile (850)412-0663

THE FULL TEXT OF THE PROPOSED RULE IS:

62-302.800 Site Specific Alternative Criteria.

(1) through (4) No change.

(5) Site specific alternative criteria apply to the water bodies, or portions of the water bodies, listed below. For dissolved oxygen site specific alternative criteria, normal daily and seasonal fluctuations above the levels listed in the table below shall be maintained.

Water Body and Class  
(a) Marine portions of the lower St. Johns River and its tributaries between Julington Creek and the mouth of the river. Class III.

Site Specific Alternative Criteria  
Dissolved Oxygen not less than a minimum concentration of 4.0 mg/L, and a Total Fractional Exposure not greater than 1.0 over an annual evaluation period as defined by the following equation:

County(s)  
Duval/Clay/  
St. Johns

$$\left( \text{Total Fractional Exposure} \right) = \frac{\text{Days between 4.0 - < 4.2 mg/L}}{16 \text{ day Max}} + \frac{\text{Days between 4.2 - < 4.4 mg/L}}{21 \text{ day Max}} + \frac{\text{Days between 4.4 - < 4.6 mg/L}}{30 \text{ day Max}} + \frac{\text{Days between 4.6 - < 4.8 mg/L}}{47 \text{ day Max}} + \frac{\text{Days between 4.8 - < 5.0 mg/L}}{55 \text{ day Max}}$$

where the number of days in an interval is based on the daily average Dissolved Oxygen concentration.  
pH of not greater than 8.5 standard units.

(b) Discharge wetlands at the Orange County Eastern Water Reclamation Facility. Class III.

Orange

Specific Authority 403.061, 403.062, 403.087, 403.504, 403.704, 403.804, 403.805 FS. Law Implemented 403.021, 403.061, 403.087, 403.088, 403.141, 403.161, 403.201, 403.502 FS. History—Formerly 17-3.05(4), Amended 3-1-79, 10-2-80, 2-1-83, Formerly 17-3.031, Amended 6-17-92, Formerly 17-302.800, Amended 5-15-02, 1-9-06, 6-28-06, 12-7-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Mimi Drew, Director, Division of Water Resource Management

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mike Sole, Deputy Secretary

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 22, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 9, 2006

## DEPARTMENT OF JUVENILE JUSTICE

### Direct Support Organizations

RULE NOS.:	RULE TITLES:
63J-1.001	Direct Support Organization Functions and Bylaws
63J-1.002	Use of Department Property
63J-1.003	Disposition of Funds
63J-1.004	Budget

PURPOSE AND EFFECT: The proposed rule is intended to implement requirements governing the procedures and operation of direct support organizations.

SUMMARY: The rule establishes requirements governing the permissible and prohibited purposes of direct support organizations, conditions for use of department property, and department budget oversight.

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

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

SPECIFIC AUTHORITY: 985.672(4)(c), 985.64 FS.

LAW IMPLEMENTED: 985.672 FS.

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

DATE AND TIME: Tuesday, March 20, 2007, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Dr., General Counsel's Conference Room 312, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 312, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63J-1.001 Direct Support Organization Functions and Bylaws.

(1) The Direct Support Organization (DSO) of the department shall adopt by-laws.

(2) Bylaw provisions shall include, but are not limited to, the following:

- (a) Description of the DSO, including name and purpose;
- (b) Structure and organization;
- (c) Prohibited activities;
- (d) Board of directors, officers and committees;
- (e) Meetings and quorum;
- (f) Staff Assistance;
- (g) Fiscal procedure; and
- (h) Amendment of bylaws.

Specific Authority 985.672(4)(c), 985.64 FS. Law Implemented 985.672 FS. History-New \_\_\_\_\_.

63J-1.002 Use of Department Property.

The DSO is authorized to use department property, facilities and personal services as determined by the Secretary. Such use shall be authorized when the use benefits the department or the juvenile system and to the extent consistent with the department's mission of ensuring public safety and preserving the confidentiality of youth identifying information.

Specific Authority 985.672(4)(c), 985.64 FS. Law Implemented 985.672 FS. History-New \_\_\_\_\_.

63J-1.003 Disposition of Funds.

The DSO's board of directors shall provide for the receipt, deposit and withdrawal of all funds consistent with the following provisions:

(1) Depository withdrawals shall be on numerically controlled checks signed by two (2) persons authorized by the board.

(2) All funds received from all sources shall be deposited intact in a designated depository as soon as practicable and a record shall be kept to identify the payer, the amount, and the purpose. Funds received from federal sources shall be accounted for separately, but may be deposited in a bank account with other corporate funds except when the terms of such receipt require a separate depository account.

Specific Authority 985.672(4)(c), 985.64 FS. Law Implemented 985.672 FS. History-New \_\_\_\_\_.

63J-1.004 Budget.

The DSO shall submit its annual budget to the Secretary or the Secretary's designee for review no later than May 1 of each year.

Specific Authority 985.672(4)(c), 985.64 FS. Law Implemented 985.672 FS. History-New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Shareta Wright, Office of Research & Planning

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Ted Tollett, Director, Office of Research & Planning

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: February 17, 2006

**DEPARTMENT OF JUVENILE JUSTICE**

**Program Accountability**

RULE NOS.:	RULE TITLES:
63L-1.001	Purpose and Scope
63L-1.002	Definitions
63L-1.003	Quality Assurance Standards
63L-1.004	Quality Assurance Peer Reviewers
63L-1.005	Conducting Quality Assurance Reviews
63L-1.006	Challenges to Quality Assurance Reports
63L-1.007	Waivers and Alternative Compliance Measures
63L-1.008	Conditional Status
63L-1.009	Failure to Meet Minimum Levels of Performance or Compliance
63L-1.010	Internal Review Board
63L-1.011	Quality Assurance Reporting Requirements

PURPOSE AND EFFECT: Establishing the standards and requirements for the department's statewide quality assurance system.

SUMMARY: Quality assurance standards are referenced for each type of program, and a process is established by which programs are reviewed. Consequences for noncompliance or failure to meet minimum levels of performance are described, and an internal review process is established.

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

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

SPECIFIC AUTHORITY: 985.632, 985.64 FS.

LAW IMPLEMENTED: 985.632 F.S.

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

DATE AND TIME: Monday, March 19, 2007, 10:00 a.m.

PLACE: DJJ Headquarters, 2737 Centerview Dr., Room 108, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: John Milla, 2737 Centerview Dr., Ste. 312, Tallahassee, FL 32399-3100, e-mail: john.milla@djj.state.fl.us

THE FULL TEXT OF THE PROPOSED RULES IS:

63L-1.001 Purpose and Scope.

The rule establishes the standards and requirements for the department's statewide quality assurance system.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New

63L-1.002 Definitions.

(1) Acceptable Performance Rating – A quality assurance rating at the standard and overall performance levels between 70%-79%.

(2) Alternative Compliance Measure – The use of a process, procedure, or practice not outlined in DJJ policy, to accomplish the same objective required in the applicable department policy, as long as the request does not negatively impact staff safety, youth safety, security, treatment, conditions of confinement, public safety, the officer certification process, or another branch of the department.

(3) Assistant Secretary – The person responsible for the management and operation of the respective branch of the department.

(4) Chief Probation Officer – The person responsible for the oversight of community corrections programs in the respective circuit.

(5) Chief of Quality Assurance – The person responsible for the management and operation of the Bureau of Quality Assurance.

(6) Compliance Key Indicator – A key indicator rated based on whether a program's policies, procedures, and practices comply with department policy, law, or administrative rule. Compliance key indicators are rated "full compliance," "substantial compliance," or "non-compliance."

(7) Conditional Status – The status of any program that fails to meet the minimum levels of performance of any standard in the Quality Assurance process.

(8) Contract – A formal written agreement between the department and an individual or organization for the procurement of services.

(9) Contract Manager – The employee of the department who is responsible for enforcing performance of the contract terms and conditions, and serves as a liaison between the department and the contract provider.

(10) Contract Provider – The entity under contract with the department to provide services to youth.

(11) Exit Conference – A formal meeting at the end of a quality assurance on-site review in which the quality assurance team members provide the preliminary findings of the QA review to the management and staff of the program.

(12) Failure to Meet Minimum Levels of Performance – A quality assurance performance score at the standard or overall performance levels between 0% to 59%.

(13) Full Compliance – The program is predominantly meeting the requirements of the key indicator the vast majority of the time. A slight exception may be noted with either policy, procedure, or practice.

(14) Internal Review Board – The panel empowered to recommend to the Secretary of the department for or against cancellation of a contract for failure to meet the minimum levels of performance for a second consecutive time during a 6-month period.

(15) Juvenile Justice Information System (JJIS) – The Juvenile Justice Information System (JJIS) is a computer application that allows the Department of Juvenile Justice (DJJ) to collect information and generate reports on youth under its custody. Information is processed through assessment centers, detention centers and interaction with juvenile probation officers and commitment managers. This information allows the DJJ to track the location and status of youth assigned to the custody of DJJ.

(16) Key Indicator – The basic level of evaluation in the quality assurance system. Key indicators are used to determine if a program is meeting a standard.

(17) Lead Reviewer – The Bureau of Quality Assurance professional staff member who plans, organizes, directs, and supervises a quality assurance on-site review. The lead reviewer compiles all data from the review and completes the quality assurance program report.

(18) Minimal Performance – A quality assurance rating at the standard and overall performance levels of 60% to 69%.

(19) Monitoring – The acquisition, review, and reporting of information about provider compliance with the terms and conditions of the contract.

(20) Non-compliance – A compliance rating indicating that the program is not meeting the requirements of the key indicator or the policy. Numerous deficiencies were noted in policy, procedure, or practice.

(21) Non-performance – A performance rating indicating the items, elements, or actions necessary to accomplish the indicator are missing or are done so poorly that they do not contribute to the accomplishment of the indicator or the overall standard. The rating will be a 0.

(22) Partial Performance – A rating indicating that a program is not consistently accomplishing policy requirements. Frequent deficiencies in the policy occur or the program is ineffective in implementing the policy. The rating will be a 4 or 5.

(23) Peer Reviewer – A juvenile justice professional at the supervisor/manager level or above who has been certified as a quality assurance peer reviewer and who has been chosen to participate as a quality assurance team member.

(24) Program – Any state operated or contracted general revenue funded prevention or diversion program, residential commitment program, Sheriff's Training and Respect (STAR) program, juvenile detention center, community corrections program, Day Treatment Program, Children in Need of Services/Families in Need of Services (CINS/FINS) Program, PACE Program, Juvenile Alternative Service Program (JASP), or Intensive Delinquency Diversion Services (IDDS) program operated by or under contract with the department as listed in the JJIS.

(25) Program components – The key programming areas defined for the different program models used to determine a score. The key programming areas defined for the different program models include:

(a) Residential Commitment programs and STAR programs:

1. Management Accountability;
2. Screening, Assessment, and Orientation;
3. Treatment Services;
4. Healthcare Services;
5. Food Services; and
6. Conditional Release if applicable.

(b) Detention:

1. Management Accountability;
2. Screening and Classification;
3. Treatment Services;
4. Healthcare Services; and
5. Food Services.

(c) Children in Need of Service and Families in Need of Services (CINS/FINS):

1. Management Accountability;
2. Centralized Screening and Intake;
3. Temporary Shelter Care;
4. Healthcare Services; and
5. Food Services.

(d) Day Treatment:

1. Management Accountability;
2. Screening, Classification, and Orientation;
3. Treatment Services;
4. Healthcare Services;
5. Food Services; and
6. Conditional Release.

(e) Probation and Community Corrections:

1. Administration: program management and training and staff development;

2. Core Services: detention screening, intake, case management and supervision of committed youth in residential care, probation supervision, and conditional release.

(f) Intensive Delinquency Diversion Services (IDDS):

1. Management, Leadership and Community Relations; and

2. Case Management Service Plans.

(g) PACE Center for Girls:

1. Administration;

2. Program Management, Training and Staff Development;

3. Core Services: admissions, social services and treatment planning, and health services;

4. Safety: sanitation and emergency procedures; and

5. Educational Services.

(h) Juvenile Alternative Services Program (JASP):

1. Management, Leadership and Community Relations; and

2. Case Management Diversion Plans.

(26) Program Manager and Supervisor – The program director or corporate official who is responsible for the operation of residential and correctional facilities, detention superintendents who are responsible for the operation of detention centers, program directors or corporate officials who operate or are responsible for the operation of community corrections programs, and juvenile probation officer supervisors who are responsible for the management and supervision of community corrections programs.

(27) Program Monitor – The department employee who provides contract oversight for department-operated and contract provider-operated programs.



(28) Quality Assurance – The process for the statewide assessment of the performance of program operations, management, governance, and service delivery based on an established set of standards.

(29) Quality Assurance Standards – The established set of standards used to evaluate program performance in department operated or contracted programs.

(30) Regional Director – The department employee responsible for the oversight of residential and correctional programs, probation and community corrections, and detention centers in a respective region.

(31) Re-review – A quality assurance review conducted at a program within 6 months when a program has failed to meet the minimum levels of performance set by the department.

(32) Residential Program – Any residential commitment program including STAR programs, Intensive Residential Treatment Programs, Sex Offender Programs, and Serious Habitual Offender Programs.

(33) Safety and Security Monitor – The designated department employee responsible for monitoring safety and security in juvenile justice residential and correctional facilities.

(34) Satisfactory Performance – A quality assurance rating that indicates the program consistently accomplishes all policy requirements in an effective manner. The items, elements, or actions necessary to accomplish the policy are prevailing practice though minor deficiencies may occur occasionally. The rating will be a 6, 7, or 8.

(35) Substantial Compliance – A quality assurance rating that indicates the program is not meeting all the requirements of the key indicator. There were some deficiencies in either policy, procedure, or practice. The rating will be a 5.

(36) Superior performance – A quality assurance rating that indicates the program consistently exceeds all policy requirements with either an innovative approach or an exceptional, program-wide dedication to performance that is readily apparent. There is evidence of very few, if any, exceptions to this. The rating will be a 9 or 10.

(37) Waiver – The authorization by the Secretary of the department to allow a program, facility or service to forego a specific department policy or a portion thereof when implementation of the waiver does not negatively impact staff safety, juvenile safety, security, treatment, conditions of confinement, public safety, the officer certification process, or another branch of the department.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History–New \_\_\_\_\_.

#### 63L-1.003 Quality Assurance Standards.

(1) Quality assurance standards shall reflect state and federal laws, administrative rules, and, as incorporated herein, departmental policies, procedures, and manuals relating to each program type. The following quality assurance standards

are incorporated by reference and are available at the department's website (<http://www.djj.state.fl.us/QA/index.html>):

(a) Children/Families in Need of Services (CINS/FINS) Programs, revised 12/8/2006.

(b) Community Corrections Programs, revised 11/2004.

(c) Day Treatment Programs, revised 12/8/2006.

(d) Detention Programs, revised 12/8/2006.

(e) Intensive Delinquency Diversion Programs (IDDS), revised 11/1/2006.

(f) Juvenile Alternative Services Programs (JASP), revised 11/1/2006.

(g) Practical and Cultural Education (PACE) Programs, revised 11/2004.

(h) Residential Commitment Programs, revised 9/1/2006.

(2) Quality assurance standards shall incorporate requirements as set forth in Section 985.632(4)(b), F.S.

(3) A program shall comply with all quality assurance standards and key indicators.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History–New \_\_\_\_\_.

#### 63L-1.004 Quality Assurance Peer Reviewers.

(1) The following programs shall provide a minimum of one employee from each program in operation to participate as a peer reviewer on at least one on-site quality assurance review during the current QA review cycle, in a judicial circuit other than the circuit in which the program is located.

(a) Day Treatment Programs;

(b) Intensive Delinquency Diversion Programs (IDDS);

(c) Juvenile Alternative Services Programs (JASP);

(d) Practical and Cultural Education (PACE) Programs;

(e) Contracted Community Corrections Programs.

(2) Each CINS/FINS program shall provide a minimum of two employees to participate as a peer reviewer on at least one on-site quality assurance review during the current QA review cycle, in a judicial circuit other than the circuit in which the program is located.

(3) Each residential commitment program (as listed in the JJIS) and detention center shall provide a minimum of one employee each year for every seventy-five beds or slots or fraction thereof in excess of 75 beds or slots to participate as a peer reviewer on at least one on-site quality assurance review during the current QA review cycle, in a judicial circuit other than the circuit in which the program is located.

(4) The Chief Probation Officer in each judicial circuit shall provide the number of employees identified by the department's quality assurance office as necessary to conduct reviews of community corrections programs. Identified staff will participate on a review in a judicial circuit other than the circuit in which their office is located.

(5) Participation on a quality assurance review shall be at the program's expense. Travel, lodging, and per diem for participation in the quality assurance peer review certification training shall be at the provider's expense.

(6) A program shall ensure that all employees who participate on a quality assurance review are program managers or supervisors and possess at least a Bachelor's degree from an accredited university and have a minimum of 3 years experience working with youth. Exceptions shall be allowed when approved by the regional director or CEO of the organization and the Chief of Quality Assurance when the individual does not have a Bachelor's degree but has a minimum of 4 years experience in juvenile justice programs and is in a management position.

(7) All employees who participate on a quality assurance review must successfully complete the quality assurance peer review certification training. Twenty hours of training will be awarded to all participants in the quality assurance peer review certification training

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New

#### 63L-1.005 Conducting Quality Assurance Reviews.

(1) Quality assurance reviews shall be unannounced.

(2) All residential commitment programs, detention centers, and residential CINS/FINS programs shall be reviewed each year.

(3) All non-residential programs and supervision programs shall be reviewed every other year. During the off year, the program shall submit a self-report of critical data and activities to the Bureau of Quality Assurance.

(4) A full review shall be conducted any time the department deems the program to be at risk.

(5) Program managers and supervisors shall implement internal systems to ensure all documents requested by the department are available during a quality assurance review.

(6) A program manager/supervisor shall provide files and other documentation requested by a quality assurance team without unnecessary delay. The lead reviewer in consultation with the program director shall determine the amount of time necessary for the program to provide the requested files and other documentation.

(7) The lead reviewer shall have the authority to grant the provider an extension that does not exceed 2 working days of the exit conference.

(8) A lead reviewer shall conduct a daily debriefing with the program director and invited guests to review positive and negative factors and to request additional information as needed.

(9) A lead reviewer shall conduct a pre-exit meeting with the program director and other key program personnel to highlight preliminary findings.

(10) A formal exit conference shall be conducted to explain the preliminary ratings and findings of the review team to the program director and other parties attending the exit conference. The exit conference can be waived upon written request of the program manager/supervisor or at the request of the Chief of Quality Assurance.

(11) All exit conferences shall be audio taped by the quality assurance team leader.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New

#### 63L-1.006 Challenges to Quality Assurance Reports.

(1) A draft report shall be e-mailed to the program director to review for accuracy of findings.

(2) A program director or designee shall have 5 working days to review the report and respond to the department with any challenges related to accuracy, wording, or ratings within the draft report.

(3) Only key indicators rated in the partial performance, non-performance, or non-compliance ranges can be challenged.

(4) The area quality assurance program administrator shall attempt to reach an agreeable resolution of findings that are disputed by the program director.

(5) If the program director is not satisfied with the resolution, the issue will be raised to the Bureau Chief of Quality Assurance who will consult with the Assistant Secretary of the appropriate to arrive at a joint resolution.

(6) Actions that the provider has taken since the quality assurance site visit and/or files and other documentation that were not provided to the lead reviewer within 2 working days of the exit conference, shall not be addressed or considered by the department.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New

#### 63L-1.007 Waivers and Alternative Compliance Measures.

(1) It shall be the responsibility of program managers and supervisors to request a waiver to department policy or to request to utilize an alternative compliance measure when they believe they should not be held to department policy, or have an alternative method to comply with such policy, and the request does not negatively impact staff safety, juvenile safety, security, treatment, conditions of confinement, public safety, the officer certification process, or another branch of the department.

(2) Waivers shall be sent to the regional director and assistant secretary of the respective branch.

(3) A request for a waiver or a request to utilize an alternative compliance measure shall be submitted to the assistant secretary through the regional director and approved by the Secretary prior to the quality assurance on-site review.

(4) A decision to deny a request for a waiver or a request to utilize an alternative compliance measure shall be made by the Assistant Secretary of the branch in which the request applies.

(5) A decision to grant a request for a waiver or a request to utilize an alternative compliance measure shall be made by the Secretary of the department or designee.

(6) The Secretary or designee shall not have the authority to issue a waiver or approve a request to use an alternative compliance measure for any action that is required by Florida Statutes or Florida Administrative Code.

(7) A waiver or approval to use an alternative compliance measure shall be in effect for one year from the signature date on the approval letter unless otherwise specified in writing on the approval.

(8) The department shall have the authority to cancel a Waiver or Alternative Compliance Measure if it is determined that it is not effective or if it has negatively impacted staff safety, juvenile safety, security, treatment, conditions of confinement, public safety; the officer certification process, or another branch of the department.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History–New \_\_\_\_\_.

#### 63L-1.008 Conditional Status.

(1) A program shall be placed on Conditional Status when it fails to meet the minimum levels of performance for any quality assurance standard.

(2) The program shall initiate a corrective action plan within thirty calendar days of publication of the quality assurance report to address correction of deficiencies.

(3) Corrective action plans shall include:

(a) Identification of the deficiency documented in the quality assurance report;

(b) Identification of tasks necessary to correct the deficiency;

(c) Identification of persons responsible for completion of the tasks;

(d) Periodic progress reports; and

(e) Target dates for completion.

(4) The contract monitor and/or safety and security monitor shall provide intensive monitoring and technical assistance until program performance is improved.

(5) Contract action shall be taken within six months of the posting of the quality assurance report when the contract monitor finds a contracted program has failed to improve in deficient areas.

(6) If a department-operated program fails to improve, corrective action shall be taken that includes, but is not limited to:

(a) Initiating appropriate disciplinary action against all employees whose conduct or performance is deemed to have materially contributed to the program's failure to meet established minimum thresholds;

(b) Redesigning the program; or

(c) Realigning the program.

(7) A program shall be removed from Conditional Status upon the successful completion of corrective actions and upon the notification of the appropriate Assistant Secretary to the Chief of Quality Assurance.

(8) If specialized training or technical assistance is needed to improve treatment services or a programs behavior management system, the program will be referred to the department's technical assistance unit.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History–New \_\_\_\_\_.

#### 63L-1.009 Failure to Meet Minimum Levels of Performance or Compliance.

(1) A program shall fail to meet the minimum levels of performance or compliance set by the department when the quality assurance performance score is between 0% to 59%.

(2) A re-review shall be conducted at the program within six months of publication of the quality assurance report to determine if corrective actions and program improvements have caused the program to meet the minimum levels or performance or compliance.

(3) If a program fails to meet the minimum standards upon a re-review, the department shall cancel the provider's contract unless the provider has proved there are documented extenuating circumstances that led to the failure to meet the minimum thresholds of performance in accordance with Section 985.632(4)(b), F.S.

(4) When a program fails a second review in a 6-month period, and cancellation of the provider's contract is being pursued, a provider shall have the right to submit information to the Internal Review Board that documents extenuating circumstances that led to the failure to meet the minimum threshold of performance.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History–New \_\_\_\_\_.

#### 63L-1.010 Internal Review Board.

(1) The department shall establish an Internal Review Board chaired by the Deputy Secretary of the department. Membership shall include the Chief of Staff, the Assistant Secretary for the branch of the program reviewed, and the General Counsel.

(2) The Internal Review Board shall meet to determine if there are documented extenuating circumstances that contributed to the program failing to meet the minimum standards of performance following a quality assurance re-review.

(3) The department shall serve the provider with written notice of the proposed meeting by registered or certified mail, return receipt requested.

(4) A provider shall have 10 working days from receipt of the certified letter to present any documented extenuating circumstances, in writing, to the Deputy Secretary.

(5) If a provider fails to respond within 10 working days, the department shall proceed with cancellation of the contract without review.

(6) If the provider submits information stating that there were documented extenuating circumstances that impacted their performance, the Internal Review Board shall review and consider the documentation as well as any other pertinent information.

(7) A provider shall be given an opportunity to present information in person or via conference call.

(8) The Internal Review Board shall consider all information and make a recommendation to the Secretary within 30 working days from the Internal Review Board meeting.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New \_\_\_\_\_.

63L-1.011 Quality Assurance Reporting Requirements.

The department shall submit an annual report to the legislature that includes all information incorporated in Section 985.632(4)(b), F.S., no later than February 1st of each year, as part of the Comprehensive Program Accountability Report.

Specific Authority 985.632, 985.64 FS. Law Implemented 985.632 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
John Criswell, Chief of Quality Assurance

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Eleese Davis, Director, Office of Program Accountability

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 12, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: March 24, 2006

**DEPARTMENT OF HEALTH**

**Board of Medicine**

RULE NO.: 64B8-9.009  
PURPOSE AND EFFECT: The proposed rule amendments are intended to clarify training requirements for those physicians who perform Level II and Level III office surgery.  
SUMMARY: The proposed rule amendments clarify background, training and experience requirements for those physicians who perform Level II and Level III office surgery.

RULE TITLE: Standard of Care for Office Surgery

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

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

SPECIFIC AUTHORITY: 458.309(1), 458.331(1)(v) FS.

LAW IMPLEMENTED: 458.331(1)(g), (t), (v), (w), 458.351 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin # C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-9.009 Standard of Care for Office Surgery.

NOTHING IN THIS RULE RELIEVES THE SURGEON OF THE RESPONSIBILITY FOR MAKING THE MEDICAL DETERMINATION THAT THE OFFICE IS AN APPROPRIATE FORUM FOR THE PARTICULAR PROCEDURE(S) TO BE PERFORMED ON THE PARTICULAR PATIENT.

(1) through (3) No change.

(4) Level II Office Surgery.

(a) No change.

(b) Standards for Level II Office Surgery.

1. No change.

2. Training Required.

a. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board eligibility by a Board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or must be able to establish comparable background, training, and experience. Such Board certification or comparable background, training and experience must also be directly related to and include the procedure(s) being performed by the physician in the office surgery facility. One (1) assistant must be currently certified in Basic Life Support and the surgeon must be currently certified in Advanced Cardiac Life Support.

b. One (1) assistant must be currently certified in Basic Life Support and the surgeon must be currently certified in Advanced Cardiac Life Support.

3. through 4. No change.

(5) No change.

(6) Level III Office Surgery.

(a) No change.

(b) Standards for Level III Office Surgery. In addition to the standards for Level II Office Surgery, the surgeon must comply with the following:

1. Training Required. Rule 64B8-9.009, F.A.C.

a. The surgeon must have staff privileges at a licensed hospital to perform the same procedure in that hospital as that being performed in the office setting or must be able to document satisfactory completion of training such as Board certification or Board qualification by a Board approved by the American Board of Medical Specialties or any other board approved by the Board of Medicine or must be able to demonstrate to the accrediting organization or to the Department comparable background, training and experience. Such Board certification or comparable background, training and experience must also be directly related to and include the procedure(s) being performed by the physician in the office surgery facility. In addition, the surgeon must have knowledge of the principles of general anesthesia.

b. No change.

2. through 4. No change.

Specific Authority 458.309(1), 458.331(1)(v) FS. Law Implemented 458.331(1)(g), (t), (v), (w), 458.351 FS. History—New 2-1-94, Amended 5-17-94, Formerly 61F6-27.009, Amended 9-8-94, 11-15-94, Formerly 59R-9.009, Amended 2-17-00, 12-7-00, 2-27-01, 8-1-01, 8-12-01, 3-25-02, 3-22-05, 4-19-05, 10-23-05, 10-10-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Surgical Care Committee, Board of Medicine

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

DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 3, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: May 5, 2006

## DEPARTMENT OF HEALTH

### Board of Medicine

RULE NO.: 64B8-37.001  
RULE TITLE: Minimum Qualifications for the Performance of Electromyography

PURPOSE AND EFFECT: The proposed rule is intended to address the minimum qualifications for the performance of electromyography by physical therapists.

SUMMARY: The proposed rule sets forth the minimum qualifications for the performance of electromyography by physical therapists.

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

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

SPECIFIC AUTHORITY: 458.309, 486.021(11) FS.

LAW IMPLEMENTED: 486.021(11) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Larry McPherson, Jr., Executive Director, Board of Medicine/MQA, 4052 Bald Cypress Way, Bin #C03, Tallahassee, Florida 32399-3253

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-37.001 Minimum Qualifications for the Performance of Electromyography.

Pursuant to Section 486.021(11), Florida Statutes, the Board of Medicine sets forth the following criteria for the performance of electromyography by physical therapists.

(1) Before a physical therapist may perform electromyography as an aid to the diagnosis of any human condition, he must be trained and competent in:

(a) Inserting and adjusting electrodes.

(b) Reading and identifying normal and abnormal signals on the grid.

(c) Interpreting the audible signals.

(2) In addition to the requirements of subsection (1) a physical therapist must receive no less than the following formal education within an accredited post-secondary educational institution:

(a) Human dissection.

(b) Human physiology.

(c) Neurology.

(d) Neuro-anatomy and neuro-physiology offered at a graduate level.

(e) Pathological conditions.

(3) In addition to having completed the formal study requirements of subsection (2) outlined above, the physical therapist must have completed 200 hours of testing human subjects under the direct supervision of a licensed physician or licensed physical therapist who has previously met these qualifications and should be able to present evidence of having performed 100 tests on neurologically involved patients, with findings corroborated by a licensed physician or licensed physical therapist who has previously met these qualifications.

Specific Authority 458.309, 486.021(11) FS. Law Implemented 486.021(11) FS. History—New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Rules Committee, Board of Medicine  
NAME OF SUPERVISOR OR PERSON WHO APPROVED  
THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY  
HEAD: February 3, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT  
PUBLISHED IN FAW: December 29, 2006

**DEPARTMENT OF CHILDREN AND FAMILY  
SERVICES**

**Economic Self-Sufficiency Program**

RULE NO.: RULE TITLE:  
65A-1.712 SSI-Related Medicaid Resource  
Eligibility Criteria

PURPOSE AND EFFECT: Amendments to the proposed rule revise Medicaid policies in accordance with federal law, the Deficit Reduction Act (DRA) of 2005. The DRA provides for reform in the treatment of assets in the institutional Medicaid eligibility determination. It also adds policies for hearing officers on when and how they can adjust a community spouse resource allowance or a community spouse income allowance under spousal impoverishment provisions in subsection (4) of the rule.

SUMMARY: Proposed amendments revise the language to the rule to be consistent with federal requirements regarding transfer of assets provisions and the treatment of assets.

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

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

SPECIFIC AUTHORITY: 409.919 FS.

LAW IMPLEMENTED: 409.902, 409.903, 409.904, 409.906,  
409.919 FS.

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

DATE AND TIME: March 20, 2007, 1:30 p.m.

PLACE: 1317 Winewood Boulevard, Building 3, Room 455,  
Tallahassee, FL 32399

THE PERSON TO BE CONTACTED REGARDING THE  
PROPOSED RULE IS: Pat Whitford, Economic  
Self-Sufficiency Services, Telephone (850)410-3479

THE FULL TEXT OF THE PROPOSED RULE IS:

65A-1.712 SSI-Related Medicaid Resource Eligibility  
Criteria.

(1) No change.

(a) through (e) No change.

(f) For a Home and Community Based Waiver Services ~~the Traumatic Brain Injury and Spinal Cord Injury Waiver~~ Program an individual cannot have countable resources that exceed \$2,000. If the individual's income falls within the MEDS-AD Demonstration Demonstration Waiver limit, the individual can have resources up to \$5,000. ~~No penalties apply to transfers of assets or resources made to spouses. But penalties may apply to transfers to others. Spousal Impoverishment policies do not apply.~~

(2) No change.

(a) No change.

~~(b) The value of a life estate interest in real property is excluded.~~

(c) through (f) renumbered (b) through (e) No change.

(f) An individual who is a beneficiary under a qualified state Long-Term Care Insurance Partnership Policy issued after (effective date) is given a resource disregard equal to the amount of the insurance benefit payments made to or on behalf of the individual for long term care services when determining if the individual's countable resources are within the program limits to qualify for Medicaid nursing home care.

(3) Transfer of Resources and Income. According to 42 U.S.C. § 1396p(c), if an individual, the spouse, or their legal representative, disposes of resources or income for less than fair market value on or after the look back date, the department must presume that the disposal of resources or income was to become Medicaid eligible and impose a period of ineligibility for nursing facility care services, institutional hospice or HCBS waiver services. The department will mail a notice to individuals who report a transfer without fair compensation (Form CF-ES 2264, PDF 04/2002, Notice of Determination of Resource/Income Transfer and Form CF-ES 2264A, Feb 2007, Rebuttal/Hardship Request, incorporated herein by reference), advising of the opportunity to rebut the presumption and of the opportunity to request and support a claim of undue hardship per subparagraph (c)5. below. The look back period is 36 months prior to the date of application, except in the case of a trust treated as a transfer in which case the look back period is 60 months prior to the date of application. ~~These transfer policies apply to actual transfers made by applicants for institutional Hospice services that occur on or after October 1, 1998.~~

(a) The department follows the policy for transfer of assets mandated by 42 U.S.C. §§1396p and 1396r. ~~For transfers prior to October 1, 1993, transfer policies apply only to transfers of resources. For transfers on or after October 1, 1993, transfer policies apply to the transfer of income and resources.~~

(b) When funds are transferred to a retirement fund, including annuities, within the transfer look back period the department must determine if the individual will receive fair market compensation in their lifetime from the fund. If fair

compensation will be received in their lifetime there has been no transfer without fair compensation. If not, the establishment of the fund must be regarded as a transfer without fair compensation. Fair compensation shall be calculated based on life expectancy tables published by the Office of the Actuary of the Social Security Administration. See Rule 65A-1.716, F.A.C.

1. Individuals and their spouses must disclose their ownership interest in any annuity, including annuities that are not subject to the transfer of assets provision, and if purchased after (effective date) must name the state as a remainder beneficiary (for applicants at the time of approval or for recipients at time of annual review) in the first position for no more than the total amount of medical assistance paid on behalf of the annuitant or in the second position after the community spouse and/or minor or disabled child unless the spouse, child or their representative disposes of the remainder for less than fair market value.

2. A purchase of an annuity (and other transactions that change the course of an annuity payment or treatment of income or principal) made after (effective date) will be considered a transfer of assets without fair compensation unless the annuity meets all of the following criteria for applicants at the time of approval and recipients at the time of annual review: (a) the state is named as the primary beneficiary (or secondary as appropriate pursuant to subparagraph (b)1. above); (b) the annuity is irrevocable and non-assignable; (c) the annuity pays principal and interest in equal amounts during the term of the annuity, with no balloon or deferred payments; and (d) the annuity is actuarially sound based on standards published by the Office of the Chief Actuary of the Social Security Administration called the Period of Life Table as set forth in Rule 65A-1.716, F.A.C. (Life Expectancy Tables). Annuities purchased for the community spouse after (effective date) must name the state as primary (or secondary) beneficiary pursuant to subparagraph (b)1. above and must be actuarially sound based on the community spouse's age and the life expectancy tables.

3. Individual Retirement Accounts (IRAs) or annuities (as described in Section 408 of the Internal Revenue Code) established by an employee or employer are not considered under the transfer of assets provision but must still name the state as the primary remainder beneficiary in accordance with (b)1. above.

(c) No change.

1. through 4. No change.

5. A transfer penalty shall not be imposed if the department determines that the denial of eligibility due to transferred resources or income would work an undue hardship on the individual. Undue hardship exists when imposing a period of ineligibility would deprive an individual of food, clothing, shelter or medical care such that their life or health would be endangered. All efforts to access the resources or

income must be exhausted before this exception applies. The facility in which the institutionalized individual is residing may request an undue hardship waiver on behalf of the individual with their consent or the consent of the personal representative.

(d) No change.

1. through 2. No change.

3. Promissory notes, loans and mortgages signed after (effective date) will be considered transfers of assets without fair compensation to become Medicaid eligible unless the promissory notes, loans or mortgages meet all of the following criteria:

(a) the repayment term is actuarially sound in accordance with the Life Expectancy Tables as referenced in paragraph (b) 2.; (b) payments must be made in equal amounts during the term of the loan, with no deferral and no balloon payments being possible; and (c) debt forgiveness is not allowed. If these criteria are not met, for purposes of transfer of assets, the value of the promissory notes, loans or mortgages will be the outstanding balance due as of the date of application for long-term care services.

4. A life estate interest purchased in another individual's home after (effective date) is considered a transfer of assets without fair compensation. If the individual has not lived in the home for at least one year, the full amount of the purchase price paid for the life estate will be considered an uncompensated transfer without considering the value of the life estate. If the individual has resided in the home for at least one continuous year, the value of the life estate will be considered compensation and will be calculated by multiplying the current market value of the property by the life estate factor that corresponds to the individual's age. The life estate tables are incorporated by reference from the Social Security Administration's online Program Operations Manual System (SI 01140.120) as found in Appendix A-17 of the Department's online manual located at [www.dcf.state.fl.us/ess/](http://www.dcf.state.fl.us/ess/). Brief absences from the life estate property due to stays in a rehabilitation facility or vacations may not disrupt the client's residency in the home but the facts of each absence will be evaluated.

(e) through (f) No change.

(g) For transfers prior to (effective date), periods of ineligibility based on transfer policies are calculated beginning with the month in which the transfer occurred and the period of ineligibility cannot exceed 30 months if the transfer occurred prior to October 1, 1993. If the transfer occurred on or after October 1, 1993, the period of ineligibility shall be equal to the actual computed period of ineligibility, rounded down to the nearest whole number. For transfers made after (effective date), periods of ineligibility begin with the later of the following dates: (1) the day the individual meets all other factors of eligibility (including appropriate placement in a Medicaid nursing facility, enrollment in a Medicaid waiver or election of Hospice care) except for the transfer of assets

without fair compensation after applying for institutional care services; or (2) the first day of the month in which the individual transfers the asset; or (3) the first day following the end of an existing penalty period. The department shall not round down, or otherwise disregard, any fractional period of ineligibility of the penalty period but will calculate the period down to the day. There is no limit on the period of ineligibility for transfers which occur on or after October 1, 1993. Once the penalty period is imposed, it will continue although the individual may no longer meet all factors of eligibility and may no longer qualify for Medicaid non-institutional care benefits.

1. Monthly periods of ineligibility due to transferred resources or income are determined by dividing the total cumulative uncompensation value of all transferred resources or income computed in accordance with paragraph 65A-1.712(3)(f), F.A.C., by the average monthly private pay nursing facility rate at the time of application as determined by the department- (refer to paragraph 65A-1.716(5)(d), F.A.C.).

a. For transfers prior to (effective date), wWhere resources or income have been transferred in amounts or frequency or both that would make the calculated penalty periods overlap, the value of all transferred resources or income is added together and divided by the average cost of private nursing home care.

b. For transfers prior to (effective date), wWhere multiple transfers are made in such a way that the penalty for each would not overlap, each transfer is treated as a separate event with its own penalty period.

c. For transfers after (effective date), the uncompensated value of all transfers will be added together to arrive at one total value with a penalty period assigned.

2. through 3. No change.

(4) Spousal Impoverishment. The department follows 42 U.S.C. § 1396r-5 for resource allocation and income attribution and protection when an institutionalized individual, including a hospice recipient residing in a nursing facility, has a community spouse. Spousal impoverishment policies are not applied to individuals applying for, or receiving, HCBS waiver services, except for individuals in the Long-Term Care Community Diversion Program, the Assisted Living Facility waiver or the Cystic Fibrosis waiver.

(a) through (d) no change.

(e) If either spouse can verify that the community spouse resource allowance provides income that does not raise the community spouse's income to the State's MMMIA, the resource allowance may be revised through the fair hearing process to an amount adequate to provide such additional income as determined by the hearing officer. Effective (effective date) the hearing officers must consider all of the community spouse's income and all of the institutionalized spouse's income that could be made available to a community spouse. The hearing officers will base the revised community spouse resource allowance on the amount necessary to

purchase a single lifetime annuity that would generate a monthly payment that would bring the spouse's income up to the MMMIA (adjusted to include any excess shelter costs). The community spouse does not have to actually purchase the annuity. The community spouse will have the opportunity to present convincing evidence to the hearing officer that a single lifetime annuity is not a viable method of protecting the necessary resources for the community spouse's income to be raised to the State's MMMIA. If the community spouse requests that the revised allowance not be based on the earnings of a single lifetime annuity, the community spouse must offer an alternative method for the hearing officer's consideration that will provide for protecting the minimum amount of assets required to raise the community spouse's income to the State's MMMIA during their lifetime.

(f) Either spouse may appeal the post-eligibility amount of the community spouse income allowance through the fair hearing process and the allowance may be adjusted by the hearing officer if the couple presents proof that exceptional circumstances resulting in significant inadequacy of the allowance to meet the community spouse's needs exists. Exceptional circumstances that result in extreme financial duress include circumstances other than those taken into account in establishing maintenance standards for spouses. An example is when a community spouse incurs unavoidable expenses for medical, remedial and other support services which impact the community spouse's ability to maintain themselves in the community and in amounts that they could not be expected to be paid from amounts already recognized for maintenance and/or amounts held in resources. Effective (effective date), the hearing officers must consider all of the community spouse's income and all of the institutionalized spouse's income that could be made available to a community spouse. If the expense causing exceptional circumstances is a temporary expense, the increased income allowance must be adjusted to remove the expenses when no longer needed.

(g) No change.

#### (5) Other Resource Policies.

(a) Individuals shall not be eligible for long-term care services after (effective date), if the individual's equity interest in the individual's home exceeds \$500,000.

1. The individual's equity interest is based on the current market value of the home (including all contiguous property), minus any encumbrances such as a mortgage or other associated loans. Long-term care services include Medicaid services authorized under the Institutional Care Program, institutional hospice, home and community based waiver services and the Program of All Inclusive Care for the Elderly (PACE).



2. Paragraph (5)(a) does not apply if the individual's spouse, individual's child under age 21 or the individual's blind or disabled child (based on the federal definitions of "blindness" and "disability" in 20 CFR 416) of any age are residing in the institutionalized individual's home.

3. The home equity provision may be waived when denial of long-term care services would result in demonstrated hardship to the institutionalized individual.

4. The department will mail a notice to individuals whose home equity interest exceeds \$500,000 (Form CF-ES 2354, Feb 2007, Notice of Home Equity Interest Greater Than \$500,000 and Form CF-ES 2354A, Feb 2007, Request for Waiver of Home Equity Limit, incorporated herein by reference), advising of the opportunity to have the home equity interest policy waived.

(b) An individual's entrance fee in a continuing care retirement community or life care community shall be considered a resource available to the individual after (effective date), regardless of whether a refund is actually received, if the individual has the ability to use the entrance fee or the contract indicates the entrance fee may be used for care when the individual's income and assets are insufficient to pay for their care; the individual is eligible for a refund of any remaining entrance fee upon death or termination of the contract; and the entrance fee does not confer an ownership interest in the retirement community.

Specific Authority 409.919 FS. Law Implemented 409.902, 409.903, 409.904, 409.906, 409.919 FS. History—New 10-8-97, Amended 1-27-99, 4-1-03, 9-28-04, 8-10-06(1), 8-10-06(2)(+), 8-10-06(3),\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Nathan Lewis

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Jennifer Lange

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 5, 2006

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 17, 2006

## FINANCIAL SERVICES COMMISSION

### Office of Insurance Regulation

RULE NO.:	RULE TITLE:
690-176.013	Notification of Insured's Rights and Standard Disclosure Form; Personal Injury Protection Benefits.

PURPOSE, EFFECT AND SUMMARY: To adopt revisions to Form OIR-B1-1149, Notification of Personal Injury Protection Benefits (Revised 8/30/06), to include a notice regarding rewards for reporting fraud or billing errors and the violations involved in solicitation to the notification of insured's rights under no-fault.

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

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

SPECIFIC AUTHORITY: 624.308(1), 627.7401(1) FS.

LAW IMPLEMENTED: 624.307(1), 627.736, 627.7401, 627.745 FS.

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

DATE AND TIME: March 22, 2007, 9:30 a.m.

PLACE: Room 116, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Michael Milnes, Property and Casualty Product Review, Office of Insurance Regulation, E-mail: Michael.Milnes@fldfs.com.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this program, please advise the Office at least 5 calendar days before the program by contacting the person listed above.

THE FULL TEXT OF THE PROPOSED RULE IS:

690-176.013 Notification of Insured's Rights and Standard Disclosure Form; Personal Injury Protection Benefits.

(1) Each insurer issuing a policy in this state providing personal injury protection benefits shall mail or deliver Form OIR-B1-1149 (Revised 8/30/06 rev. 10/01/03) "Notification of Personal Injury Protection Benefits" to an insured within 21 days after receiving from the insured notice of an automobile accident or claim involving personal injury to an insured who is covered under the policy.

(2) Form OIR-B1-1571 (1/04) "Standard Disclosure and Acknowledgement Form – Personal Injury Protection – Initial Treatment or Service Provided" shall be utilized by providers as described in Section 627.736(5)(e), F.S.

(3) The forms in subsections (1) and (2) are incorporated herein by reference, and are available from Property and Casualty Product Review ~~the Bureau of Property and Casualty Forms and Rates~~, 200 East Gaines St., Tallahassee, FL 32399-0330, or from the Office of Insurance Regulation ~~Department of Financial Services~~ website at www.floirfldfs.com and http://www.floir.com/pcfr/Documents/OIR-B1-1149.doc.

Specific Authority 624.308(1), 627.7401(1) FS. Law Implemented 624.307(1), 627.736, 627.7401, 627.745 FS. History—New 10-1-94, Amended 12-6-00, 1-20-02, Formerly 4-176.013, Amended 3-8-04, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Milnes, Product and Casualty Product Review, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Belinda Miller, Deputy Commissioner, Office of Insurance Regulation.

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: January 29, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 15, 2006

## FINANCIAL SERVICES COMMISSION

### Indexing Agency Orders

RULE NOS.:	RULE TITLES:
69T-8.001	Authority
69T-8.002	Purpose
69T-8.003	Public Inspection and Duplication
69T-8.004	Final Orders Required to be Indexed
69T-8.005	Listing of Final Orders
69T-8.006	Numbering of Final Orders
69T-8.007	System for Indexing Final Orders
69T-8.008	Maintenance of Records
69T-8.009	Accessibility of Final Orders

PURPOSE AND EFFECT: The amendments update the Office of Financial Regulation's procedures regarding the indexing of final orders.

SUMMARY: The amendments update the Office of Financial Regulation's procedures regarding the indexing of final orders. The numbering of final orders is amended to more accurately reflect the subject areas of the Office. Rule 69T-8.003, F.A.C., relating to public inspection and copying of final orders, is repealed; however, the substance of this rule has been moved to Rule 69T-8.009, F.A.C., for clarity. Rule 69T-8.005, F.A.C., relating to listing of final orders is repealed; however, the substance of the rule has been incorporated into Rule 69T-8.004, F.A.C., for clarity. The amendments also update statutory references.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) FS.

LAW IMPLEMENTED: 120.53 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Andrea Moreland, 200 East Gaines Street, Suite 118J, The Fletcher Building, Tallahassee, Florida 32399-0370, (850)410-9662

THE FULL TEXT OF THE PROPOSED RULES IS:

69T-8.001 Authority.

Rules 69T-8.001 through 69T-8.009, F.A.C., ~~These rules~~ regarding the indexing, management, preservation, and availability of final orders, are issued pursuant to Section 120.53, F.S., Section 120.533, F.S., and Chapter 1S-6, F.A.C., and have been approved by the Department of State pursuant to Section 120.53(1)(c) 120.53(2)(e), F.S.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) 120.533(1)(f) FS. Law Implemented 120.53 120.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.001 Amended \_\_\_\_\_.

69T-8.002 Purpose.

The purpose of Rules 69T-8.001 through 69T-8.009, F.A.C., ~~this chapter~~ is to provide public access to and availability of final orders.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.002, Amended \_\_\_\_\_.

69T-8.003 Public Inspection and Duplication.

~~All final orders shall be made available from the Office of Financial Regulation for public inspection and copying in accordance with Section 119.07, F.S.~~

Specific Authority 120.533(1)(f) FS. Law Implemented 119.07, 120.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.003, Repealed \_\_\_\_\_.

69T-8.004 Final Orders Required to be Indexed.

Final orders required to be indexed under Section 120.53(1)(a)2.c, F.S., are indexed in an electronic database that complies with Section 120.53(1)(a)2.b., F.S. Because the Office of Financial Regulation will be indexing its final orders through an electronic database, it will not be maintaining a hardcopy hierarchical subject-matter index of the orders. This action is taken in accordance with Section 120.53(1)(a)2.b., F.S. For purposes of this chapter, final orders and final decisions issued pursuant to Sections 120.565, 120.57(1), (2), and (3), F.S., and Chapter 60K 9, F.A.C., shall be indexed in an electronic data base.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) 120.533(1)(f) FS. Law Implemented 120.53 120.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.004, Amended \_\_\_\_\_.

## 69T-8.005 Listing of Final Orders.

~~As all final orders and final decisions issued pursuant to Sections 120.565, 120.57(1), (2), and (3), F.S., and Chapter 60K-9, F.A.C., shall be indexed in an electronic data base, the agency shall not maintain a list independent from the data base of any final orders.~~

Specific Authority 120.533(1)(f) FS. Law Implemented 120.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.005, Repealed.

## 69T-8.006 Numbering of Final Orders.

(1) Final orders required to be indexed or listed will be numbered in accordance with the minimum indexing requirements specified in Rule 1S-6.002, F.A.C. In addition, the Office of Financial Regulation will add a suffix to the number representing the subject area designation. The numbering convention that will be used is as follows:

(a) Agency Designation. The Department of State has approved the agency designation of OFR for the Office of Financial Regulation.

(b) Two Part Number. The first part of the number represents the year that the order is issued. The second part of the number represents the numerical sequence of the order issued for that year beginning with the number “1” for each new calendar year. The first part of the number is separated from the second part by a dash.

(c) Order category. The OFR will use the categories specified in Rule 1S-6.002, F.A.C. In addition, the OFR will use the designation “OGA” to represent orders of general application issued under the Financial Institutions Codes, Title XXXVIII, Florida Statutes. The order category will be abbreviated as follows:

DFO = Default Final Order

DS = Declaratory statement

EIFO = Emergency Immediate Final Order to Cease and Desist

FOA = Final order application

FOI = Final order informal proceeding

FOF = Final order formal proceeding

S = Stipulation

AS = Agreed settlement

CO = Consent order

OGA = Order of general application

(d) Subject Area. The OFR will include one of the following subject area designations as a suffix:

B = Financial Institutions

F = Finance

I = Financial Investigations

M = Money Transmitters

S = Securities

(2) An example of a number assigned to represent the first order of general application issued in calendar year 2007 in the subject area of financial institutions is as follows:

Agency Designation	Two-part number	Order Category	Subject Area
OFR	2007-1	OGA	B

(3) In the Office’s practice, all consent orders involve settlements. When an order is identified in the database as a “consent order,” the settlement that preceded the consent order is incorporated by reference in that consent order and is not separately indexed as an “agreed settlement.”

~~All final orders shall be sequentially numbered as rendered using a two part number separated by a dash with the first part before the dash indicating the year and the second part indicating the numerical sequence of the order issued for that year beginning with number 1 each new calendar year. The assigned agency designation prefix, which is OFR, shall precede the two part number. Immediately after the agency designation prefix, the agency shall include the division with jurisdiction abbreviated as follows:~~

~~AA—Division of Accounting and Auditing~~

~~A—Division of Administration~~

~~B—Division of Banking~~

~~F—Division of Finance~~

~~I—Division of Information Systems~~

~~S—Division of Securities and Investor Protection~~

~~After the two part number, orders of general application shall be designated “GA” and responses to petitions for declaratory statement shall be designated “DS”.~~

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) +20.533(1)(f) FS. Law Implemented 120.53 +20.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.006, Amended.

## 69T-8.007 System for Indexing Final Orders.

(1) All final orders required to be indexed shall be maintained in an electronic database ~~data base~~ that allows users to search and retrieve the full text of agency orders by devising an ad hoc indexing system employing any logical terms in common usage which are contained in the orders of the agency.

(2) Persons desiring to search and retrieve agency orders may do so by contacting the agency clerk at (850)410-9896. The index shall be cumulative, made accessible to the public, and shall be updated ~~and made accessible to the public~~ at least every 120 days. The index shall be cumulative beginning March 1, 1992.

(3) The agency clerk shall ensure that final orders are entered into the database ~~data base~~.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) +20.533(1)(f) FS. Law Implemented 288.99(14)(b), 494.0011(2), 516.23(3), 520.994(5), 537.016(3), 655.012(2) +20.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.007, Amended.

## 69T-8.008 Maintenance of Records.

Final orders that comprise final agency action and that must be indexed pursuant to Section 120.53, F.S., ~~this chapter~~ shall be permanently maintained by the agency pursuant to the retention schedule approved by the Department of State, Division of Library and Information Services.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) 420.533(1)(f) FS. Law Implemented 120.53 419.041(2), 420.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.008, Amended.

## 69T-8.009 Accessibility of Final Orders.

(1) The agency shall make final orders accessible and available to the public by sequentially numbering and indexing final orders that are required to be indexed. The agency shall make the final orders available to the public for inspection and copying in accordance with Section 119.07, F.S.

(2) The agency clerk shall assist the public in obtaining information pertaining to final orders. The agency clerk may be contacted at (850)410-9896.

(3) The agency shall search and locate final orders required to be indexed.

(4) The agency maintains and stores such final orders in the offices of the agency at the Office of Financial Regulation, 200 E. Gaines Street, The Fletcher Building, Suite 526, Tallahassee, Florida. The office is open to the public between the hours of 8:00 a.m. and 5:00 p.m., excluding holidays and weekends.

Specific Authority 288.99(14)(b), 494.0011(2), 516.23(3), 517.03(1), 520.994(5), 537.016(3), 560.105(2), 655.012(2) 420.533(1)(f) FS. Law Implemented 120.53 420.53(2)-(4) FS. History—New 10-26-92, Formerly 3-8.009, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Andrea Moreland, 200 East Gaines Street, Suite 118J, The Fletcher Building, Tallahassee, Florida 32399-0370, (850)410-9662

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

**FINANCIAL SERVICES COMMISSION****Finance**

## RULE NOS.:

69V-560.102

## RULE TITLES:

Application Forms, Procedures and Requirements

69V-560.103

Definitions

69V-560.104

Application Fees

69V-560.105

Regulatory Standards for Evaluating Applications

69V-560.107

Registration of Locations and Authorized Vendors

69V-560.108

Declaration of Intent to Engage in Deferred Presentment Transactions Requirements

69V-560.201

Regulatory Standards for Evaluating Notices of Change of Control

69V-560.202

Scope

69V-560.301

Renewal Fees, Deadlines, and Requirements

69V-560.302

Renewal Application Forms, Procedures and Requirements

69V-560.303

Renewal Fees

69V-560.304

Bond

69V-560.402

Quarterly Reports

69V-560.602

Quarterly Reports to Be Filed by Foreign Currency Exchangers

69V-560.603

Quarterly Reports to Be Filed by Funds Transmitters

69V-560.604

Quarterly Reports to Be Filed by Payment Instrument Sellers

69V-560.605

Annual Filing of Financial

69V-560.606

Statements by Part II Registrants

69V-560.607

Quarterly Reports to Be Filed by Deferred Presentment Providers

69V-560.906

Consumer Credit Counseling Services

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 560, Florida Statutes, relating to the licensing and regulation of money transmitters. The proposed rules implement and reflect the statutory changes.

SUMMARY: Under Chapter 2006-213, Laws of Florida, the Financial Services Commission was granted rulemaking authority to require money transmitter applicants and registrants to amend any information contained in any application when the information becomes inaccurate for any reason, require registrants to file a new application when proposing a change of control of 25 percent or greater ownership in the registrant, and simply the registration renewal process. The forms referenced in the rules incorporate these legislative changes in addition to streamlining the forms by incorporating the biographical summary and instructions within the business application forms. Additional changes to the business forms include creating a Disclosure Reporting Page for applicants to provide detailed information concerning any affirmative responses to disclosure questions. Other forms that needed instructional guidance have now had the instructions embedded within the form itself.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 215.405, 560.105, 560.118, 560.123, 560.205, 560.208, 560.209, 560.403 FS.

LAW IMPLEMENTED: 215.405, 560.102, 560.103, 560.109, 560.114, 560.118, 560.123, 560.127, 560.129, 560.204, 560.205, 560.206, 560.207, 560.208, 560.209, 560.210, 560.303(1), 560.305, 560.306, 560.307, 560.308, 560.403 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69V-560.102 Application Forms, Procedures and Requirements.

(1) Forms. All forms referenced in this rule are available on the Office of Financial Regulation'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 ~~Application forms for all registrations covered by these rules may be obtained at no cost from the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)), by telephone, or in writing. All applications must be in the format required by the Office of Financial Regulation. Requests for forms should be sent to: Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.~~

(2)(a) Applications in the format required by the Office of Financial Regulation, accompanied by the prescribed fee for the requested registration, shall be filed with the Office of Financial Regulation at the address in subsection (1) above. No application will be deemed filed or received unless accompanied by the proper filing fee; ~~or~~

~~(b) In lieu of filing the required application forms, an applicant may file the application information electronically by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

(3)(a) All applicants for registration must file a completed application Form OFR-~~560~~ MT-5-01, Application to Register as a Money Transmitter ~~Pursuant to Chapter 560, F.S., effective 1/1/2007~~ 10/01, which is hereby incorporated by reference.

(b) All applicants for registration who propose to engage in deferred presentment transactions as defined in Section 560.402, F.S., shall file a completed Form OFR-~~560-03~~ MT-3-01, Declaration of Intent to Engage in Deferred Presentment Transactions, effective 1/1/2007 ~~10/01~~, which is

hereby incorporated by reference, together with the required nonrefundable fee for deferred presentment providers. Applicants must be registered pursuant to Part II or Part III of Chapter 560, F.S., in order to engage in deferred presentment transactions.

(c) All applicants for registration shall submit a completed Form OFR-~~560-02~~ MT-2-01, Location Notification Form, effective 1/1/2007 ~~10/01~~, which is hereby incorporated by reference, for each proposed "location" as defined in Rule 69V-560.103, F.A.C., not including the applicant's primary business location, together with the required nonrefundable fee.

(d) All applicants for registration as a payment instrument seller or funds transmitter shall file audited financial statements prepared in accordance with generally accepted accounting principles that are dated within 90 days prior to the date the application is received by the Office of Financial Regulation, and if available, audited financial statements for the immediately preceding 2-year period. In cases where the applicant is a wholly owned subsidiary of another corporation, the parent's consolidated audited financial statements may be submitted to satisfy this requirement. If the date of the application is more than 90 days after the applicant's fiscal year-end audited financial statements, the applicant shall file unaudited financial statements reviewed by an independent certified public accountant dated within 90 days of the date of the application for the period subsequent to the audit report, together with the audited financial statements for the most recent fiscal year. If the applicant has been in business less than 12 months, and has not prepared an audited financial statement, the applicant may file unaudited financial statements reviewed by an independent certified public accountant.

(4)(a) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, ~~executive officer, partner, principal, member, joint venturer~~, and all controlling shareholders shall complete the Biographical Summary in Form OFR-560-01 ~~MT-7-01, Biographical Form~~, effective 10/01, which is hereby incorporated by reference in subsection (3). If any of the foregoing individuals are non-U.S. Citizens, Addendum (1) to the Biographical Summary Form shall also be completed and filed.

(b) An existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, ~~executive officer, partner, member, joint venturer~~, controlling shareholder, and responsible person shall review and attest to the accuracy of the forms submitted on his or her behalf.

(5) The responsible person who will be in charge of the applicant's business activities in this state, and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, executive officer, principal, partner, member, joint venturer, and all controlling shareholders, unless exempt under Section 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL922720Z FL921050Z), effective \_\_\_\_\_, which is hereby incorporated by reference, accompanied by a nonrefundable \$47 processing fee. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. ~~If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Office of Financial Regulation reserves the right to require as many submissions of fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency.~~ Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(6) No change.

(7) Request for Additional Information. ~~All information the applicant wants to present to support the application should be submitted with the original filing.~~ Any request for additional information will be made by the Office of Financial Regulation within thirty (30) days after receipt of the application. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of the request. Failure to respond within forty-five (45) days from the date of the request shall be grounds for the Office of Financial Regulation to deny the application for failure to complete the application; and the application may be denied pursuant to subsection 120.60(1), F.S.

(8) Refunds. If the application is withdrawn or denied, all fees are nonrefundable.

(9) Withdrawal of Application. An application may be withdrawn if the applicant submits a written request for same that is approved by the Office of Financial Regulation before the application is approved or denied.

(10)(8)(a) Amendment of Application. If the information contained in any application for a registration as a money transmitter, or in any amendment thereto, becomes inaccurate for any reason, the registrant 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 subsection (3). A request to amend an application must be in writing and shall be submitted to the Office of Financial Regulation at the address in subsection (1).

(b) Provided the Office of Financial Regulation has not already docketed a Notice of Intent to Deny the Application, an applicant may amend the application after receiving written

permission from the Office of Financial Regulation following the Office of Financial Regulation's review of and determination that the applicant's written request to amend:

1. through 4. No change.

5. May ~~shall~~ not be denied pursuant to paragraph (c), if the request to amend makes a material change to the application.

(c) A request to amend which makes a material change to the application or to the Office of Financial Regulation's evaluation of the application is a violation of subsection (7) and the Office of Financial Regulation may ~~shall~~ deny the application in accordance with Section 560.114(1)(a), F.S., unless the applicant has made a good faith effort to comply with the statutory requirements of Chapter 560, F.S., and the rules of this chapter. Material changes include:

1. No change.

2. 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;

3. through 5. No change.

(d) No change.

~~(9) When an application is denied on the grounds set forth above, the applicant shall be duly notified.~~

Specific Authority 215.405, 560.105(3), 560.118(2), 560.205(1), 560.205(2), 560.403(1) FS. Law Implemented 215.405, 560.102, 560.118, 560.129, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307, 560.403 FS. History--New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.102, Amended \_\_\_\_\_.

69V-560.103 Definitions.

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

(1) through (5) No change.

(6) "Financial Statements" shall be defined as those reports, schedules and statements, prepared in accordance with United States generally accepted accounting principles ~~Generally Accepted Accounting Principles~~, which contain at least the following information:

(a) Statement of Financial Condition (Balance Sheet); ~~and~~

(b) Statement of Income;-

(c) Statement of Cash Flows; and

(d) Statement of Changes in Stockholders' Equity.

(7) through (9) No change.

(10) "Net worth" means an excess of assets over liabilities, as determined by United States generally accepted accounting principles; for purposes of this subject:

(a) Assets shall not include:

1. Prepaid expenses, other than items properly classified as current assets under generally accepted accounting principles;

2. Goodwill;

3. Franchise rights;

4. Organizational expenses;

5. Patents;

6. Copyrights;

7. Marketing rights;

8. Un-amortized debt discount and expense;

9. Assets of an intangible nature;

10. A home, home furnishings, automobiles, and any other personal items not readily marketable, if the money transmitter is an individual;

11. A corporation's advances or loans to shareholders or officers; and

12. A partnership's advance or loans to partners.

(b) Liabilities that can be shown to be collateralized by assets (including capital assets such as equipment, property, etc.) that are owned by the money transmitter are excluded from the computation. Likewise, liabilities owed to the owners or shareholders of the money transmitter are excluded. All other types of liabilities, including non-collateralized short and long term debt, must be included in the computation.

~~(11)(10)~~ "Person" means any individual, corporation, partnership, association, trust, or other group, however organized.

~~(12)~~ "Publicly Traded" means that the stock is currently traded on a national securities exchange registered with the U.S. Securities and Exchange.

~~(13)(11)~~ "Registrant" means a person registered by the Office of Financial Regulation pursuant to Part II or Part III of the Money Transmitters' Code.

~~(14)(12)~~ "Responsible person" means any individual who has principal active management authority over the business as defined by Section 560.103(18), F.S.

~~(15)(13)~~ "Unaudited Financial Statements" shall be defined as those financial statements prepared in accordance with Generally Accepted Accounting Principles and reviewed by a Certified Public Accountant, but not accompanied by the statements and representations as set forth in paragraphs (3)(b), (c), and (d) of this rule.

~~(16)(14)~~ "Holiday" means such days as are designated by Section 110.117, F.S.

~~(17)(15)~~ "Gross Income" means Gross Revenue (Sales) – Cost of Goods Sold.

Specific Authority 560.105(2) FS. Law Implemented 560.103, 560.118(2), 560.205(3), (4), 560.208 FS. History–New 9-24-97, Amended 11-4-01, Formerly 3C-560.103, Amended 9-14-04, \_\_\_\_\_.

69V-560.104 Application Fees.

(1) through (4) No change.

(5) Applicable fees for all initial applications may be paid by the applicant electronically by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.

Specific Authority 560.105(3) FS. Law Implemented 560.205(2), 560.306, 560.307, 560.403 FS. History–New 9-24-97, Amended 11-4-01, Formerly 3C-560.104, Amended \_\_\_\_\_.

69V-560.105 Regulatory Standards for Evaluating Applications.

(1) No change.

(2) The Office of Financial Regulation shall conduct background investigations on the responsible person who will be in charge of all the applicant's business activities in this state and each existing or proposed director, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer ~~executive officer, principal, member, partner, joint venturer,~~ and all controlling shareholders to determine whether the qualifications and requirements for registration have been met.

Specific Authority 560.105(3) FS. Law Implemented 560.109, 560.114, 560.205, 560.206, 560.306 FS. History–New 9-24-97, Amended 11-4-01, Formerly 3C-560.105, Amended \_\_\_\_\_.

69V-560.107 Registration of Locations and Authorized Vendors.

~~(1) Every registrant shall designate all locations and authorized vendors operating prior to October 1, 2001 by:~~

~~(a) Filing all of the information required by Form OFR-MT-2-01 (Location Notification Form) with the Office of Financial Regulation on or before December 1, 2001 for all locations and authorized vendors. After December 1, 2001, the registrant shall file all location information in accordance with subsection (2) of this rule; and~~

~~(b) No fee shall be required for the registration of locations and authorized vendor locations in operation prior to October 1, 2001 that have been designated by the registrant in accordance with the provisions of paragraph (a).~~

~~(1)(2) Every registrant that commences operations at locations other than the main office or through authorized vendors in this state on or after October 1, 2001 shall:~~

~~(a) File a completed Form OFR-560-02 MT-2-01 (Location Notification Form) for each location, which must be received by the Office of Financial Regulation within sixty (60) calendar days from the date that a location opens or an authorized vendor commences operations on behalf of the registrant on or after October 1, 2001;~~

~~(b) Demonstrate the required net worth for Part II registrants in accordance with the provisions of subsection 69V-560.606(4), F.A.C.; and~~

~~(b)(e) Submit the required \$50 fee for each location.~~

~~(2)(3)~~ Every registrant shall be responsible for filing a completed Form OFR-560-02 ~~MT-2-01~~ within sixty (60) calendar days from the date that a location closes or authorized vendor either ceases operation or has its authority to act on the registrant's behalf terminated by such registrant.

~~(4) In lieu of filing Form OFR MT 2-01, a registrant may notify the Office of Financial Regulation of the opening or closing of locations and authorized vendors electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.~~

For purposes of this section, the Note: The sixty (60) day period referenced in subsections (1)(2) and (2)(3) above is solely for the filing of the required form and payment of the required nonrefundable fee. A registrant must file Form OFR-560-02 notify the Office of Financial Regulation and pay the required fee for all locations of the registrant and authorized vendors that commence operations on behalf of the registrant. If the registrant for any reason closes a location or terminates the relationship with such authorized vendor within the first sixty (60) days, it will not relieve the registrant of the obligation to comply notify the Office of Financial Regulation in accordance with the provisions of this subsection. Form OFR-560-02 is incorporated by reference in subsection 69V-560.102(3), F.A.C.

Specific Authority 560.105(3), 560.208(3) FS. Law Implemented 560.205, 560.208, 560.307 FS. History--New 11-4-01, Formerly 3C-560.107, Amended \_\_\_\_\_.

69V-560.108 Declaration of Intent to Engage in Deferred Presentment Transactions.

~~(1) All registrants actively registered pursuant to Part II or Part III of Chapter 560, F.S., before October 1, 2001 and who are acting as a deferred presentment provider as defined by Section 560.402, F.S., shall file a completed Form OFR MT 3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions). This form and the required nonrefundable fee must be received by the Office of Financial Regulation by November 30, 2001.~~

~~(1)(2) After October 1, 2001, any A person who seeks to act as a deferred presentment provider as defined in Section 560.402, F.S., shall:~~

~~(a) Be registered pursuant to Part II or Part III of Chapter 560, F.S., and must at all times thereafter remain registered pursuant to Part II or Part III; and~~

~~(b) Submit a completed Form OFR-560-03 MT-3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions) together with the required nonrefundable fee for deferred presentment providers.~~

~~(2)(3) A registrant may not convey authority to an authorized vendor to engage in deferred presentment transactions on behalf of the registrant.~~

(3) A registrant shall terminate authority to engage in deferred presentment transactions by submitting Form OFR-560-03 (Declaration of Intent to Engage in Deferred Presentment Transactions) within 30 days of the registrant ceasing deferred presentment transactions.

(4) Form OFR-560-03 is incorporated by reference in subsection 69V-560.102(3), F.A.C. In lieu of filing Form OFR MT 3-01 (Declaration of Intent to Engage in Deferred Presentment Transactions), such declaration of intent may be made electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet.

Specific Authority 560.105(3), 560.403 FS. Law Implemented 560.403 FS. History--New 11-4-01, Formerly 3C-560.108, Amended \_\_\_\_\_.

69V-560.201 Requirements.

~~Notices of change of control will be processed pursuant to Section 560.127, F.S.~~

(1) Where a person or group of persons directly or indirectly or acting by or through one or more persons, proposes to acquire a controlling interest in a money transmitter registrant, such person or group shall file with the Office, no later than thirty (30) days prior to the date of such acquisition, a new application pursuant to Rule 69V-560.102, F.A.C., together with all required exhibits and fees. Additionally, the applicant shall file with the Office, at the time the new application is filed, a notice of termination of registration of the acquired entity on Form OFR-560-01, effective upon disposition of the new application by the Office. Form OFR-560-01 is incorporated by reference in subsection 69V-560.102(3), F.A.C. Regardless of whether the change of control involves a registered money transmitter, an Application to Register as a Money Transmitter (Form OFR MT 5-01) shall be filed. All information requested by that form shall be submitted to the Office of Financial Regulation, along with the required nonrefundable application fee as set forth in Rule 69V-560.104, F.A.C. The written notification should provide the Office of Financial Regulation with information concerning the change of control, including the proposed effective date and any significant changes to be made to the registrant's present business.

(2) A registrant required to file a new application as a result of an acquisition of a controlling interest pursuant to Section 560.126(2), F.S., must also file new location forms (Form OFR-560-02) and applicable fees for all existing locations on file with the office at the time of filing the new application in subsection (1) and a Declaration of Intent to Engage in Deferred Presentment Transactions (Form OFR-560-03) and applicable fee if currently engaged in Deferred Presentment Transactions. Forms OFR-560-02 and OFR-560-03 are incorporated by reference in subsection 69V-560.102(3), F.A.C. The responsible person who will be in charge of the applicant's business activities in this state, each



existing or proposed director, executive officer, principal, member and all controlling shareholders, unless exempt under Section 560.205(1) or 560.306(1), F.S., shall file a completed Florida Fingerprint Card (FL921050Z) accompanied by a \$47 nonrefundable processing fee. No fingerprint card will be required from any person described above who has been reported to the Office of Financial Regulation by the registrant and for whom the Office of Financial Regulation has received the required Biographical Form (Form OFR-MT-7-01) prior to October 1, 2001. If the Federal Bureau of Investigation cannot process the fingerprint card because of illegible fingerprints, a second card must be submitted. If that card cannot be processed, it will be necessary to submit a third card along with a nonrefundable fee of \$24 to cover the cost of processing the card. The Office of Financial Regulation reserves the right to require as many submissions of such fingerprint cards and fees as may be necessary until such time as the card can be properly processed by the appropriate law enforcement agency. Any applicant claiming the statutory exemption from the fingerprint requirement shall submit evidence to support its claim to the exemption.

(3) The office shall waive the requirement for a registrant to file a new application pursuant to Section 560.126(2), F.S.: An original of all parts of the application shall be filed, together with the appropriate filing fee at the following address: Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0375.

(a) When a person or group of persons proposing to purchase or acquire a controlling interest in a registrant has previously filed the information required in Sections 560.205 and 560.306, F.S., with a money transmitter currently registered with the office, provided that such person is currently affiliated with the money transmitter; or

(b) When the acquirer is currently registered with the office as a money transmitter.

(4) For purposes of this chapter "control" shall have the meaning defined in Section 560.127, F.S.

Specific Authority 215.405, 560.105(3), 560.123(2) FS. Law Implemented 215.405, 560.127, 560.204, 560.205, 560.303(1), 560.305, 560.306, 560.307 FS. History-New 9-24-97, Amended 11-4-01, 12-11-03, Formerly 3C-560.201, Amended \_\_\_\_\_.

69V-560.202 Regulatory Standards for Evaluating Notices of Change of Control.

~~When a notice of change of control of a registered money transmitter is filed, it is the applicant's responsibility to prove that the statutory criteria warranting the grant of authority are met. The Office of Financial Regulation shall conduct an investigation pursuant to Section 560.127(3), F.S. If the Office of Financial Regulation determines that any one of the criteria set forth in Section 560.127(3)(a) or (b), F.S., is not met, or any act in Section 560.114, F.S., is or has been committed, the Office of Financial Regulation may deny the change in control. Additionally, should the change of control involve an~~

~~unregistered money transmitter and/or unregistered person(s); the Office of Financial Regulation will conduct an investigation pursuant to Section 560.206 and/or 560.306, F.S. The Office of Financial Regulation shall deny the application in accordance with Section 560.114, F.S.~~

Specific Authority 560.105(3) FS. Law Implemented 560.109, 560.114, 560.127, 560.205, 560.206, 560.306 FS. History-New 9-24-97, Amended 11-4-01, Formerly 3C-560.20, Repealed \_\_\_\_\_.

#### 69V-560.301 Scope.

~~These rules contain the specific procedures for filing and evaluating renewal applications for registered payment instrument sellers, funds transmitters, check cashers, foreign currency exchangers, deferred presentment providers, locations and authorized vendors.~~

Specific Authority 560.105(3) FS. Law Implemented 560.207, 560.308, 560.403 FS. History-New 9-24-97, Amended 11-4-01, Formerly 3C-560.301, Repealed \_\_\_\_\_.

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

(1)(a) Payment Instrument Seller or a Funds Transmitter (Part II registrant): Registrations issued to Part II registrants shall remain effective through April 30 of the second year following the date of issuance of the registration, not to exceed 24 months, unless during such period the registration is surrendered, suspended, or revoked.

(b) A renewal of a funds transmitter or payment instrument seller registration (Part II registrant) shall include a nonrefundable renewal fee of \$1,000.00, plus \$50.00 for each location being renewed, including branch offices and authorized vendors, operating within this state, or a total 2-year nonrefundable renewal fee of \$20,000.00 to renew all such locations operating within this state. The \$50.00 location renewal fee shall not apply to the registrant's primary business address.

(c)~~(b)~~ All renewal fees applications for Part II registrants must be received by the office on or filed on or after January 1 of the year in which the existing registration expires, but before the expiration date of April 30. If the renewal fees are received a renewal application is filed within 60 calendar days after the expiration date of an existing registration, the renewal application and renewal fees must shall be accompanied by a nonrefundable late fee of \$500.00. If the registrant has not filed the requisite renewal fees and late fees a renewal application within 60 calendar days after the expiration date of an existing registration, the registration shall expire and a new application must shall be filed pursuant to Section 560.205, F.S.

(2)(a) Check Cashier or Foreign Currency Exchanger (Part III registrant): Registrations issued to Part III registrants shall remain in effect through the remainder of the second calendar year (December 31) following the date the registration was issued. Thereafter, renewals are issued for a 24-month period

from December 31 of the year the registration or renewal expires, unless during such period the registration is surrendered, suspended, or revoked.

(b) A renewal of a check casher or foreign currency exchanger registration (Part III registrant) shall include a nonrefundable renewal fee of \$500.00, plus \$50.00 for each location being renewed, including branch offices and authorized vendors, operating within this state, or a total 2-year nonrefundable renewal fee of \$20,000.00 to renew all such locations operating within this state. The \$50.00 location renewal fee shall not apply to the registrant's primary business address.

~~(c)(b)~~ All renewal fees applications for Part III registrants must be received by the office on or before the expiration date of filed on or after June 1 of the year in which the existing registration expires, but not later than December 31 of that year. If the renewal fees are received A renewal application, renewal fees, and a late fee of \$250.00 must be filed within 60 calendar days after the expiration date of an existing registration, the renewal fees must be accompanied by a non-refundable late fee of \$250.00 in order for the registration to be reinstated. If the registrant has not filed the requisite renewal fees and late fees a renewal application within 60 calendar days after the expiration date of an existing registration, the registration shall expire and a new application must be filed pursuant to Section 560.307, F.S.

(3)(a) Deferred Presentment Providers (Part IV): The "Declaration of Intent to Engage in Deferred Presentment Transactions" shall expire concurrently with the registrant's Part II or Part III registration. A registrant who intends to continue to engage in deferred presentment transactions must concurrently renew their registration pursuant to Part II or Part III in order to remain qualified to act as a deferred presentment provider. A declaration of intent non-refundable renewal fee of \$1000 must be received by the Office on or before the expiration date of the registrant's Part II or Part III registration. The renewal of a deferred presentment provider's "Declaration of Intent to Engage in Deferred Presentment Transactions" shall be indicated on Form OFR-MT-6-01 (Application to Renew Registration as a Money Transmitter Pursuant to Chapter 560, F.S.), and submitted together with the required nonrefundable renewal fee for a deferred presentment provider.

(b) If the declaration of intent renewal fee is received A renewal declaration of intent and fee, and a late fee of \$500.00, must be filed within 60 calendar days after the expiration of the registrant's Part II or Part III an existing registration, the declaration of intent renewal fee must be accompanied by a non-refundable late fee of \$500.00 in order for the declaration of intent to be reinstated. If the registrant has not filed the requisite declaration of intent renewal fee and late fee a renewal declaration of intent within 60 calendar days after the

expiration date of the registrant's Part II or Part III an existing registration, the declaration of intent shall expire and a new declaration must be filed pursuant to Chapter 560.403, F.S.

(4) If any date in this rule falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S. weekend or holiday, the renewal application together with the required renewal fees and any applicable late fees must be received by the Office of Financial Regulation by the close of business on the next business day.

Specific Authority 560.105(3) FS. Law Implemented 560.206, 560.207, 560.308, 560.403 FS. History-New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.302, Amended \_\_\_\_\_.

#### 69V-560.303 Renewal Application Forms, Procedures and Requirements.

(1) Applicants for renewal of registration must complete Form OFR-MT-6-01, Application to Renew Registration as a Money Transmitter, effective 10/01, which is hereby incorporated by reference. Copies of such forms can be obtained by request from the Office of Financial Regulation at the address specified in subsection (5) below.

(2) The renewal application shall include any substantial changes that have occurred to registrant since its last application to the Office of Financial Regulation. These substantial changes include, but shall not be limited to, a change or an addition to an executive officer, director, principal, member, controlling shareholders, or responsible person/manager. A completed Biographical Form OFR-MT-7-01, shall be submitted for each new individual, and, in the case of a non U.S. citizen, Addendum (1) to Form OFR-MT-7-01, shall be attached to the renewal application. The fingerprint cards required by subsection 69V-560.102(5), F.A.C., and the Biographical Form (Form OFR-MT-7-01) shall be submitted only for those person(s) who have not previously submitted such documents in connection with the registrant. Other changes, such as any new businesses acquired, change in address, change in name, material litigation, criminal convictions, etc., shall be reported, as required on the renewal form.

(3) If, as a result of subsection (1) above, a Biographical Form is required on any individual, the individual shall review and attest to the accuracy of the form.

(4)(a) An original of all parts of the application shall be filed, together with the appropriate filing fee as specified in Rule 69V-560.303, F.A.C., at the following address: Division of Securities and Finance, Office of Financial Regulation of Banking and Finance, 101 East Gaines Street, Tallahassee, Florida 32399-0350.

(b) In lieu of filing the required forms, a registrant may renew its registration, locations, authorized vendors, and "Declaration of Intent to Engage in Deferred Presentment

Transactions" electronically at the time of renewal by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.

(5) Processing. Applications to renew registration as a money transmitter shall be processed, where applicable, pursuant to the provisions of Rules 69V-560.101 through 69V-560.108, F.A.C.

Specific Authority 560.105(3) FS. Law Implemented 560.114(1), 560.205(2), (3), 560.207, 560.305, 560.308 FS. History--New 9-24-97, Amended 11-4-01, Formerly 3C-560.303, Repealed \_\_\_\_\_.

#### 69V-560.304 Renewal Fees.

(1) A renewal application for funds transmitter or payment instrument seller registration (Part II registrant) shall be accompanied by a nonrefundable renewal fee of \$1,000.00, plus \$50.00 for each location being renewed, including branch offices and offices of authorized vendors, operating within this state, or a total 2 year nonrefundable fee of \$20,000.00 to register all such locations operating within this state. The \$50.00 location fee shall not apply to the registrant's primary business address.

(2) A renewal application for check casher or foreign currency exchanger registration (Part III registrant) shall be accompanied by a renewal fee of \$500.00, plus \$50.00 for each location being renewed, including branch offices and offices of authorized vendors, operating within this state, or a total of 2-year nonrefundable fee of \$20,000.00 to register all such locations operating within this state. The \$50.00 location fee shall not apply to the registrant's primary business address.

(3) Every deferred presentment provider shall renew its Declaration of Intent to Engage in Deferred Presentment Transactions to remain a deferred presentment provider at the same time as they renew their Part II or Part III registration accompanied by the required nonrefundable fee of \$1,000.00.

(4) All fees required to renew the registration of a money transmitter may be paid electronically by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.

Specific Authority 560.105(3) FS. Law Implemented 560.207, 560.308, 560.403 FS. History--New 9-24-97, Amended 11-4-01, Formerly 3C-560.304, Repealed \_\_\_\_\_.

#### 69V-560.402 Bond.

(1) No change.

(2) The corporate surety bond must be issued by a bonding company or insurance company authorized to do business in this state. The originally executed Form OFR-560-06, Money Transmitter Surety Bond Form, effective 1/1/2007, which is hereby incorporated by reference, shall be maintained on file with the Office at all times. The bond form must be executed by the bonding company and the applicant.

(3) All items pledged in lieu of a corporate surety bond must be held or deposited at a federally insured financial institution as defined by Section 655.005(1)(h), F.S. The originally executed Form OFR-560-05, Pledge Agreement, effective 1/1/2007, which is hereby incorporated by reference, shall be maintained on file with the Office at all times. The Pledge Agreement bond form included in Form OFR-MT-5-01, must be executed by the federally insured financial institution and the applicant.

(4) No change.

(5)(a) The amount of the surety bond, collateral deposit, or combination thereof shall under no circumstances be for an amount less than \$50,000. The amount of the surety bond or collateral shall not exceed \$500,000, but be the greater of: The required bond, collateral deposit or combination thereof for initial registration shall be calculated in accordance with Form OFR-MT-5-01.

(a) 2% of the registrant's total U.S. dollar volume of transactions for the preceding 12 month period; or

(b) An amount based on the number of locations/vendors as determined in accordance with the following schedule: The required bond, collateral deposit or combination thereof for renewal registration shall be calculated in accordance with Form OFR-MT-6-01.

<u>Number of Locations/Vendors</u>	<u>Required Amount of Surety/Collateral</u>
<u>0-10</u>	<u>\$50,000</u>
<u>11-25</u>	<u>\$100,000</u>
<u>26-50</u>	<u>\$150,000</u>
<u>51-100</u>	<u>\$200,000</u>
<u>101-250</u>	<u>\$250,000</u>
<u>251 or more</u>	<u>\$500,000</u>

(c) The required bond, collateral deposit or combination thereof shall not exceed \$250,000.00, unless the Office of Financial Regulation determines that an extraordinary circumstance, such as those of Section 560.209(2)(a), F.S., exists which requires an additional amount above \$250,000.00. However, the maximum bond, collateral deposit or combination thereof shall be \$500,000.00.

(6)(a) For purposes of compliance with the provisions of this rule, a registrant shall calculate the amount of their surety bond, collateral deposit, or combination thereof in accordance with subsection (5) of this rule each December 31st for the preceding 12 months.

(b) For purposes of compliance with paragraph (5)(b) of this rule the number of active locations/vendors shall be the number of branches in operation and the number of vendors currently under contract with the registrant on December 31st.

(7) Annually, each registrant shall file on Form OFR-560-07, Security Device Calculation Form, revised 1/1/2007, which is hereby incorporated by reference, the required information regarding the registrant's amount of

surety bond, collateral deposit, or combination thereof as prescribed in subsection (5) of this rule not later than January 31st of each calendar year. If based on the registrant's calculation, the amount of the device must be increased, the registrant shall provide to the Office an additional surety bond, surety rider for an existing bond, collateral deposit pledge agreement or combination thereof reflecting the amount required no later than sixty (60) days following the deadline to file Form OFR-560-07, Security Device Calculation Form.

~~(8)(6)~~ The bond, collateral deposit or combination thereof shall remain in place for 5 years after the registrant ceases operations in this state. The security shall be reduced or eliminated prior to that time upon written approval, if the Office of Financial Regulation determines that the registrant's outstanding payment instruments or funds transmitted in this state have been paid or reduced and that such lesser amount adequately protects the interests of the public.

~~(9)(7)~~ A registrant must at all times have and maintain the bond, collateral deposit or combination thereof in the amount prescribed by the Office of Financial Regulation. If the Office of Financial Regulation at any time reasonably determines that the bond or elements of the collateral deposit are insecure, deficient in amount, or exhausted in whole or in part, the Office of Financial Regulation shall, by written order, require the filing of a new or supplemental bond or the deposit of new or additional collateral deposit items.

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

Specific Authority 560.105(3), 560.209(2)(a) FS. Law Implemented 560.207, 560.209 FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.402, Amended.

69V-560.602 Quarterly Reports ~~to Be Filed by Check Cashers.~~

(1) Every money transmitter registered pursuant to the Code registered check casher shall submit a quarterly report to the Office of Financial Regulation ~~on by filing a completed Form OFR-560-04MT-1-01, Money Transmitter Quarterly Report Form, effective 1/1/2007 10/01,~~ which is 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. A completed quarterly report form Such report shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a Saturday, Sunday weekend or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day.

~~(2) In lieu of filing Form OFR-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

~~(2)(3)~~ The Office of Financial Regulation may ~~shall~~ levy a late payment penalty of \$100.00 per day or part thereof that a report is past due. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (1).

Specific Authority 560.105(3), 560.118(2)(b) FS. Law Implemented 560.118(2) FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.602, Amended.

69V-560.603 Quarterly Reports to Be Filed by Foreign Currency Exchangers.

~~(1) Every registered foreign currency exchanger shall submit a quarterly report to the Office of Financial Regulation on Form OFR-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference. Such report shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day.~~

~~(2) In lieu of filing Form OFR-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

~~(3) The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (1).~~

Specific Authority 560.105(3), 560.118(2)(b) FS. Law Implemented 560.118(2), 560.123 FS. History—New 9-24-97, Amended 12-30-98, 11-4-01, Formerly 3C-560.603, Repealed.

69V-560.604 Quarterly Reports to Be Filed by Funds Transmitters.

~~(1) Every registered funds transmitter shall submit a quarterly report to the Office of Financial Regulation on Form OFR-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference. Such report shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day.~~

~~(2) In lieu of filing Form OFR-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

~~(3) The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (1).~~

Specific Authority 560.105(3), 560.118(2)(b) FS. Law Implemented 560.118(2), 560.123, 560.210 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.604, Repealed.

#### 69V-560.605 Quarterly Reports to Be Filed by Payment Instrument Sellers.

~~(1) Every registered payment instrument seller shall submit a quarterly report to the Office of Financial Regulation on Form OFR-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference. Such report shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day.~~

~~(2) In lieu of filing Form OFR-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

~~(3) The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (1).~~

Specific Authority 560.105(3), 560.118(2)(b) FS. Law Implemented 560.118(2), 560.123, 560.210 FS. History—New 9-24-97, Amended 11-4-01, Formerly 3C-560.605, Repealed.

#### 69V-560.606 Annual Filing of Financial Statements by Part II Registrants.

(1)(a) Each registered funds transmitter shall annually submit audited financial statements to the Office of Financial Regulation for the registrant's most recent fiscal year.

(b) Each registered payment instrument seller shall annually submit audited financial statements to the Office of Financial Regulation for the registrant's most recent fiscal year unless it is exempt pursuant to Section 560.118(2)(a), F.S. Any registrant claiming such exemption shall submit such claim in writing on Form OFR-~~560-08 MT-4-01~~, Money Transmitter Audited Financial Statement Exemption Claim Form, effective 1/1/2007 ~~10/01~~, which is hereby incorporated by reference and

available on the Office's website at [www.flofr.com](http://www.flofr.com) and by mail at the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. The claim shall be executed by the registrant or an officer of the registrant under penalty of perjury. The exemption shall be valid for the current fiscal year only, and must be resubmitted each year by the registrant.

(c) No change.

(2) through (3) No change.

(4) For purposes of adding new locations or authorized vendors, a Part II registrant may rely upon its annual financial statements that were received by the Office of Financial Regulation in a timely manner as required in subsections (1) and (2) of this rule ~~or the net worth disclosure required by Form OFR-MT-2-01~~. The Office of Financial Regulation reserves the right to require additional documentation up to and including the submission of financial statements to substantiate the net worth ~~disclosure on Form OFR-MT-2-01~~.

Specific Authority 560.105(3), 560.118(2)(a), 560.205(3)(f), (4)(d) FS. Law Implemented 560.118(2), 560.205, 560.208 FS. History—New 11-4-01, Formerly 3C-560.606, Amended.

#### 69V-560.607 Quarterly Reports to Be Filed by Deferred Presentment Providers.

~~(1) Every registered deferred presentment provider shall submit a quarterly report to the Office of Financial Regulation on Form OFR-MT-1-01, Money Transmitter Quarterly Report Form, effective 10/01, which is hereby incorporated by reference. Such report shall be received by the Office of Financial Regulation no later than forty-five (45) days after the conclusion of each quarter and shall be sent to Division of Securities and Finance at the address listed in subsection 69V-560.102(1), F.A.C. Should the forty-fifth day fall on a weekend or holiday, the reports must be received by the Office of Financial Regulation no later than the next business day.~~

~~(2) In lieu of filing Form OFR-MT-1-01, a registrant may submit the required quarterly report information electronically on or before the deadline by following the applicable instructions on the Office of Financial Regulation's website ([www.dbf.state.fl.us](http://www.dbf.state.fl.us)) on the Internet.~~

~~(3) The Office of Financial Regulation shall levy a late payment penalty of \$100.00 per day or part thereof that a report is past due. A report is "past due" if it is received by the Office of Financial Regulation one or more days beyond the period defined in subsection (1).~~

Specific Authority 560.105(3), 560.118(2) FS. Law Implemented 560.118(2) FS. History—New 11-4-01, Formerly 3C-560.607, Repealed.

#### 69V-560.906 Consumer Credit Counseling Services.

(1) The Office of Financial Regulation shall publish a list of consumer credit counseling agencies by October 1 of each calendar year via the Office of Financial Regulation's website ([www.flofr.com](http://www.flofr.com) ~~[dbf.state.fl.us](http://www.dbf.state.fl.us)~~). The Office of Financial

Regulation will accept requests from consumer credit counseling agencies to be included on the list on an ongoing basis and may periodically republish the list at its discretion. If the Office of Financial Regulation makes a decision to publish the list more often, a notice of such change will be posted on the Office of Financial Regulation's website. The provider will then be responsible for making and distributing such additional copies of the list to all branch locations engaging in deferred presentment transactions.

(2) through (8) No change.

Specific Authority 560.105(3), 560.404(23) FS. Law Implemented 560.404 FS. History—New 2-20-02, Formerly 3C-560.906, Amended

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Gregory C. Oaks, Financial Administrator, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

## FINANCIAL SERVICES COMMISSION

### Securities

RULE NO.: 69W-200.001  
RULE TITLE: Definitions

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law changed the definition of branch office and authorized the Financial Services Commissions to adopt exceptions to the definition. Rule 69W-200.001, F.A.C., is being amended to re-define the term "branch office" in accordance with the new statutory definition and specify exceptions to the definition.

SUMMARY: Changes the definition of branch office to reflect the new statutory definition under the Florida Securities and Investors Protection Act. The rule is also amended to reflect exceptions to the definition.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 517.03(1) FS.

LAW IMPLEMENTED: 517.07, 517.12, 517.021, 517.061, 517.051, 517.081, 517.161 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-200.001 Definitions.

As used in the Rules and Regulations of the Financial Services Commission and Office of Financial Regulation, pursuant to Chapter 517, F.S., unless the context otherwise specifically requires:

(1) through (8) No change.

(9)(a) Except as otherwise provided in this subsection, the term "Branch Office" shall mean any location in this state of a dealer or investment adviser at which one or more associated persons regularly conduct the business of rendering investment advice or effecting any transactions in, or inducing or attempting to induce the purchase or sale of, any security or any location that is held out as such. Pursuant to Section 517.021(4), F.S., the Financial Services Commission may adopt exceptions to this definition. The following locations shall not be deemed branch offices for purposes of Section 517.12(5), F.S., and are considered exceptions to the definition of a branch office under Section 517.021(4), F.S.: Except as otherwise provided herein, the term "Branch Office" shall mean any location in Florida other than a home office:

1. Any location that is established solely for customer service or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office; Which is owned or controlled by a dealer or investment adviser for purposes of offering for sale or selling securities or for rendering investment advice and in which two or more associated persons are engaged in such activities. "Control" as used herein and in Section 517.021(4), F.S., shall be presumed from the fact that such location is used by associated persons of a dealer or investment adviser to conduct business on behalf of such dealer or investment adviser;

2. Any location that is the associated person's primary residence; provided that: Which is listed in any publication, including a professional digest or telephone directory, or advertised in any media as an office of a dealer or investment adviser; or

a. Only one associated person, or multiple associated persons, who reside at that location and are members of the same immediate family, conduct business at the location;

b. The location is not held out to the public as an office and the associated person does not meet with customers at the location;

c. Neither customer funds nor securities are handled at that location;

d. The associated person is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements and other communications to the public by such associated person;

e. The associated person's correspondence and communications with the public are subject to the firm's supervision in accordance with NASD Rule 3010, as incorporated in subparagraph 69W-600.013(1)(h)1., F.A.C.;

f. Electronic communications (e.g., e-mail) are made through the registrant's electronic system;

g. All orders are entered through the designated branch office or an electronic system established by the registrant that is reviewable at the branch office;

h. Written supervisory procedures pertaining to supervision of sales activities conducted at the residence are maintained by the registrant; and

i. A list of the residence locations is maintained by the registrant;

3. Any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the registrant complies with the provisions of this rule in sub-subparagraphs (9)(a)2.a. through i. above; Which is designated with the Securities and Exchange Commission or with a securities exchange or self-regulatory organization as a branch office of a dealer or investment adviser.

4. Any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

5. Any location that is used primarily to engage in non-securities activities and from which the associated person(s) effects no more than 25 securities transactions in any one calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the associated person(s) conducting business at the non-branch locations are directly supervised;

6. The Floor of a registered national securities exchange where a registrant conducts a direct access business with public customers; or

7. A temporary location established in response to the implementation of a business continuity plan.

8. The principal office and place of business of an investment adviser registered with the Office of Financial Regulation pursuant to Section 517.12(4), F.S.

9. Any location of an investment adviser that is registered as a branch office of a dealer, provided the dealer and investment adviser use the same CRD number.

(b) Notwithstanding the exclusions provided in subparagraph (9)(a)2. above, any location of a dealer that is responsible for supervising the activities of persons associated

with the registrant at one or more non-branch locations of the registrant is considered to be a branch office. The following locations shall not be deemed branch offices for purposes of Section 517.12(5), F.S.:

1. Locations used temporarily for the purposes of conducting seminars or distributing printed information;

2. The home of a client;

3. A public location, such as a restaurant, which is occasionally used by a registered associated person to conduct business on behalf of the dealer or the investment adviser provided the location is not held out to the investing public as an office of the dealer or investment adviser; or

4. Any location defined as a branch office in paragraph (9)(a) of this rule from which an associated person registered with a dealer and one or more investment advisers registered with the Office of Financial Regulation conducts business on behalf of said multiple entities provided that such location is lawfully registered with the Office of Financial Regulation as a branch office of at least one of said entities.

(c) The term "business day" as used in NASD Rule 3010(g)(2)(A), which is incorporated by reference in subparagraph 69W-600.013(1)(h)1., F.A.C., shall not include any partial business day provided that the associated person spends at least four hours on such business day at his or her designated branch office during the hours that such office is normally open for business.

(10) through (33) No change.

Specific Authority 517.03(1) FS. Law Implemented 517.07, 517.12, 517.021, 517.061, 517.051, 517.081, 517.161 FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-200.01, Amended 12-8-87, 10-14-90, 7-31-91, 6-16-92, 1-10-93, 5-5-94, 10-20-97, 8-9-98, 8-19-99, 10-30-03, Formerly 3E-200.001, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

## FINANCIAL SERVICES COMMISSION

### Securities

RULE NO.:  
69W-300.002

RULE TITLE:  
Financial Statements and Reports

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law requires financial statements to be prepared in accordance with United States generally accepted accounting principles. The rule is amended to reflect this requirement.

**SUMMARY:** The proposed rule amendments provide that financial statements must be prepared in accordance with United States generally accepted accounting principles.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost has been prepared.

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

**SPECIFIC AUTHORITY:** 517.03 FS.

**LAW IMPLEMENTED:** 517.081, 517.12 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

69W-300.002 Financial Statements and Reports.

(1) All financial statements required for registration of securities, or registration of dealers and investment advisers, shall be prepared in accordance with United States generally accepted accounting principles ~~Generally Accepted Accounting Principles, as promulgated by the American Institute of Certified Public Accountants~~. Financial statements required to be prepared in accordance with Regulation S-X together with the Accounting Series Releases, pursuant to the Securities Act of – 1933 and the Securities Exchange Act of 1934, will be acceptable to the Office of Financial Regulation unless otherwise required by these rules.

(2) Definitions:

(a) No change.

(b) “Financial Statements and Reports” shall be defined as those reports, schedules and statements, prepared in accordance with United States generally accepted accounting principles, which contain at least the following information unless the context otherwise dictates:

1. Statement of Financial Condition or Balance Sheet;
2. Statement of Income;
3. Statement of Changes in Financial Position;
4. Statement of Changes in Stockholder’s/Partner’s/Proprietor’s Equity;
5. Statement of Changes in Liabilities Subordinated to Claims of General Creditors.

(c) No change.

(d) “Unaudited Financial Statements” shall be defined as those financial statements prepared in accordance with United States generally accepted accounting principles, not

accompanied by the statements and representations as set forth in subparagraphs (2)(a)2., 3. and 4. of this rule, and shall include an oath or affirmation that such statement or report is true and correct to the best knowledge, information, and belief of the person making such oath or affirmation; such oath or affirmation shall be made before a person authorized to administer such oath or affirmation, and shall be made by a duly authorized representative of the entity for whom the financial statements were prepared.

(3) through (5) No change.

(6) Requirements for Securities Registration.

(a) through (c) No change.

(d) For purposes of Rule 69W-700.005, F.A.C., Individual General Partners shall submit an unaudited sheet which conforms to United States generally accepted accounting principles. Such balance sheet should be prepared on a cost basis. A two-column presentation showing both cost in the first column paralleled by a second column presenting estimated values will also be acceptable. However, the Office of Financial Regulation will not base the net worth computation on estimated values unless satisfactory evidence of the estimated values is presented to the Office of Financial Regulation.

(7) No change.

Specific Authority 517.03 FS. Law Implemented 517.081, 517.12 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-300.02, Amended 6-28-93, 11-22-93, 12-24-95, 9-19-00, 10-30-03, Formerly 3E-300.002, Amended.

**NAME OF PERSON ORIGINATING PROPOSED RULE:** Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

**NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE:** Financial Services Commission

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 13, 2007

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December 22, 2006

## **FINANCIAL SERVICES COMMISSION**

### **Securities**

**RULE NO.:** 69W-301.002 **RULE TITLE:** Processing of Applications

**PURPOSE AND EFFECT:** This law contains a number of provisions relating to the licensing and regulatory functions of the Office of Financial Regulation. Among other things, the law amends provisions concerning licensing, notice filings, and other regulatory provisions in the area of securities regulation. The proposed rule amendments implement and reflect the statutory changes. In particular, the proposed rule amendments adopt a new form that is to be used by Canadian Dealers for notice filings.



**SUMMARY:** The proposed rule amendments adopt a new form that is to be used by Canadian Dealers for notice filings.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost has been prepared.

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

**SPECIFIC AUTHORITY:** 517.03(1), 517.12, 517.1201 FS.

**LAW IMPLEMENTED:** 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS:** Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

69W-301.002 Processing of Applications.

(1) through (6) No change.

(7)(a) The forms referred to in this section below are incorporated by reference and readopted by this rule for the purposes of Rule Chapters 69W-100 through 69W-900, F.A.C.:

1. through 12. No change.

13. OFR Form DA-5-91, Issuer/Dealer Compliance Form (Revised 1/91); ~~and~~

14. Form FL921250Z, Florida Fingerprint Card (Revised 1/91) and;

15 OFR Form CAN, Canadian Dealer Notification (New \_\_\_\_\_).

(b) through (c) No change.

Specific Authority 517.03(1), 517.12, 517.1201 FS. Law Implemented 120.60(1), 517.051, 517.081, 517.082, 517.12, 517.161(5) FS. History-Revised and Transferred from 3E-300.01, 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 2-1-87, 12-8-87, 7-29-90, 7-31-91, 6-16-92, 1-10-93, 3-13-94, 10-1-96, 10-23-97, 6-22-98, 6-10-99, 5-7-00, 7-10-02, Formerly 3E-301.002, Amended 3-16-06, \_\_\_\_\_.

**NAME OF PERSON ORIGINATING PROPOSED RULE IS:** Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

**NAME OF SUPERVISOR OR PERSON WHO APPROVED PROPOSED RULE:** Financial Services Commission

**DATE PROPOSED RULE APPROVED BY AGENCY HEAD:** February 13, 2007

**DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW:** December 22, 2006

## FINANCIAL SERVICES COMMISSION

### Securities

**RULE NOS.:**

69W-400.001

**RULE TITLES:**

Rules for Eleemosynary and Religious Organizations Under the Requirements of Section 517.051(9), F.S.

69W-400.003

Rules for Government Securities Under Section 517.051(1), F.S.

**PURPOSE AND EFFECT:** Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law requires financial statements to be prepared in accordance with United States generally accepted accounting principles. The rules are amended to reflect this requirement.

**SUMMARY:** The proposed rule amendments provide that financial statements must be prepared in accordance with United States generally accepted accounting principles.

**SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST:** No statement of estimated regulatory cost has been prepared.

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

**SPECIFIC AUTHORITY:** 517.03, 517.051 FS.

**LAW IMPLEMENTED:** 517.051, 517.12 FS.

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

**THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS:** Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

69W-400.001 Rules for Eleemosynary and Religious Organizations Under the Requirements of Section 517.051(9), F.S.

The requirement of Section 517.051(9), F.S., that no persons shall directly or indirectly offer or sell securities under this section except by an offering circular containing full and fair disclosure shall be deemed satisfied if the following information is contained in the offering circular which is provided to each offeree prior to sale.

(1) In the case of an offering not in excess of \$250,000 of securities in reliance upon the exemption:

(a) through (g) No change.

(h) The following financial statements of the issuer prepared in conformance with United States generally accepted accounting principles ~~generally accepted accounting principals~~:

1. A balance sheet and statement of profit and loss as of a date not earlier than the end of the last fiscal year of the issuer; provided, however, that if the last fiscal year shall have ended within 90 days of the date of the circular in which such data is to be included, such data may be supplied as of a date not earlier than the end of the fiscal year preceding the last fiscal year of the issuer;

2. If the balance sheet and statement of profit and loss included in an offering circular pursuant to subparagraph 1. above are as of a date 120 days prior to the date of the offering circular in which such data are included, sales and net income information as of a date not earlier than 90 days prior to the date of the offering circular shall be included.

(2) In the case of an offering in excess of \$250,000 of securities in reliance upon the exemption:

(a) through (y) No change.

(z) The following financial statements of the issuer prepared in conformance with United States generally accepted accounting principles:

1. A balance sheet and statement of profit and loss as of a date not earlier than the end of the last fiscal year of the issuer; provided, however, that if the last fiscal year shall have ended within 90 days of the date of the circular in which such data is to be included, such data may be supplied as of a date not earlier than the end of the fiscal year preceding the last fiscal year of the issuer.

2. If the balance sheet and statement of profit and loss included in an offering circular pursuant to subparagraph 1. above are as of a date 120 days prior to the date of the offering circular in which such data are included, sales and net income information as of a date not earlier than 90 days prior to the date of the offering circular shall be included.

(3) through (4) No change.

Specific Authority 517.03(1) FS. Law Implemented 517.051(9), 517.12(2) FS. History--New 12-5-79, Amended 9-20-82, Formerly 3E-400.01, Amended 10-14-90, Formerly 3E-400.001, Amended

69W-400.003 Rules for Government Securities Under Section 517.051(1), F.S.

For purposes of the exemption of Section 517.051(1), F.S., any issuer or guarantor of securities which are or have been in default shall be deemed to have satisfied the requirement of full and fair disclosure, thereby entitling the securities issued or guaranteed by such person to the exemption granted therein, if the following information is contained in an offering circular provided to each offeree prior to any sale of such securities:

(1) A description of each and every default by the issuer and guarantor including:

(a) through (g) No change.

(h) Financial statements for the last two (2) fiscal years prepared and presented in accordance with United States generally accepted accounting principles ~~Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants and in existence on June 1, 1992~~. Such statements shall additionally have been audited by an independent governmental audit organization or by an independent certified public accountant; and

(i) through (2) No change.

Specific Authority 517.03(1), 517.051(1) FS. Law Implemented 517.051(1) FS. History--New 12-8-87, Amended 2-17-93, Formerly 3E-400.003, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

## FINANCIAL SERVICES COMMISSION

### Securities

RULE NO.:  
69W-500.04

RULE TITLE:  
Computation of Number of  
Purchasers for Purposes of Section  
517.061(11), Florida Statutes

PURPOSE AND EFFECT: The rule is being clarified to conform to statutory requirements regarding the exclusion of certain individuals as purchasers for securities offerings under Section 517.061(11), F.S.

SUMMARY: The rule is clarified to conform to statutory requirements regarding the exclusion of certain individuals as purchasers for securities offerings under Section 517.061(11), F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.061 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

69W-500.004 Computation of Number of Purchasers for Purposes of Section 517.061(11), F.S.

(1) The following purchasers shall be excluded in computing the number of purchasers for purposes of Section 517.061(11), F.S.:

(a) No change.

(b) Any trust or estate in which a purchaser or any of the persons related to him as specified in paragraph (1)(a) or (c) of this rule collectively owns more than 50% ~~own 100%~~ of the beneficial interest in such trust or estate (excluding contingent interests); and

(c) Any corporation or other organization of which a purchaser or any of the persons related to him as specified in paragraphs (1)(a) and (b) of this rule, collectively, are the beneficial owners of more than 50% of all the equity securities (excluding directors' qualifying shares) or equity interest;

(d) through (f) No change.

(2) No change.

Specific Authority 517.03 FS. Law Implemented 517.061(11) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-500.04, Amended 7-31-91, Formerly 3E-500.004, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Financial Services Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: February 13, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

**FINANCIAL SERVICES COMMISSION**

**Securities**

**RULE NOS.:**

69W-600.001

69W-600.0015

69W-600.002

69W-600.004

**RULE TITLES:**

Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser

Application for Registration as a Canadian Dealer

Application for Registration as Associated Person

Registration of Issuer/Dealers, Principals and Branch Offices

69W-600.006

69W-600.009

69W-600.0091

69W-600.0092

69W-600.0093

69W-600.014

69W-600.016

Associated Persons' Fingerprints  
Registration Renewals  
Central Registration Depository System

Investment Adviser Registration  
Depository for Federal Covered Advisers

Investment Adviser Registration  
Depository for Investment Advisers

Books and Records Requirements

Net Capital Requirements for  
Dealers and Investment Advisers

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law contains a number of provisions relating to the licensing and regulatory functions of the Office of Financial Regulation. Among other things, the law amends provisions concerning licensing, notice filings, and other regulatory provisions in the area of securities regulation. The proposed rules implement and reflect the statutory changes. The proposed rules also revise provisions regarding net capital requirements for dealers and investment advisers.

SUMMARY: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law contains a number of provisions relating to the licensing and regulatory functions of the Office of Financial Regulation. Among other things, the law amends provisions concerning licensing, notice filings, and other regulatory provisions in the area of securities regulation. The proposed rules implement and reflect the statutory changes. The proposed rules also revise provisions regarding net capital requirements for dealers and investment advisers.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 517.03, 517.12, 517.121, 517.1215, 517.1201 FS.

LAW IMPLEMENTED: 517.12, 517.121, 517.1201, 517.1205, 517.1215 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULES IS:

69W-600.001 Application for Registration as a Dealer, Issuer/Dealer, or Investment Adviser.

(1)(a) Applications for initial and renewal registration of dealers, issuer/dealers, and investment advisers shall be filed on the forms prescribed by the Financial Services Commission in subsection 69W-301.002(7), F.A.C., and shall include all information required by such forms, any other information the Financial Services Commission or Office of Financial Regulation may require, and payment of the statutory fees required by Sections 517.12(10) and 517.131, F.S. Except as otherwise provided in Rule 69W-600.0091 or 69W-600.0093, F.A.C., the Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the ~~Department of Financial Services Office of Financial Regulation~~. For dealers that are members of the National Association of Securities Dealers (NASD), such application shall be filed with the Office of Financial Regulation through the Central Registration Depository (CRD) of the NASD in accordance with Rule 69W-600.0091, F.A.C. For investment advisers, such application ~~shall may~~ be filed with the Office of Financial Regulation through the Investment Adviser Registration Depository (IARD) of the NASD in accordance with Rule 69W-600.0093, F.A.C.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. For registration as a dealer or issuer/dealer, a Uniform Application for Broker-Dealer Registration, Form BD, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. For dealers that are members of the NASD, such application shall be filed with the Office of Financial Regulation through the CRD in accordance with Rule 69W-600.0091, F.A.C. For registration as an investment adviser, a Uniform Application for Investment Adviser Registration, Form ADV, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. shall be filed with the Office of Financial Regulation. Such application ~~shall may~~ be filed with the Office of Financial Regulation through the Investment Adviser Registration Depository (IARD) of the NASD in accordance with Rule 69W-600.0093, F.A.C.;

2. No change.

3. A Uniform Application for Securities Industry Registration or Transfer, Form U-4, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., to register at least one principal as set forth in Rule 69W-600.002, F.A.C.

For any dealer that is a member of the NASD, or any investment adviser, the application for registration of any principal shall be filed through the CRD as set forth in Rule 69W-600.002, F.A.C. In conjunction with filing its Form BD or Form ADV with the Office of Financial Regulation, the dealer, issuer/dealer, or investment adviser shall provide the Office of Financial Regulation written notification of the principal's name, CRD number, and social security number; Evidence of current membership as a dealer with the NASD shall satisfy this requirement;

4. through 9. No change.

(2) No change.

(3) No change.

~~(4) It will not be the policy of the Office of Financial Regulation to issue verbal effectiveness or verbal up dates on applications filed with the Office of Financial Regulation unless the Office of Financial Regulation deems it to be necessary to issue such verbal information.~~

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), 517.1205 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.01, Amended 7-29-90, 8-1-91, 6-16-92, 1-11-93, 11-14-93, 4-30-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, Formerly 3E-600.001, Amended 3-16-06,\_\_\_\_\_.

69W-600.0015 Application for Registration as a Canadian Dealer.

All Canadian dealers making initial and renewal notice filing, or terminating a notice filing in this state shall file OFR Form CAN and the fee required by Section 517.12(17)(b), F.S., with the Office of Financial Regulation. Any notice filing made by a Canadian dealer with the Office of Financial Regulation shall be deemed received by the Office of Financial Regulation at such time as OFR Form CAN and the fee have been date stamped by the cashier's office of the Department of Financial Services. When requested by the Office of Financial Regulation, OFR Form CAN and all responses to any other requests for additional information shall be filed directly with the Office of Financial Regulation. OFR Form CAN, Canadian Dealer Notification, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

Specific Authority 517.03 FS. Law Implemented 517.12 FS. History—New\_\_\_\_\_.

69W-600.002 Application for Registration as Associated Person.

(1)(a) Applications for initial, reaffiliation, and renewal registrations of a principal or associated person shall be filed on Form U-4, ~~Uniform Application for Securities Industry Registration or Transfer~~, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., and shall include all information required by such form, any other information the Office of Financial Regulation may require, and payment of the statutory fees required by Section 517.12(10), F.S. Except as otherwise provided in Rule 69W-600.0091, 69W-600.0092,

or 69W-600.0093, F.A.C., the Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date-stamped by the cashier's office of the Department of Financial Services Office of Financial Regulation. For dealers that are member of the National Association of Securities Dealers ("NASD"), such application shall be filed with the Office of Financial Regulation through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 69W-600.0091, F.A.C. For federal covered advisers, such application shall be filed with the Office of Financial Regulation through the Central Registration Depository ("CRD") of the NASD in accordance with Rule 69W-600.0092, F.A.C. For investment adviser applicants and registrants who file via the IARD, such application ~~shall~~ may be filed with the Office of Financial Regulation through the CRD of the NASD in accordance with Rule 69W-600.0093, F.A.C.

(b) A complete initial application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. ~~Uniform Application for Securities Industry Registration or Transfer, Form U-4, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~ As used on the Form U-4, ~~which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~, the term "Office of Employment Address" shall mean the location where the person seeking registration will regularly conduct business on behalf of the dealer or investment adviser. For dealers that are members of the NASD, such application shall be filed with the Office of Financial Regulation through the CRD of the NASD. Form U-4, Uniform Application for Securities Industry Registration or Transfer, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

2. Statutory fee in the amount of ~~\$30~~ \$40, for each registration sought, as required by Section 517.12(10), F.S.

3. through 4. No change.

5. A complete Florida Fingerprint Card (FL92150Z) when required under Section 517.12(7), F.S., and Rule 69W-600.006, F.A.C., provided by the Office of Financial Regulation and taken by an authorized law enforcement agency and accompanied by a non-refundable \$47 processing fee. Form FL92150Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

~~If the fingerprint card cannot be processed by the Federal Bureau of Investigation because of illegible fingerprints, a second card must be submitted. If that card also cannot be processed, it will be necessary to submit a third card along with a fee of \$24 to cover the cost of processing the card charged by the FBI.~~

(c) If the information contained in any Form U-4, ~~which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~, becomes inaccurate for any reason before or after the

associated person becomes registered, the associated person through the dealer or investment adviser, as applicable, shall be responsible for correcting the inaccurate information within thirty (30) days. If the information being updated relates to the applicant's or registrant's disciplinary history, in addition to updating the Form U-4, ~~which is incorporated by reference in subsection 69W-301.002(7), F.A.C.~~, the associated person through the dealer or investment adviser shall also provide the Office of Financial Regulation with notice and copies of each civil, criminal or administrative action initiated against the associated person as provided in Rule 69W-600.010, F.A.C. For associated persons who have filed by using the CRD of the NASD, such amendments shall be made through the CRD of the NASD. Form U-4, Uniform Application for Securities Industry Registration or Transfer, is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(6), (7), (10), 517.1205 FS. History--New 9-20-82, Formerly 3E-301.02, Amended 10-15-86, 10-4-88, 6-24-90, 7-29-90, 10-14-90, 8-1-91, 6-16-92, 6-28-93, 11-14-93, 3-13-94, 4-30-96, 12-29-96, 6-22-98, 5-10-00, 9-19-00, 7-31-02, 12-11-03, Formerly 3E-600.002, Amended 3-16-06, \_\_\_\_\_.

69W-600.004 Registration of Issuer/Dealers, Principals and Branch Offices.

(1) through (2) No change.

(3)(a) Every branch office of a registered Florida dealer or investment adviser shall be registered with the Office of Financial Regulation prior to engaging in business therefrom. Such registration shall consist of an application filed with the Office of Financial Regulation on the forms prescribed by the Office of Financial Regulation and payment of the statutory fees required by Section 517.12(10), F.S. The Office of Financial Regulation shall deem an application to be received at such time as it and the appropriate fee have been date stamped by the cashier's office of the Department of Financial Services Office of Financial Regulation. Such office may or may not be designated as an Office of Supervisory Jurisdiction (OSJ) at the discretion of the registrant. A manager for each branch office shall be designated and registered with the Office of Financial Regulation as a principal. For such offices not designated as an OSJ, the branch office manager need not be located at the office(s) for which he is delegated supervisory responsibility; however, in such cases, the registrant must specify in writing to the Office of Financial Regulation, the names of the associated persons designated as resident agent in charge as well as the branch office manager. For any dealer that is a member of the NASD, or any investment adviser, the application for registration of any branch office shall be filed with the Office of Financial Regulation through the CRD.

(b) A complete application must include the following exhibits or forms that are appropriate for the type of registration requested:

1. Form BR, ~~Uniform Branch Office Registration Form~~, which is incorporated by reference under subsection 69W-301.002(7), F.A.C.

2. through 3. No change.

4. Evidence of current registration or exemption from the registration requirements of ~~with the Florida Secretary of State as a foreign corporation.~~

(c) If the information contained in any branch office registration form becomes inaccurate or incomplete for any reason before or after the branch office becomes registered, including changing the location of the branch office or the supervisory personnel thereof, the dealer or investment adviser shall amend the information by filing a complete and originally executed Form BR, ~~Uniform Branch Office Registration Form, which is incorporated by reference in subsection 69W-301.002(7), F.A.C.,~~ with the Office of Financial Regulation within thirty (30) days of the change and denoting thereon that the information reported is an amendment to a previous filing. For any dealer that is a member of the NASD, or any investment adviser, the Form BR shall be filed with the Office of Financial Regulation through the CRD, as set forth in this rule. A non-NASD member registrant may amend the branch office registration information by submitting a Form BR directly with the Office of Financial Regulation. Form BR, Uniform Branch Office Registration Form, is incorporated by reference in subsection 69W-301.002(7), F.A.C. In lieu of filing Form BR, which is incorporated by reference in subsection 69W-301.002(7), F.A.C., a registrant may amend the branch office registration information electronically at the time of renewal by following the applicable instructions on the Office of Financial Regulation's website (www.fldfs.com/ofr) on the Internet. Also, a registrant may change the address or terminate a branch office location by submission of the request in writing to the Office of Financial Regulation in lieu of filing Form BR, which is incorporated by reference in subsection 69W-301.002(7), F.A.C. Failure to file any amendment or written notification, as provided herein, shall be considered a violation of Section 517.12(13), F.S.

(d) No change.

Specific Authority 517.03(1), 517.12(6) FS. Law Implemented 517.12(5), (6), (10) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.04, Amended 10-14-90, 6-16-92, 1-11-93, 11-7-93, 11-14-93, 12-29-96, 10-20-97, 6-10-99, 8-19-99, 5-27-01, 7-31-02, Formerly 3E-600.004, Amended 3-16-06,\_\_\_\_\_.

#### 69W-600.006 Associated Persons' Fingerprints.

Fingerprints filed in accordance with Section 517.12(7), Florida Statutes, shall be on fingerprint cards supplied by the Office of Financial Regulation (~~Form FL921250Z, (Revised 1/91) which is hereby incorporated by reference taken by an authorized law enforcement agency, and accompanied by a non-refundable \$47 processing fee. Form FL921250Z, Florida Fingerprint Card, is incorporated by reference in subsection 69W-301.002(7), F.A.C. The Such fingerprint card~~

requirement is waived cards are not required to be filed for those associated persons requesting registration with a dealer which is affiliated with a dealer or investment adviser registered with a national securities exchange or national securities association or the Securities and Exchange Commission, provided that fingerprints have been processed for such persons pursuant to the provisions of SEC. rule 17f-2 (17 C.F.R. 240.17f-2 2006), which is hereby incorporated by reference, by said person's current employer.

Specific Authority 517.03 FS. Law Implemented 517.12(7) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.06, Amended 8-1-91, Formerly 3E-600.006, Amended\_\_\_\_\_.

#### 69W-600.009 Registration Renewals.

(1) No change.

(2) In addition to verifying registration with the Office of Financial Regulation as provided in subsection (1), to renew its registration and that of its branch offices and associated persons, each dealer or investment adviser shall pay all renewal fees as required by Section 517.12(11), F.S.

(a) Renewal fees for NASD member firms, associated persons of NASD member firms, and branch offices of NASD member firms, shall be submitted through the CRD by December 31 of the year the registration expires.

(b) Renewal fees for investment advisers shall be submitted through the IARD by December 31 of the year the registration expires. Renewal fees for associated persons of investment advisers, and branch offices of investment advisers, shall be submitted through the CRD by December 31 of the year the registration expires.

(c) Renewal fees for non-NASD member firms, associated persons of non-NASD member firms and all branch offices of non-NASD member firms shall be sent directly to the Office of Financial Regulation. The Office of Financial Regulation shall deem a fee received as payment at such time as it has been date stamped by the cashier's office of the Department of Financial Services. All renewal fees must be received by the Office of Financial Regulation by December 31 of the year the registration expires. Renewal fees for non-NASD member firms, associated persons of non-NASD member firms and all branch offices shall be sent directly to the Office of Financial Regulation or may be paid electronically by following the applicable instructions on the Office of Financial Regulation's website (www.dbf.state.fl.us) on the Internet. The Office of Financial Regulation shall deem a fee received as payment at such time as it has been date stamped by the cashier's office of the Office of Financial Regulation or the date the renewal process has been completed on the Office of Financial Regulation's website. All renewal fees for NASD member firms and for associated persons of NASD member firms shall be submitted through the CRD. All renewal fees must be

received by the Office of Financial Regulation or the CRD by the last business day prior to January 1 of the year following the year the registration expires.

(3) Failure to submit the requisite amount of fees ~~to the Office of Financial Regulation or to the NASD as appropriate and~~ as provided for in subsection (2) of this rule by December 31 of the year of expiration of the registration shall result in such registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day will be considered timely received. However, an expired registration may be reinstated in accordance with the provisions of Section 517.12(11), F.S., provided that all requisite information and fees are date stamped by the cashier's office of the Department of Financial Services filed with the Office of Financial Regulation on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day will be considered timely received. In the event that the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration shall become the revenue of the state pursuant to Section 517.12(10), F.S., and shall not be returnable.

Specific Authority 517.03(1), 517.12(6), (15) FS. Law Implemented 517.12(6), (10), (11), (15) FS. History—New 12-5-79, Amended 9-20-82, 8-29-83, Formerly 3E-600.09, Amended 1-7-88, 6-16-92, 11-14-93, 2-5-01, 5-27-01, Formerly 3E-600.009, Amended \_\_\_\_\_.

#### 69W-600.0091 Central Registration Depository System.

~~Wherever the rules of this Office of Financial Regulation require the filing of applications, fees, and other documents with the Office of Financial Regulation, in lieu thereof, all dealers who are members of the National Association of Securities Dealers, Inc. (NASD) shall file such items as hereinafter specifically provided:~~

(1) All NASD member dealers requesting initial registration, amendment renewal or termination of registration in this state shall file the appropriate Form BD or BDW, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., and the assessment fee required by Section 517.12(10) or (11), F.S., with the Central Registration Depository System ("CRD") of the NASD. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as a dealer filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BD and the application fee. The application fee shall

be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report.

(2) All NASD member dealers registered in this state requesting initial registration, amendment, or termination of a branch office of such member dealer shall file the appropriate Form BR and the application fee required by Section 517.12(10) or (11), F.S., with the CRD. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as a branch office filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BR and the application fee. The application fee shall be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report.

(3)(2) All NASD member dealers registered in this state requesting initial registration, amendment, renewal, reaffiliation or termination of an associated person of such member dealer shall file ~~the appropriate~~ Form U-4 or U-5, which are incorporated by reference in subsection 69W-301.002(7), F.A.C., and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the NASD. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any application for registration as an associated person of an NASD member dealer filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation on the date designated in the "Status Date" field on the line notated "FL" with a "Registration Status" of "pending" as indicated on the CRD "Registrations with Current Employers" screen.

(3) Any application for registration as an associated person of an NASD member dealer filed with the Office of Financial Regulation via the CRD shall be deemed received by the Office of Financial Regulation on the date designated in the "Status Date" field on the line notated "FL" with a "Registration Status" of "pending" as indicated on the CRD "Registrations with Current Employers" screen.

(4) Any application for registration as a dealer filed with the Office of Financial Regulation via the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BD and the application fee. The application fee shall be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report.

Specific Authority 517.03, 517.12(15) FS. Law Implemented 517.12(10), (11), (15) FS. History—New 8-29-83, Formerly 3E-600.091, Amended 8-1-91, 6-16-92, 4-30-96, 9-19-00, Formerly 3E-600.0091, Amended \_\_\_\_\_.

(Substantial rewording of Rule 69W-600.0092 follows. See Florida Administrative Code for present text)

69W-600.0092 Investment Adviser Registration Depository for Federal Covered Advisers.

(1) All federal covered advisers making, amending, or terminating a notice filing in this state shall file Form ADV or Form ADV-W and the assessment fee required by Section 517.1201(1) or (2), F.S., with the Investment Adviser Registration Depository (IARD) of the NASD. When requested by the Office of Financial Regulation, Form ADV, Part 2, and all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Any notice filing made by a federal covered adviser with the Office of Financial Regulation through the IARD shall be deemed received by the Office of Financial Regulation upon receipt of the Form ADV and the filing fee. The filing fee shall be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report. Forms ADV and ADV-W are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) All federal covered advisers who notice file in this state and who request initial registration, amendment, reaffiliation or termination of an associated person of such federal covered adviser shall file the Form U4 or Form U5, and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the NASD. However, responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Forms U4 and U5 are incorporated by reference in subsection 69W-301.002(7), F.A.C.

Specific Authority 517.03, 517.12(6), (15), 517.1201 FS. Law Implemented 517.1201(1), (2), (15) FS. History--New 7-31-02, Formerly 3E-600.0092, Amended 3-16-06,\_\_\_\_\_.

(Substantial rewording of Rule 69W-600.0093 follows. See Florida Administrative Code for present text)

69W-600.0093 Investment Adviser Registration Depository for Investment Advisers.

(1) All investment advisers requesting initial registration, amendment, or termination of registration in this state shall file the Form ADV or ADV-W and the assessment fee required by Section 517.12(10) or (11), F.S. with the Investment Adviser Registration Depository (IARD) of the NASD. Form ADV, Part 2, and all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Investment advisers shall file Form ADV, Part 2 with the IARD at such time as the IARD develops the capability to process the form. Applications for registration as an investment adviser filed with the Office of Financial Regulation through the IARD shall be deemed received by the Office of Financial Regulation upon receipt of the Form ADV and the filing fee. The filing fee shall

be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report. Forms ADV and ADV-W are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(2) All investment advisers registered in this state through the IARD requesting initial registration, amendment, or termination of a branch of such investment adviser shall file Form BR and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the NASD. However, all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Applications for registration as a branch office filed with the Office of Financial Regulation through the CRD shall be deemed received by the Office of Financial Regulation upon receipt of the Form BR and the application fee. The application fee shall be deemed received by the Office of Financial Regulation on the "payment date" reflected on the CRD "disbursement detail" report. Form BR is incorporated by reference in subsection 69W-301.002(7), F.A.C.

(3) All investment advisers registered in this state through the IARD requesting initial registration, amendment, reaffiliation or termination of an associated person of such investment adviser may file Form U4 or Form U5 and the assessment fee required by Section 517.12(10) or (11), F.S., with the CRD of the NASD. However, all responses to requests by the Office of Financial Regulation for additional information shall be filed directly with the Office of Financial Regulation. Forms U4 and U5 are incorporated by reference in subsection 69W-301.002(7), F.A.C.

(4) All investment advisers currently registered with the Office of Financial Regulation shall transition their Florida registrations onto IARD of the NASD, and the Florida registrations of their associated person onto the CRD of the NASD, by June 30, 2007. All investment advisers who transition onto IARD of the NASD shall file a complete Form ADV through the IARD of the NASD within 30 days after the transition date. All associated persons who transition onto the CRD of the NASD shall file a complete Form U4 through the CRD of the NASD within 30 days after the transition date. Form U4 and Form ADV are incorporated by reference in subsection 69W-301.002(7), F.A.C.

Specific Authority 517.03, 517.12(6), (15) FS. Law Implemented 517.12(10), (11), (15) FS. History--New 7-31-02, Formerly 3E-600.0093, Amended 3-16-06,\_\_\_\_\_.

69W-600.014 Books and Records Requirements.

Except as otherwise provided herein, every dealer, investment adviser, branch office, and associated person conducting business in this state shall prepare and maintain on a current basis, and preserve for the periods of time specified, such records, prescribed herein, as are appropriate for said dealer's, investment adviser's, branch office's, or associated person's course of business, and are sufficient to provide an audit trail of



all business transactions by said dealer, investment adviser, associated person, or branch office. Associated persons who conduct business from a registered branch office in this state shall be exempt from the provisions of this rule.

(1) No change.

(2) All issuer/dealers are required to maintain at least the following records:

(a) Ledgers, journals (or other records) reflecting all assets, liabilities, income and expenses, and capital accounts properly maintained in accordance with United States generally accepted accounting principles ~~principals~~;

(b) through (e) No change.

(3) All investment advisers, notwithstanding the fact that the investment adviser is not registered or required to be registered under the Investment Advisers Act of 1940, shall prepare and maintain true, accurate and current records relating to their business as described in SEC Rule 204-2, 17 C.F.R. § 275.204-2(2006), which is incorporated by reference; and have available for the Office of Financial Regulation at least the following records;

(a) All trial balances, financial statements prepared in accordance with United States generally accepted accounting principles, and internal audit working papers relating to the investment adviser's business as an investment adviser. For purposes of this paragraph, "financial statements" means balance sheets, income statements, cash flow statements and net worth computations as required by Rule 69W-300.002, F.A.C.

(b) through (k) No change.

(4) through (8) No change.

Specific Authority 517.03(1), 517.121(1), 517.1215 FS. Law Implemented 517.121(1), 517.1215 FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.14, Amended 10-14-90, 8-1-91, 6-16-92, 1-11-93, 9-9-96, 6-22-98, 1-25-00, 10-30-03, Formerly 3E-600.014, Amended 10-23-06, \_\_\_\_\_.

69W-600.016 Net Capital Requirements for Dealers and Investment Advisers.

(1) No change.

(2) All dealer applicants and registrants shall meet and at all times maintain the net capital and ratio requirements as prescribed by SEC Rule 15c3-1 including appendices A through D ~~any appendices thereto~~ (17 C.F.R. 240.15c3-1, 240.15c3-1a, 240.15c3-1b, 240.15c3-1c and 240.15c3-1d (Thomson/West 2006 (current through 71 FR 69409)), computed in accordance with said rule, ~~as such rule existed on January 1, 1993~~. The foregoing federal regulations are hereby incorporated by reference.

(a) All reporting requirements as specified in 17 C.F.R. 240.17a-11 (Thomson/West 2006 (current through 71 FR 69409)), ~~as such rule existed on January 1, 1993~~, when such regulation is referred in SEC Rule 15c3-1 shall be applicable with the exception that such reports and notifications required

by said rule shall be forwarded to the Office of Financial Regulation as well as the other regulatory agencies specified, if applicable. The foregoing federal regulations are hereby incorporated by reference.

(b) All references to 17 C.F.R. 240.17a-3 and 17 C.F.R. 240.17a-4, which are incorporated by reference in Rule 69W-600.014, F.A.C., as such provisions existed on January 1, 1993, in the foregoing and subsequent provisions of Office of Financial Regulation or SEC Rules as adopted by the Office of Financial Regulation, shall be read as to mean Office of Financial Regulation, Rule 69W-600.014, F.A.C.

(3) Issuer/dealer or investment adviser applicants or registrants shall meet the net capital requirements of this section:

(a) Investment advisers who have custody of client funds or securities or who receive payment of advisory fees six months or more in advance and in excess of \$500 per client shall maintain net capital in the amount of \$25,000 calculated as prescribed by SEC Rule 15c3-1 (17 CFR 240.15c3-1), including any ratio requirements and appendices thereto, ~~as such provisions existed on January 1, 1993~~. The foregoing federal regulations are incorporated by reference in subsection (2).

(b) Investment advisers who do not have custody of client funds or securities or who do not receive payment for advisory services six months or more in advance and in excess of \$500 per client shall maintain net capital: (1) in the amount of \$5,000 calculated as prescribed by SEC Rule 15c3-1 (17 CFR 240.15c3-1), including any ratio requirements and appendices thereto, ~~as such provisions existed on January 1, 1993~~; or (2) of at least \$2,500. The foregoing federal regulations are incorporated by reference in subsection 2. For purposes of option (2) of this subsection, net capital shall be defined as assets minus liabilities in accordance with Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants, as such provisions existed on June 1, 1992.

(c) Investment advisers who compute net capital in accordance with SEC Rule 15c3-1, ~~as such rule existed on January 1, 1993~~, may exclude liabilities which are subordinated to the claims of creditors pursuant to a subordination agreement, provided such agreement complies with all terms and conditions specified in Appendix D to SEC Rule 15c3-1 (17 CFR 240.15c3-1d), ~~as such provision existed on January 1, 1993~~, except for the requirement that such agreement be filed with and approved by the Securities and Exchange Commission. Those investment advisers who have subordination agreements in effect prior to the effective date of this subsection shall not be required to comply with the conditions specified in Appendix D to SEC Rule 15c3-1. Should the investment adviser renegotiate or enter into a new subordination agreement, the agreement must comply with the

provisions of Appendix D of SEC Rule 15c3-1. The foregoing federal regulations are incorporated by reference in subsection (2).

(d) ~~An issuer/dealer shall maintain net capital, defined as assets minus liabilities and computed in accordance with Generally Accepted Accounting Principles as adopted by the American Institute of Certified Public Accountants, as such provisions existed on June 1, 1992, of at least \$5,000, unless required elsewhere by these rules to maintain a greater minimum net capital.~~

(e) For the purposes of (3)(b), (2) and (3)(d) above, "net capital" means an excess of assets over liabilities, as determined by United States generally accepted accounting principles. Under these principles, assets do not include:

1. Prepaid expenses, other than items properly classified as current assets under United States generally accepted accounting principles;

2. Deferred charges;

3. Goodwill;

4. Franchise rights;

5. Organizational expenses;

6. Patents;

7. Copyrights;

8. Marketing rights

9. Un-amortized debt discount and expense;

10. Assets of an intangible nature;

11. A home, home furnishings, automobiles, and any other personal items not readily marketable, if the investment adviser is an individual;

12. A corporation's advances or loans to shareholders or officers; and

13. A partnership's advance or loans to partners.

(f) When liabilities can be shown to be collateralized by assets (including capital assets such as equipment, property, etc.) that are owned by the adviser, those liabilities are excluded from the computation. Likewise, liabilities owed to the owners or shareholders of the adviser are excluded. All other types of liabilities, including non-collateralized short and long term debt, must be included in the computation.

(g) To ensure compliance with Rule 69W-600.015, F.A.C., and this section, the Office of Financial Regulation may require, at the Office's discretion, that a current appraisal be submitted in order to establish the value of any asset, including unsecured notes, accounts receivable, or advanced commissions due from a salesperson, officer, director, partner, or affiliate. Such appraisal shall be substantiated by an opinion of a bank, finance company, or other lending institution satisfactory to the Office of Financial Regulation.

(h) Investment advisers who are also registered with the Office of Financial Regulation as a dealer are exempt from the requirements of this rule if the net capital required of the dealer by this rule exceeds the net capital required of the adviser, as

required by this rule. The adviser must provide, in accordance with Rule 69W-600.015, F.A.C., a notarized statement claiming this exemption.

(4) through (5) No change.

(6) All materials incorporated by reference in this rule may be obtained by mail from the Office of Financial Regulation, Bureau of Securities Regulation, 200 E. Gaines Street, Tallahassee, Florida 32399-0375.

Specific Authority 517.03(1) FS. Law Implemented 517.12(9), (16) FS. History—New 12-5-79, Amended 9-20-82, Formerly 3E-600.16, Amended 10-15-86, 8-1-91, 6-29-93, 11-22-93, Formerly 3E-600.016, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE IS:  
Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

## FINANCIAL SERVICES COMMISSION

### Securities

RULE NO.:

RULE TITLE:

69W-700.005

Promoters Equity Investment Ratio

PURPOSE AND EFFECT: Chapter 2006-213, Laws of Florida, contains amendments to Chapter 517, Florida Statutes, relating to the Florida Securities and Investors Protection Act. This law requires financial statements to be prepared in accordance with United States generally accepted accounting principles. The rule is amended to reflect this requirement.

SUMMARY: The proposed rule amendments provide that financial statements must be prepared in accordance with United States generally accepted accounting principles.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COST: No statement of estimated regulatory cost has been prepared.

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

SPECIFIC AUTHORITY: 517.03 FS.

LAW IMPLEMENTED: 517.081 FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

THE FULL TEXT OF THE PROPOSED RULE IS:

69W-700.005 Promoters Equity Investment Ratio.

(1) through (2) No change.

(3) In all limited partnership offerings, the following will be acceptable in lieu of a 15% ratio of equity investment:

(a) In order that a general partner(s) be sufficiently capitalized to indicate the ability to perform the commitments which are made in regard to such programs, the net worth of the individual general partner(s), excluding home, home furnishings and automobile or the net worth of the corporate general partner(s), must be equal to 15% of the aggregate amount of limited partnership interests to be sold with a maximum net worth requirement of \$250,000. The net worth of a general partner(s) shall be revealed by a balance sheet prepared by an independent certified public accountant in accordance with United States generally accepted accounting principles as prescribed in Rule 69W-300.002, F.A.C. The general partner(s) shall make a direct investment, net of commissions, in the limited partnership(s) equal to 5% of the aggregate amount of limited partnership interests to be sold with a maximum participation requirement of \$100,000. The required participation may be reduced by 10% of the general partner(s) net worth in excess of the amount required.

(b) through (d) No change.

Specific Authority 517.03(1) FS. Law Implemented 517.081(3), (7) FS. History--(Formerly 3E-20.03) New 9-20-82, Formerly 3E-700.05, Amended 10-26-97, Formerly 3E-700.005, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE IS: Pam Epting, Bureau Chief, Office of Financial Regulation, 200 East Gaines Street, 6th Floor, The Fletcher Building, Tallahassee, Florida 32399-0375, (850)410-9805

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

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

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: December 22, 2006

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

#### DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

##### Division of Agricultural Environmental Services

RULE NO.: RULE TITLE:

5E-1.003 Labels or Tags

#### NOTICE OF WITHDRAWAL

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 6, February 9, 2007 issue of the Florida Administrative Weekly has been withdrawn.

#### DEPARTMENT OF COMMUNITY AFFAIRS

##### Division of Housing and Community Development

RULE NO.: RULE TITLE:

9B-70.002 Commission Approval and Accreditation of Advanced Building Code Training Courses

#### NOTICE OF CHANGE

Notice is hereby given that the following changes have been made to the proposed rule in accordance with subparagraph 120.54(3)(d)1., F.S., published in Vol. 33, No. 2, January 12, 2007 issue of the Florida Administrative Weekly.

(1) Approval of Course Accreditors. The Commission shall approve persons to serve as accreditors of advanced training courses. Persons ~~or entities~~ desiring to be accreditors shall apply using Form FBCED 2003-001 adopted herein by reference and available from the Building Code Information System at [www.floridabuilding.org](http://www.floridabuilding.org). Applications shall be accompanied by an application fee of \$100.00. Applications shall be approved by the Commission if the applicant has demonstrated five years of Florida Building Code expertise in the field for which approval is sought, and possesses an active license issued pursuant to Sections 471.015, 481.213, 481.311; 489, Part I or II, F.S.; or a standard certificate issued pursuant to Section 468.609, F.S. When an accreditor application is submitted to accredit only accessibility courses by an individual who can demonstrate proficiency acceptable to the Commission as a subject matter expert in the field of accessibility the Commission shall approve that applicant to accredit accessibility courses. Accreditors approved by the Commission under prior versions of this rule are authorized to continue accreditation of building code courses. Approval as an accreditor shall be revoked upon a finding by the Florida Building Commission that the accreditor has committed misfeasance or malfeasance related to the process of accreditation; accredited courses in violation of Florida Building Commission rule(s) related to courses reflecting the