

requirements for the SAIL, HOME, HC Programs, as specified in Rule Chapter 67-48, Florida Administrative Code (F.A.C.) and (2) amendments to the Florida Housing Finance Corporation's 2007 Qualified Allocation Plan (QAP).

SPECIFIC AUTHORITY: 420.507 FS.

LAW IMPLEMENTED: 420.5087, 420.5089, 420.5099 FS.

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

DATE AND TIME: October 26, 2007, following the Board Meeting at a time to be announced at the conclusion of the Board Meeting

PLACE: Jacksonville Hyatt Regency, 225 East Coast Line Drive, Jacksonville, Florida 32202

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: Blake Carson-Poston at (850)488-4197. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Steve Auger, Executive Director

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

## Section II Proposed Rules

### DEPARTMENT OF REVENUE

#### Sales and Use Tax

RULE NOS.:	RULE TITLES:
12A-1.0011	Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations
12A-1.005	Admissions
12A-1.011	Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice
12A-1.0115	Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels,

Taverns, or Other Like Places of Business and by Transportation Companies.

12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property

12A-1.097 Public Use Forms

PURPOSE AND EFFECT: The purpose of the proposed changes to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), is to update, consistent with current statutory provisions: (1) the application of tax on the sale of food products generally sold by grocery stores, convenience stores, supermarkets, bakeries, fish markets, produce markets, and other like places of business; (2) the application of tax on bakery products sold by bakeries, pastry shops, and like establishments; (3) the application of tax on the sale of water or ice; and (4) the application of tax on the sale of food products generally served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, or other like places of business.

When adopted, these rules will provide for the administration of sales tax relevant to grocery stores, supermarkets, convenience stores, and others that sell grocery items for the following:

- Sales of grocery items, both taxable and exempt
- Sales of bakery products for consumption on the premises and those sold for consumption off the premises
- Sales of taxable soft drinks and other beverages and tax-exempt 100% juice
- Sales of hot prepared food items sold by grocery stores
- Sales of packages containing both tax-exempt food items and other taxable items

These proposed rules, when adopted, will also provide for the administration of sales and use tax relevant to restaurants, lunch counters, cafeterias, hotels, taverns, caterers, transportation companies, tax-exempt organizations, or other places that sell prepared food items for the following:

- Meals, drinks, and food items that are taxable when prepared, served, or sold in such places of business
- The taxability of food and drinks served or sold in places where an admission is charged
- How to tax meals and food items purchased with coupons or other discounts
- When gratuities are subject to tax
- The exemption for food donated to a food bank or to organizations exempt from federal tax
- The exemption from tax on food or drinks furnished as part of a room package by hotels and other public lodging establishments

SUMMARY: The proposed amendments to Rule 12A-1.0011, F.A.C. (Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations), include meals or other prepared food products as examples of items sold for fundraising purposes.

The proposed amendments to Rule 12A-1.005, F.A.C., provide that fees charged for entrance to a restaurant, tavern, night club, or similar place of business are subject to tax.

The proposed substantial rewording of Rule 12A-1.011, F.A.C. (Sales of Food Products for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishment; Drinking Water; Ice), clarifies the application of tax on the sale of food products generally sold by grocery stores, convenience stores, supermarkets, bakeries, fish markets, produce markets, and other like places of business and on the sale of bakery products by bakeries, pastry shops, or like establishments. The provisions regarding the application of tax on food products generally served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, or other like places of business will be removed from the current rule and will be provided in Rule 12A-1.0115, F.A.C., as created. The current provisions of Rule 12A-1.011, F.A.C., are included in the substantial rewording of Rule 12A-1.011, F.A.C., or the creation of Rule 12A-1.0115, F.A.C., and, when necessary, are updated to be consistent with the provisions of Section 212.08(1), F.S., as amended by Chapter 98-408, L.O.F., regarding the taxability of food products.

The substantial rewording of Rule 12A-1.011, F.A.C., provides for the application of sales and use tax for the following: (1) examples of exempt food products for human consumption; (2) the exemption provided for food products prepared off the seller's premises when sold in the original sealed container or sliced into smaller portions; (3) bakery products when sold by bakeries, pastry shops, or like establishments that do not have eating facilities and bakery products when sold by such establishments that have eating facilities; (4) candy, gum, mints, and similar products; (5) food prepared on the seller's premises and sold for immediate consumption; (6) hot prepared food products; (7) sandwiches sold ready for immediate consumption; (8) novelty items and frozen dairy or nondairy products; (9) soft drinks, including nonalcoholic beverages, noncarbonated beverage made from milk derivatives, and beverages containing fruit or vegetable juices labeled under federal standards as containing less than 100% juice; (10) tea sold in liquid form; (11) drinking water, ice, and additives; (12) the exemption provided for samples or donated food products; (13) food stamps or vouchers issued under authority of federal law; and (14) packages containing both exempt food products and taxable food products or other items. The creation of Rule 12A-1.0115, F.A.C. (Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies), provides for the application of sales and use tax for the following: (1) food products generally served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, or other like places of business; (2) food products when sold by such establishments that also maintain a

separate department that includes groceries; (3) when tax is due on the purchase of, or the cost of furnishing, food products consumed in places where an admission is charged for entrance; (4) when sales tax is to be collected on food products separately itemized and priced from the admission charge to a patron; (5) sales of meal tickets or coupon books and coupons or discounts for food products; (6) the exemption provided for donated food products; (7) when tax is due on complimentary food products; (8) when tax is due on food products sold or furnished by employers to employees; (9) food products sold by airlines, railroads (except Amtrak), vessels, or other transportation companies to their passengers while in Florida; (10) food products served, prepared, or sold by caterers and event planners; (11) purchases, leases, and rentals by caterers or event planners; (12) gratuities consistent with the guidelines established by the court in *Green v. Surf Club, Inc.*, 136 So.2d 354 (Fla. 3rd DCA 1961), cert. den., 139 So.2d 694 (Fla. 1962); (13) fees for preparing or serving food products; (14) food products when furnished with living or sleeping accommodations at colleges or other institutions of higher learning; (15) the exemption provided for certain complimentary food and drinks provided by public lodging establishments; (16) food products when furnished with housing at labor camps or public housing quarters; (17) food products furnished at day care facilities, day camps, or other custodial camps; (18) the exemption provided to hospital patients and inmates or to residents of homes for the aged; (19) food products sold to or prepared and served by social clubs, civic clubs, or fraternal organizations; and (20) food products sold to or by nonprofit organizations, religious institutions, and organizations sponsoring a fundraising event.

The proposed amendments to Rule 12A-1.071, F.A.C. (Rentals, Leases, or License to Use Tangible Personal Property): (1) remove provisions regarding sales by caterers that will be provided in Rule 12A-1.0115, F.A.C., as created; and (2) remove provisions regarding water softening services that will be provided in Rule 12A-1.011, F.A.C., as substantially reworded.

The proposed amendments to Rule 12A-1.097, F.A.C. (Public Use Forms), remove obsolete Form DR-46B (Examples of Nonalcoholic Preparations, Beverages and Drinks when Sold in Grocery Stores and Similar Establishments), which is no longer used by the Department.

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

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

SPECIFIC AUTHORITY: 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) FS.

LAW IMPLEMENTED: 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (2), (8), (9), 212.08, 212.0821, 212.084(3), 212.085, 212.09, 212.096, 212.11(1)- (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 402.61, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7), 616.260 FS.

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

DATE AND TIME: November 5, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, 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 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Richard Parsons, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4838

THE FULL TEXT OF THE PROPOSED RULES IS:

12A-1.0011 Schools Offering Grades K through 12; Parent-Teacher Associations; and Parent-Teacher Organizations.

(1) through (2) No change.

(3) SALES OF SCHOOL MATERIALS AND SUPPLIES AND FUND-RAISING ITEMS.

(a) through (b) No change.

(c)1. Schools offering grades K through 12 and parent-teacher associations or parent-teacher organizations whose primary purpose is to raise funds for such schools may pay tax to their suppliers on the cost price of items instead in lieu of registering as a dealer, obtaining a Consumer's Certificate of Exemption, or collecting tax on their sales of the following taxable items:

a. No change.

b. Items sold for fund raising purposes, such as meals or other prepared food products, candy, photographs, greeting cards, wrapping paper, and similar fund raising items.

c. through (5) No change.

Specific Authority 212.17(6), 212.18(3), 213.06(1) FS. Law Implemented 212.04(2)(a), 212.08(7)(o), (r), ~~(lll) (mm)~~, 212.0821 FS. History--New 6-19-01, Amended.

12A-1.005 Admissions.

(1) through (2) No change.

(3) TAXABLE ADMISSIONS AND PARTICIPATION FEES. The following paragraphs contain examples of admission charges that are subject to tax, unless such admissions are specifically exempt under the provisions of Section 212.04(2), F.S. This list is not intended to be an exhaustive list.

(a) through (h) No change.

(i) Fees charged for entrance to a restaurant, tavern, night club, or similar place of business are subject to tax.

(i) through (m) renumbered (j) through (n) No change.

(4) through (6) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), 212.04, 212.08(6), (7), 616.260 FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Amended 7-19-72, 12-11-74, 9-28-78, 7-3-79, 12-3-81, 7-20-82, Formerly 12A-1.05, Amended 1-2-89, 12-16-91, 10-17-94, 3-20-96, 3-4-01, 10-2-01, 4-17-03, 6-28-05, \_\_\_\_\_.

(Substantial Rewording of Rule 12A-1.011 follows. See Florida Administrative Code for present text.)

12A-1.011 Sales of Food Products and Drink for Human Consumption by Grocery Stores, Convenience Stores, and Supermarkets; Sales of Bakery Products by Bakeries, Pastry Shops, or Like Establishments; Drinking Water; Ice Sales of Food or Drinks Served, Cooked, Prepared, or Sold by Restaurants or Other Like Places of Business.

(1)(a) Section 212.08(1), F.S., exempts food products for human consumption, with certain exceptions. The purpose of this rule is to clarify the application of tax on the sale of food products generally sold in or by grocery stores, convenience stores, supermarkets, bakeries, fish markets, produce markets, and other like places of business. This rule is also intended to clarify the application of tax on the sale of bakery products by bakeries, pastry shops, or like establishments and on the sale of drinking water or ice.

(b) Rule 12A-1.0115, F.A.C., is intended to clarify the application of tax on food products generally served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, or other like places of business.

(2) TAX-EXEMPT FOOD PRODUCTS.

(a) Food products for human consumption, whether processed, cooked, raw, canned, or in any other form which is generally regarded as food, are exempt. The following is a non-exhaustive list of exempt food products:

1. Baby foods and baby formulas;
2. Baked goods and baking mixes, including ready-to-eat and ready-to-bake products;
3. Baking and cooking items advertised and normally sold for use in cooking or baking, such as chocolate morsels, flavored frostings, glazed or candied fruits, marshmallows, powdered sugar, or food items intended for decorating baked goods;
4. Cereals and cereal products, including ready-to-eat, instant, regular hot cereals;
5. Cheeses, including cured and whey cheese, cream, natural, grating, processed, spread, dip, and other miscellaneous cheeses;
6. Cocoa;
7. Coffee and coffee substitutes;
8. Condiments and relishes, including seasoning sauces and spreads, such as mayonnaise, ketchup, or mustard;
9. Cookies, including chocolate-coated or cream-filled;
10. Dairy products;
11. Dairy substitutes;
12. Dietary supplements (including herbal supplements) and meal replacements, including liquid food supplements and nutrition bars, including those that are candy-coated or chocolate-coated;
13. Eggs and egg products, including liquid, frozen, or dried eggs;
14. Fish, shellfish, and other seafood products, whether fresh or frozen;
15. Food coloring;
16. Frozen dinners and other frozen food products;
17. Fruit (including fruit sliced, chunked, or otherwise cut by the retailer), fruit snacks, fruit roll-ups, and dried fruit, including those sweetened with sugar or other sweeteners;
18. Gelatins, puddings, and fillings, including flavored gelatin desserts, puddings, custards, parfaits, pie fillings, and gelatin base salads;
19. Grain products and pastas, including macaroni and noodle products, rice and rice dishes;
20. Honey;
21. Ice cream, frozen yogurt, sherbet, and similar frozen dairy or nondairy products sold in units larger than one pint;
22. Jams and jellies;
23. Marshmallows;
24. Meat and meat products;
25. Meat substitutes;

26. Milk, including natural fluid milk, homogenized milk, pasteurized milk, whole milk, chocolate milk, buttermilk, half and half, whipping cream, condensed milk, evaporated milk, powdered milk, or similar milk products, and products intended to be mixed with milk;

27. Natural fruit or vegetable juices or their concentrates or reconstituted natural concentrated fruit juices in any form, whether frozen or unfrozen, aerated, dehydrated, powdered, granulated, sweetened or unsweetened, seasoned with salt or spice, or unseasoned. Only those juices that are permitted by federal law and regulation to be labeled "100 percent juice" or "100 percent juice with added \_\_\_\_\_ [filled in with a term such as "ingredient(s)," "preservative," or "sweetener," as appropriate]" will be considered natural fruit or vegetable juices. [Title 21 (Food and Drug), Chapter 9 (Federal Food, Drug, and Cosmetic Act), Subchapter IV (Food) 21 U.S.C. ss. 341; 343 (January 24, 2002)]; [21 C.F.R. Ch. 1, ss. 101.30; 102.5; 102.33, 146.114-146.187; 156.3; 156.145 (4-1-06)].

28. Peanut butter;

29. Poultry and poultry products;

30. Salad dressings and dressing mixes;

31. Salt, salt tablets, pepper, spices, seeds, herbs, seasonings, blends, extracts, and flavorings, whether natural or artificial;

32. Sandwich spreads;

33. Sauces and gravies;

34. Snack foods, including chips, corn chips, potato chips, cheese puffs and curls, cereal bars, cracker jacks, granola bars, nuts and edible seeds, pork rinds, and pretzels, whether such products are chocolate-coated, honey-coated, or candy-coated.

35. Soups and soup mixes;

36. Sugar, sugar products, and sugar substitutes;

37. Tea (including herbal tea), unless sold in a liquid form;

38. Vegetables and vegetable products;

39. Vegetable oils, lard, olive oil, shortenings, and oleomargarine.

(b) Food products prepared off the seller's premises are exempt when:

1. Sold in the original sealed container;

2. Sliced into smaller portions; or

3. The product is sold frozen and then heated on the seller's premises by the customer.

(c) Taxpayers who have a question regarding the taxable status or exempt status of a food product may submit a written description of the food product and a copy of the food product label to the Department to obtain a determination of the taxability of the product. This request should be addressed to the Florida Department of Revenue, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443.

(3) BAKERY PRODUCTS SOLD BY BAKERIES, PASTRY SHOPS, OR LIKE ESTABLISHMENTS.

(a) Bakery products sold by bakeries, pastry shops, or like establishments as hot prepared food products are taxable.

1. Bakery products that are kept warm by a heat source used to maintain them in a heated state, or to reheat them, are hot prepared food products.

2. Bakery products that are sold while still warm from the initial baking are not hot prepared food products.

3. Example: A bakery establishment toasts a bagel for a customer. The sale of the bagel is subject to tax, whether the bakery establishment has eating facilities or does not have eating facilities.

(b)1. Bakery products, excluding bakery products sold for consumption off the premises, sold by bakeries, pastry shops, or like establishments that have eating facilities are subject to tax.

2. For purposes of this subsection, "eating facility" is a place which facilitates the consumption of the bakery products on the seller's premises on items such as benches, chairs, stools, tables, and counters. For example, a pastry shop that has bar stools and a counter where the bakery products and drinks are served to patrons will be considered a pastry shop with eating facilities. A bakery located within the food court of a mall where tables and chairs are located in the common areas of the food court for patrons to consume food products will be considered a bakery with eating facilities.

(c)1. Bakery products, excluding items sold as hot prepared food products, sold for consumption off the premises are exempt.

2. For the purpose of this paragraph, there shall be a rebuttable presumption that the sale of bakery products by bakeries, pastry shops, or like establishments that have eating facilities are taxable when:

a. Such bakery products are sold in quantities of five (5) or fewer items; or

b. The bakery products sold, regardless of the quantity, are not packaged in a manner consistent with an intention by the customer to consume the products off the seller's premises.

3. Bakery products that are sold, regardless of the quantity, in packaging that is glued, stapled, wrapped, or sealed are examples of packaging consistent with an intention by the customer to consume products off the seller's premises.

4. Bakeries, pastry shops, or like establishments that have eating facilities and make tax-exempt sales of bakery products that are for consumption off the premises are required to separately account for the tax-exempt sales of bakery products for consumption off the premises.

a. Examples of methods to separately account for tax-exempt sales of bakery products for consumption off the premises are: using sales invoices which contain documentation that the sales of the bakery product is for consumption off the premises; using a separate key on a cash

register to record tax-exempt sales of bakery products; or using a separate cash register to record tax-exempt sales of bakery products.

b. Example. A bakery operates an establishment with eating facilities. The bakery sells donuts, toasted bagels, and other pastries, as well as coffee and other drinks. The bakery sells bakery products to patrons who take the products home for consumption in sealed containers. Products sold for consumption on the premises are served to the customers on trays. The bakery uses separate keys on its cash registers to account for the sales of tax-exempt bakery products to patrons who purchase the products for consumption off the premises in sealed containers separately from the accounting for taxable sales of toasted bagels, coffee, other drinks, and bakery products for consumption on the premises. The bakery products sold for consumption off the premises are exempt because the bakery's packaging and accounting methods overcome the rebuttable presumption that the products are sold for consumption on the premises.

(d) Bakery products, excluding items sold as a hot prepared food products, that are sold by bakeries, pastry shops, or like establishments that do not have eating facilities are exempt.

(4) TAXABLE FOOD PRODUCTS. The exemption for food products for human consumption does not apply to any of the items specified in this subsection.

(a) Candy, chewing gum, bubble gum, breath mints, and any similar product regarded as candy or confection, based on its normal use as indicated on the label or advertising, is subject to tax. The term "candy and similar products" does not include snack foods not regarded as candy or confection, as indicated on the label or advertising of the product.

(b) Food prepared, whether on or off the seller's premises, and sold for immediate consumption is subject to tax. This does not apply to food prepared off the seller's premises and sold in the original sealed container, or to the slicing of products into smaller portions.

1. Food prepared for immediate consumption is food prepared to a point generally accepted as ready to be eaten without further preparation and that is sold in a manner that suggests readiness for immediate consumption. In determining whether an item of food is sold for immediate consumption, the customary consumption practices prevailing at the selling facility shall be considered.

2. Examples:

a. Potato salad is prepared and delivered to a dealer in bulk. The dealer repackages the potato salad into smaller containers. Because the potato salad is not sold in the original container, the sale of the repackaged smaller containers of potato salad is subject to tax.

b. A grocery store buys cold cuts in five-pound packages. The grocery store slices cold cuts for the customer according to the thickness and the amount the customer desires. The food is

then packaged for sale to the customer. Because the cold cuts are sliced into smaller portions, the sale of the cold cuts is exempt from tax.

c. A supermarket offers freshly popped popcorn for shoppers for sale. The sale of the popcorn is subject to tax.

d. A supermarket prepares seafood products, such as smoked fish or steamed shrimp, for sale. The sale of the smoked or steamed shrimp is subject to tax.

e. A supermarket prepares fruit and vegetable products into various fresh salads for sale. When packaged without eating utensils and sold as a grocery item, the sale of the prepared fresh fruit or vegetable salad is exempt. When the prepared fresh salads are packaged with eating utensils, such as with a fork and a napkin, the salad is a food product prepared and sold for immediate consumption and is subject to tax.

(c)1. Hot prepared food products, whether sold separately or in combination with other food items, when the food is heated by the seller rather than by the customer, is subject to tax.

2. Hot prepared food products are those products, items, or components that have been prepared for sale in a heated condition and sold at any temperature that is higher than the air temperature of the room or place where the products are sold. Preparation of a "hot prepared food product" includes cooking, microwaving, warming, toasting, or any other method of heating the food. Food products, including bakery products, are considered "hot prepared food products" when a heat source is used to maintain the food product in a heated state or is used to reheat the food product. Bakery products that are sold while still warm from the initial baking are not "hot prepared food products." Their temperature is a result of the timing of the customer's purchase rather than an indication of preparation to be sold in a heated condition.

3. When a single price is charged for a combination of hot prepared food products and cold food items or other components, the single price charged for the combination is subject to tax.

#### 4. Examples:

a. A supermarket sells barbecued chicken that is kept hot by a rotisserie to be taken home and eaten. The sale of the chicken is subject to tax.

b. A grocery store bakes bread in an oven. The bread is packaged for sale while it is still warm. A customer purchases a package of the bread while it is still warm. The sale of the warm bread is not subject to tax.

c. A single price is charged for a combination of a hot meal, hot pizza, hot specialty dish, or hot sandwich, with cold components, such as a salad or fruit or other side items, by a convenience store. The single price charged for the combination is subject to tax.

(d) Sandwiches sold ready for immediate consumption, whether refrigerated or heated by the customer or by the retailer, are subject to tax. An example of a sandwich not sold ready for immediate consumption would be a frozen sandwich or a sandwich with a frozen or partially frozen filling.

(e) Meals sold for consumption on or off the seller's premises are subject to tax.

(f) Ice cream, frozen yogurt, and similar frozen dairy or nondairy products in cones, small cups, or pints, and popsicles, frozen fruit bars, or other novelty items, whether sold separately or in multiple units, are subject to tax.

(5) TAXABLE SOFT DRINKS. The exemption for food products for human consumption does not apply to soft drinks. The following sales of soft drinks are subject to tax:

(a) Nonalcoholic beverages, whether carbonated or noncarbonated.

(b) Any noncarbonated beverage made from milk derivatives, such as ice cream sodas, milkshakes, or malts.

(c) Any beverages and preparations commonly referred to as a "soft drink," such as sodas, soda water, ginger ale, colas, root beer, tonic, fizzes, or cocktail mixes.

(d) Any beverage containing fruit or vegetable juice labeled with the word(s) "ade," "beverage," "cocktail," "drink," or "fruit or vegetable flavor, flavored, or flavorings." Federal law and regulations require that any beverage containing more than 0 percent juice, but less than 100 percent fruit or vegetable juice, which represents or suggests by its physical characteristics, name, labeling, ingredient statement, or advertising that it contains fruit or vegetable juice, be labeled in a manner that is appropriate to advise the consumer that the product is less than 100 percent juice. [Title 21 (Food and Drug), Chapter 9 (Federal Food, Drug, and Cosmetic Act), Subchapter IV (Food) 21 U.S.C. ss. 341; 343 (January 24, 2002)]; [21 C.F.R. Ch. 1, ss. 101.30; 102.5; 102.33, 146.114-146.187; 156.3; 156.145 (4-1-06)]. Examples of taxable beverages include: apple blend, cranberry juice cocktail, grape juice beverage, lemonade, limeade, orangeade, raspberry and cranberry flavored drink, fruit drink, fruit punch, diluted fruit juices, and diluted vegetable juices.

(e) Tea sold in a liquid form.

(6) VENDING MACHINES AND MOBILE VENDORS. Food products sold through a vending machine, push cart, motor vehicle, or any other form of vehicle are subject to tax. See Rule 12A-1.044, F.A.C., for sales through vending machines.

#### (7) WATER AND ICE.

(a)1. Drinking water, including water enhanced by the addition of minerals, sold in bottles, cans, or other containers is exempt, except when carbonation or flavorings has been added to the water in the manufacturing process. When carbonation or flavorings is added to drinking water at a water treatment facility, the sale of the drinking water in bottles, cans, or other containers remains exempt.

(b) The sale of ice, including dry ice, is subject to tax, except when the ice is purchased for use as a packaging material to package food products for sale. See Rule 12A-1.040, F.A.C., for provisions for packaging materials.

(c) Fluoride used in the treatment of drinking water is exempt.

(d) Germicides (such as chlorine), sodium silicate, activated charcoal, and similar purification agents used in the treatment of drinking water are exempt.

(e) The charge for water conditioning services, such as water softening services, is not subject to tax. The sale of salt for use in water softeners to regenerate the minerals required for softening water is not the sale of a purification agent used in the treatment of drinking water and is subject to tax.

#### (8) COMPLIMENTARY AND DONATED FOOD PRODUCTS.

(a)1. Dealers that primarily sell food products at retail are not subject to sales or use tax on any food or drink provided without charge as a sample or for the convenience of customers, even when cooked or prepared on the dealer's premises. For example, hot coffee provided in a grocery store for shoppers is not subject to sales or use tax.

2. Dealers that primarily sell food products at retail are not subject to sales or use tax on any item given to a customer as part of a price guarantee plan related to point-of-sale errors.

3. The exemption, as provided in this paragraph, does not apply to businesses whose primary activity is to serve prepared meals or alcoholic beverages for immediate consumption.

(b) Dealers that sell food products at retail are not subject to sales or use tax on any food product donated to a food bank or an organization determined to be currently exempt from federal income tax pursuant to s. 501(c) of the Internal Revenue Code of 1986, as amended.

#### (9) FOOD STAMPS AND VOUCHERS.

(a) Food products are exempt when purchased with food stamps issued by the United States Department of Agriculture, or with Special Supplemental Food Program for Women, Infants, and Children (WIC) vouchers issued under authority of federal law.

(b) When a purchase of food products is made partly with food stamps or vouchers and partly with cash or manufacturer's coupons, the food stamps or vouchers will first be used to defray the cost of the taxable food and drinks, less the value of any manufacturer's coupons, that can be purchased with the food stamps or vouchers. When the food stamps or vouchers are insufficient to purchase the taxable items, tax is due on the remaining sales price of taxable food and drinks.

#### (10) MULTIPLE ITEMS PACKAGES.

(a) When a package contains both exempt food products and taxable tangible personal property (e.g., a basket of food and candy, a basket of nuts, or decorated cans or glasses filled with food items) and the tax-exempt food products are

separately itemized and priced from the taxable tangible personal property, no tax is due on the tax-exempt food products.

(b) When the total charge for a package containing both exempt food products and taxable tangible personal property is a single charge, the application of tax depends upon the essential character of the complete package, as follows:

1. When the taxable tangible personal property represent more than twenty-five (25) percent of the value of the package, the total charge is subject to tax.

2. When the taxable tangible personal property represent twenty-five (25) percent or less of the value of the package, the total sale is exempt. The seller is required to pay tax on any taxable items included in the package that were purchased tax-exempt for the purposes of resale. The cost price of any promotional items included in the package is subject to tax.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), 212.07(2), 212.08(1), (4)(a)1., (7)(oo), (pp), ~~212.18(2)~~ FS. History-Revised 10-7-68, 6-16-72, 9-28-78, 10-29-81, Formerly 12A-1.11, Amended 12-8-87, 1-2-89, 8-10-92, 6-19-01, 4-17-03, \_\_\_\_\_.

12A-1.0115 Sales of Food Products Served, Prepared, or Sold in or by Restaurants, Lunch Counters, Cafeterias, Caterers, Hotels, Taverns, or Other Like Places of Business and by Transportation Companies.

#### (1) SCOPE.

(a) Section 212.08(1), F.S., exempts food products for human consumption, with certain exceptions. The purpose of this rule is to clarify the application of tax on food products generally served, prepared, or sold in or by restaurants, lunch counters, cafeterias, caterers, hotels, taverns, or other like places of business where food products are sold for immediate consumption on the seller's premises or packaged or wrapped and taken away from the seller's premises.

(b) Rule 12A-1.011, F.A.C., is intended to clarify the application of tax to the sale of food products generally sold by grocery stores, convenience stores, supermarkets, bakeries, fish markets, produce markets, and other like places of business, the sale of bakery products by bakeries, pastry shops, and like establishments, and the sale of drinking water or ice.

#### (2) FOOD PRODUCTS SERVED, PREPARED, OR SOLD IN OR BY RESTAURANTS OR SIMILAR PLACES OF BUSINESS.

(a) Food products served, prepared, or sold in or by restaurants, lunch counters, cafeterias, hotels, taverns, or other similar places of business are subject to tax.

(b) Food products that are furnished, prepared, or served for consumption at tables, chairs, or counters or from trays, glasses, dishes, or other tableware are subject to tax. The food products are subject to tax, even though the tables, chairs, or

counters and the trays, glasses, dishes, and other tableware may be provided by a person with whom the dealer contracts to furnish, prepare, or serve the food products to others.

(c) Food products that are ordinarily sold for immediate consumption on the seller's premises or near a location at which parking facilities are provided primarily for the use of patrons in consuming the products purchased at the location are subject to tax. The food products remain subject to tax even when the product is sold on a "take out" or "to go" basis and are packaged or wrapped and taken away from the dealer's facility. The customary practices prevailing at the dealer's facility will be used to determine whether a food product is sold for immediate consumption at the selling facility. The premises of a caterer with respect to catered meals or beverages is the place where such meals or beverages are served.

(d) Restaurants, lunch counters, cafeterias, hotels, taverns, or other like places of business that also maintain a separate department that includes groceries are not required to collect tax on tax-exempt sales of food products, as provided in Rule 12A-1.011, F.A.C., when separate records are maintained for the separate department; however, food products that are sold as prepared food through a separate department are subject to tax.

#### (3) FOOD PRODUCTS CONSUMED IN PLACES WHERE AN ADMISSION IS CHARGED.

(a) Food products are subject to tax when furnished, served, prepared, or sold on the premises of a place where admission is charged for entrance. The term "premises" will be construed broadly to include: the lobby, aisle, or auditorium of a theater; the seating, aisle, or parking area of an arena, rink, or stadium; the parking area of a drive-in or outdoor theater; or similar places.

(b) When food products are furnished to patrons who have paid an admission charge for entrance as a part of that admission charge and there is no separately itemized charge to the patron for the food products, tax is due on the cost of the food products furnished. When the food products are purchased from a caterer, restaurant, or similar establishment, tax is due on the total charge made by the caterer, restaurant, or similar establishment.

(c) When the charges for food products are separately itemized and priced from the admission charge to the patron, tax is required to be collected on the sales price of the food products. (See Rule 12A-1.005, F.A.C., for admission charges.) Food products that are separately itemized and sold to the patron may be purchased for resale, as provided in Rule 12A-1.039, F.A.C.

(4) VENDING MACHINES AND MOBILE VENDORS. Food products sold through a vending machine, push cart, motor vehicle, or any other form of vehicle are subject to tax. See Rule 12A-1.044, F.A.C., for sales through vending machines.

#### (5) COUPONS, DISCOUNTS, AND DONATED FOOD PRODUCTS.

(a) When a dealer sells two meals for the price of one meal, the dealer is required to collect tax on the total amount charged. No tax is due on the second meal.

(b) The sale of a meal ticket or coupon book to be redeemed for the purchase of food products is not subject to tax at the time of sale. When the ticket or coupon is redeemed by a customer when purchasing food products, the seller of the food products is required to collect the tax on the total consideration received, including the value of the ticket or coupon redeemed, and any additional compensation received by the seller for furnishing the food product to the customer.

(c) When the seller provides customers a food product without charge after purchasing a designated number of food products, tax is due on the sales price of the food products sold. No tax is due on the item provided to the customer without charge. For example, a sandwich shop offers customers a coupon that will entitle the customer to receive a free sandwich after purchasing five sandwiches. When the customer's coupon indicates that the customer has purchased five sandwiches, the customer redeems the coupon for the free sandwich. The sandwich shop is required to collect tax on the sale of the first five sandwiches. No tax is due on the sandwich provided, without charge, to the customer, who has purchased the required five sandwiches.

(d) A dealer whose primary business activity is serving food products or alcoholic beverages for immediate consumption is required to pay tax on the cost price of food products provided to customers without charge. Examples of items served without charge to customers are coffee, popcorn, nuts, chips, and pretzels.

(e) Dealers that sell food products at retail are not subject to tax on any food product donated to a food bank or an organization determined to be currently exempt from federal income tax pursuant to s. 501(c) of the Internal Revenue Code of 1986, as amended.

#### (6) FOOD PRODUCTS SOLD OR FURNISHED BY RESTAURANTS OR SIMILAR PLACES OF BUSINESS TO EMPLOYEES.

(a) Food products furnished by an employer for his convenience to employees is not subject to sales tax, provided no cash changes hands as payment for the food products furnished and the assigned value of the food products is not required to be reported as income to the employee for federal income tax purposes.

(b) Food products sold by a restaurant to its employees are subject to tax.

(c) Food products consumed by the owner and his family are not subject to sales tax.

#### (7) TRANSPORTATION COMPANIES.

(a) Food products sold ready for immediate consumption by airlines, railroads (except Amtrak), vessels, or other transportation companies to their passengers, while within Florida, are subject to tax. A transportation company may extend a copy of its Annual Resale Certificate to the selling dealer instead of paying tax on the purchase of food products for purposes of resale to their passengers.

(b)1. Transportation companies, except Amtrak, are required to pay tax on their purchases of meals and food products ready for immediate consumption when:

a. The food products are delivered to the transportation company in this state, whether consumed in this state or outside this state;

b. The food products are furnished to the passengers; and

c. There is no separately itemized charge to the passenger for the food product.

2. For the partial exemption available to airlines, see Section 212.0598, F.S. For the partial exemption available to vessels engaged in interstate or foreign commerce under Section 212.08(8), F.S., see Rule 12A-1.0641, F.A.C.

(c) The purchase or sale of food products ready for immediate consumption by Amtrak, an instrumentality of the United States government, is not subject to tax.

#### (8) SALES OF FOOD PRODUCTS BY CATERERS.

(a) For purposes of this rule, the term "caterer" means any person engaged in the business of furnishing food products on the premises of the customer, or on premises supplied by the customer, including premises leased by the customer from a person other than the caterer. The term does not include employees hired directly by the customer by the hour or day to serve food products provided by the customer.

(b) The total charge made by caterers for furnishing food products is subject to tax. Any separately itemized charge for the use of dishes, silverware, glasses, chairs, tables, tablecloths, and similar items, or for the labor of furnishing the food products, whether performed by the caterer, the caterer's employees, or persons contracting with the caterer, is subject to tax.

(c) Tax applies to charges by a caterer, or any other person, for planning, designing, coordinating, or supervising an event when the charges to the customer are made in connection with the furnishing of food products at the event. Tax does not apply to charges for services unrelated to the furnishing and serving of meals and beverages, such as entertainment charges, when the charges are separately itemized and separately priced to the customer on the customer's bill, invoice, statement, or other evidence of sale.

(d) Caterers may rent, lease, or purchase tangible personal property for purposes of resale tax-exempt by extending a copy of their Annual Resale Certificate to the selling dealer instead of paying tax when:

1. The property is rented, leased, or purchased exclusively for resale or re-rental to the caterer's customers;

2. The charge to the customer is separately itemized on the customer's bill, invoice, statement, or other evidence of sale; and

3. The applicable tax is collected from the customer on the separately itemized charge for the rental, lease, or sale of the property.

(e) When a caterer sells food products, including any charges for serving the food products, to other caterers or event planners for the purpose of resale, the caterer may accept a copy of the purchaser's Annual Resale Certificate instead of collecting tax from the purchaser. The purchasing caterer or event planner is required to collect the applicable tax from his or her customer on the sale of the food products.

(f) Organizations that hold a valid Consumer's Certificate of Exemption may extend a copy of their certificate to the caterer or event planner to purchase food products used in the normal nonprofit activities of the organization tax-exempt. See subsection (15).

#### (9) GRATUITIES AND OTHER FEES FOR PREPARING OR SERVING FOOD PRODUCTS.

(a) Any charge made by a dealer to a customer for gratuities, tips, or similar charges is a part of the taxable sales price of the food or drinks except when:

1. The charge is separately stated as a gratuity, tip, or other charge on the customer's receipt or other tangible evidence of sale; and,

2. The dealer does not receive, either directly or indirectly, any monetary benefit from such gratuity, tip, or other similar charge. Any fee imposed by a credit card company upon the dealer is not construed as the retention of such monies by the dealer. Any portion of the gratuity, tip, or other similar charge withheld by the dealer for purposes of payment of the employee's share of social security, withheld as federal income tax, or withheld pursuant to judicial or administrative orders is not construed as retention of such monies by the dealer.

(b) The charge for room service made by hotels for serving meals in guests' rooms is included in the total price of the meal and is subject to tax.

(c) Service charges, minimum charges, corkage fees, setup fees, or similar charges imposed by a restaurant, tavern, nightclub, or other like places of business as part of the charge for furnishing, serving, or preparing food products are subject to tax.

(d) The charge for the preparation of food products furnished by the customer to the person who prepares the food product for immediate consumption on the premises of the preparer, or who packages or wraps the food products to be taken away from the preparer's premises, is subject to tax.

#### (10) FOOD PRODUCTS FURNISHED WITH LIVING OR SLEEPING ACCOMMODATIONS.

(a) Food products served or sold at community colleges, junior colleges, and other institutions of higher learning, or fraternities and sororities, are subject to tax. If a lump sum

amount is charged by the institution for living or sleeping accommodations and meals, a portion of the lump sum amount must be allocated to the sale of food products to reasonably reflect the value of the food products. Tax is due on the portion that is reasonably allocated to the sale of the food products.

(b)1. Public lodging establishments that advertise that they provide complimentary food and drinks are not required to pay sales or use tax on food or drinks when:

a. The food or drinks are furnished as part of a packaged room rate;

b. No separate charge or specific amount is stated to the guest for such food or drinks;

c. The public lodging establishment is licensed with the Division of Hotels and Restaurants of the Department of Business and Professional Regulation; and

d. The public lodging establishment rents or leases transient accommodations that are subject to sales and use tax.

2. The public lodging establishment may extend a copy of its Annual Resale Certificate to the selling dealer to purchase food and drinks used for this purpose tax-exempt, as provided in Rule 12A-1.039, F.A.C.

#### (11) DAY NURSERIES AND CUSTODIAL CAMPS.

(a) Day care facilities, nurseries, kindergartens, day camps, and custodial camps that primarily provide professional and personal supervisory and instructions services are not required to collect tax on their charges to the students or campers for providing food products as part of their services. However, when the charges for the furnishing of meals and beverages are separately itemized and separately priced to the student or camper, tax is required to be collected on the sales price of the meals and beverages.

#### (12) MEALS SERVED AT LABOR CAMPS.

(a) Labor camps and commercially operated public housing quarters are operated to house and feed workers on a contract basis. The provisions of this subsection are intended to provide the taxability of the housing and meals provided to workers under such contracts.

(b) When the contract provides for meals, and no housing is furnished under the contract, the charge for the meals is subject to tax.

(c)1. When the contract provides for housing and meals for the workers, the charge for meals is subject to tax.

2. When the contract provides for housing for the workers but the workers buy groceries and prepare their own meals, no tax is due on the prepared meals.

(d) Workers residing in public housing quarters or labor camps may enter into agreements under which one worker is appointed to purchase groceries and prepare all food products. The worker may be selected and directed by the group of workers or may be designated and directed by the employer. The employer may deduct from each employee's wages the pro

rata share of the groceries purchased for the group or a contracted charge for the meals prepared and served by the employer's designated cook.

1. When the employees select the designated worker to purchase groceries and prepare meals, no tax is due on the amount deducted by the employer for each employee's pro rata share of the cost of the groceries purchased by the designated worker.

2. When the employer selects the worker to be the designated cook who prepares all meals, tax is due on the amount deducted from the employee's wages by the employer for the meals.

#### (13) MEALS FURNISHED BY HOSPITALS AND HOMES FOR THE AGED.

(a) Meals furnished to residents of homes for the aged, as defined in Section 212.08(7)(i), F.S., are exempt.

(b) Meals furnished to patients and inmates of any hospital or other institution designed and operated primarily for the care of persons who are ill, aged, infirm, mentally or physically incapacitated or for any reason dependent upon special care or attention are exempt.

(c) Meals sold and delivered as a charitable function by a nonprofit volunteer organization to handicapped, elderly, or indigent persons at their residences are exempt.

#### (14) FOOD PRODUCTS SOLD TO OR BY SOCIAL CLUBS.

(a) Food products sold to members of a social club, civic club, or fraternal organization that does not hold a valid Consumer's Certificate of Exemption are subject to tax. Examples of social clubs, civic clubs, or fraternal organizations are athletic clubs, country clubs, and community clubs (e.g., YMCA, YWCA, YMHA, and YWHA).

(b) Food products sold by any social club, civic club, or fraternal organization, including organizations that hold a Consumer's Certificate of Exemption, are subject to tax.

(c) Social clubs, civic clubs, and fraternal organizations that furnish food products to their members or guests without charge, such as food products served at meetings, luncheons, or dinners, are required to pay tax on the total cost of the food products furnished or served by a caterer, restaurant, or similar establishment. When club members purchase groceries and prepare the food products to serve to members and guests without charge, no tax is due on the preparation of the food products. For example, an athletic club that does not hold a valid Consumer's Certificate of Exemption purchases meals from a local restaurant to serve to athletes, without charge, at an event held by the club to honor the athletes. The athletic club is required to pay tax on the total amount charged by the restaurant. If the members of the club buy groceries and prepare the meals themselves, the club is not required to pay tax on the cost of preparing the meals.

(d) When the charges for the furnishing of meals and beverages are separate and apart from the payment of membership dues, the meals and beverages are considered to be sold and the charges are subject to tax. If a club or fraternal organization indicates on its dues invoices, membership billing statements, dues notices, or membership applications that a specified portion of the dues payment is attributed to the furnishing of food products, the specified portion attributed to the furnishing of food products is subject to tax.

**(15) FOOD PRODUCTS PREPARED, SERVED, OR SOLD BY NONPROFIT ORGANIZATIONS.**

(a) Food products sold at fundraisers and similar types of events are subject to tax, unless such sales qualify as occasional sales, as provided in Rule 12A-1.037, F.A.C. For the taxability of food products sold as fundraisers by schools offering grades K through 12, or by parent-teacher associations or parent-teacher organizations, see Rule 12A-1.0011, F.A.C.

(b) Food products are exempt when sold by a religious institution that has an established physical place for worship at which nonprofit religious services and activities are regularly conducted and carried on and that holds a valid Consumer's Certificate of Exemption.

(c) When food products are furnished to patrons by a sponsoring organization as part of a fundraising event and the contribution paid by the patron to the organization bears no relationship to the cost of the food products served at the event, the sponsoring organization is required to pay the applicable tax due on the amount charged by the restaurant or caterer to the sponsoring organization. Any sponsoring organization that holds a valid Consumer's Certificate of Exemption may extend a copy of its certificate to the restaurant or caterer to purchase food products tax-exempt when the food products are used in the normal nonprofit activities of the organization.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(14)(c), 212.07(2), 212.08(1), (4)(a)1., (7)(i), (k), (m), (oo) FS. History--New \_\_\_\_\_.

12A-1.071 Rentals, Leases, or License to Use Tangible Personal Property.

(1) through (32) No change.

~~(33) Caterers are required to pay tax on the purchases or rentals of all dishes, tables, chairs, silver, linens, kitchen utensils, artificial palms, and other items used by them in the conduct of their business. The caterer should pay tax to his supplier and should not furnish the supplier with a resale certificate, except in those instances where he is purchasing or renting such items exclusively for rental and for which he makes a separate charge to his customer.~~

(34) through (36) renumbered (33) through (35) No change.

~~(37) The charge for water conditioning (soft water service) is exempt. The dealer shall pay tax on the acquisition of tanks, minerals, and other equipment used in furnishing such service, unless such materials and supplies are actually sold to the customer.~~

(38) through (47) renumbered (36) through (45) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(1), (4), (10)(g), (12), (14)(a), (15)(a), (16), (19), 212.04, 212.05(1)(c), (d), (f), (h), (i), 212.06(1)(a), (2)(e), (8), 212.08(7)(e), (f), (v), (y), 212.11(2), (3), 212.12(9), 212.18(2), 402.61 FS. History--Revised 10-7-68, 1-7-70, 6-16-72, Amended 12-11-74, 12-31-81, 7-20-82, Formerly 12A-1.71, Amended 1-2-89, 10-5-92, 11-16-93, 8-15-94, 10-17-94, 3-20-96, 8-1-02, 6-12-03, 9-28-04, \_\_\_\_\_.

12A-1.097 Public Use Forms.

(1) No change.

Form Number	Title	Effective Date
-------------	-------	----------------

(2) through (14) No change.

(15)(a) DR-46B	Sales Tax Status of Some Nonalcoholic Preparations, Beverages and Drinks When Sold In Grocery Stores and Similar Establishments (r. 10/89)	08/92
----------------	--	-------

~~(b)~~ No change.

(16) through (23) No change.

Specific Authority 201.11, 202.17(3)(a), 202.22(6), 202.26(3), 212.0515(7), 212.07(1)(b), 212.08(5)(b)4., (7), 212.11(5)(b), 212.12(1)(b)2., 212.17(6), 212.18(2), (3), 213.06(1), 376.70(6)(b), 376.75(9)(b), 403.718(3)(b), 403.7185(3)(b), 443.171(2), (7) F.S. Law Implemented 92.525(1)(b), (3), 95.091, 125.0104, 125.0108, 201.08(1)(a), 201.01, 201.08(1)(a), 201.133, 201.17(1)-(5), 202.11(2), (3), (6), (16), (24), 202.17, 202.22(3)-(6), 202.28(1), 203.01, 212.02, 212.03, 212.0305, 212.031, 212.04, 212.05, 212.0501, 212.0515, 212.054, 212.055, 212.06, 212.0606, 212.07(1), (8), (9), 212.08, 212.084(3), 212.085, 212.09, 212.096, 212.11(1), (4), (5), 212.12(1), (2), (9), (13), 212.13, 212.14(5), 212.17, 212.18(2), (3), 213.235, 213.29, 213.37, 219.07, 288.1258, 376.70, 376.75, 403.717, 403.718, 403.7185, 443.036, 443.121(1), (3), 443.131, 443.1315, 443.1316, 443.171(2), (7) FS. History--New 4-12-84, Formerly 12A-1.97, Amended 8-10-92, 11-30-97, 7-1-99, 4-2-00, 6-28-00, 6-19-01, 10-2-01, 10-21-01, 8-1-02, 4-17-03, 5-4-03, 06-12-03, 10-1-03, 9-28-04, 6-28-05, 5-1-06, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Richard Parsons, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4838

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Mark Zych, Director, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)488-2576

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed in the Florida Administrative Weekly on March 11, 2005 (Vol. 31, No. 10, pp. 931-946) and on March 23, 2007 (Vol. 33, No. 12, pp. 1372-1384). Rule development workshops were held on March 29, 2005, and on April 18, 2007. In response to public comment, changes have been made to the proposed rule amendments

**DEPARTMENT OF REVENUE**

**Sales and Use Tax**

RULE NO.:	RULE TITLE:
12A-1.008	Newspapers, Community Newspapers, Shoppers, Magazines and Other Periodicals

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12A-1.008, F.A.C. (Newspapers, Community Newspapers, Shoppers, Magazines and Other Periodicals), is to provide the administrative requirements for the exemption provided in Section 212.08(7)(ddd), F.S., created by Chapter 2006-144, L.O.F., for certain advertising materials distributed free of charge by mail in an envelope.

SUMMARY: The proposed amendments to Rule 12A-1.008, F.A.C. (Newspapers, Community Newspapers, Shoppers, Magazines and Other Periodicals), provide: (1) that materials consisting exclusively of advertisements from 10 or more persons (advertisers) which are distributed free of charge in an envelope by mail on a monthly, bimonthly, or other regular basis are exempt from sales and use tax, as provided in Section 212.08(7)(ddd), F.S.; and (2) how to purchase materials that will be incorporated into the advertisements tax-exempt at the time of purchase.

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

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

SPECIFIC AUTHORITY: 212.17(6), 212.18(2), 213.06(1) FS. LAW IMPLEMENTED: 212.02(4), 212.05(1)(a), (b), (h), 212.0515(1), (2), 212.06(1)(a), (b), (16), 212.07(1), (2), 212.08(7)(o), (v), (w), (yy), (ddd), 212.18(3)(a) FS.

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

DATE AND TIME: November 5, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 S. Calhoun Street, Tallahassee, 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 48 hours before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

THE FULL TEXT OF THE PROPOSED RULE IS:

12A-1.008 Newspapers, Community Newspapers, Shoppers, Magazines and Other Periodicals.  
 (1) through (4) No change.

(5) ADVERTISING MATERIALS DISTRIBUTED FREE OF CHARGE.

(a) Certain advertising materials are exempt from sales and use tax only if the materials:

1. Consist exclusively of advertisements, such as individual coupons or other individual cards, sheets, or pages of printed advertising, and
2. Are distributed free of charge by mail in an envelope; and
3. The envelope contains advertisements from 10 or more persons (advertisers).

(b) Sales and use tax is not due of the purchase of materials, such as paper, ink, envelopes, glue, or replenisher, that are incorporated into and become a component part of the exempt advertising materials. No use tax is imposed on the cost of manufacturing, producing, processing, or fabricating the exempt advertising materials. Dealers registered with the Department may extend a copy of their Annual Resale Certificate at the time of purchase, as provided in Rule 12A-1.039, F.A.C., to purchase materials that will be incorporated into and become a component part of the tax-exempt advertising materials.

(5) through (6) renumbered (6) through (7) No change.

Specific Authority 212.17(6), 212.18(2), 213.06(1) FS. Law Implemented 212.02(4), 212.05(1)(a), (b), (h), 212.0515(1), (2), 212.06(1)(a), (b), (16), 212.07(1), (2), 212.08(7)(o), (v), (w), (yy), (ddd), 212.18(3)(a) FS. History-Revised 10-7-68, 1-7-70, 6-16-72, Formerly 12A-1.08, Amended 4-22-86, 12-13-88, 1-30-91, 3-17-94, 3-20-96, 6-19-01,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Janet L. Young, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-9407

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Buzz McKown, Revenue Program Administrator II, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4721

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12A-1, F.A.C. (Sales and Use Tax), were noticed in the Florida Administrative Weekly on February 2, 2007 (Vol. 33, No. 5, pp. 411-416). A rule development workshop was held on February 20, 2007. Comments were received at the rule development workshop and changes have been made by the Department to the proposed amendments to Rule Chapter 12A-1, F.A.C. As a part of the comments received, it was recommended that the proposed rule amendments be included in Rule 12A-1.008, F.A.C. (Newspapers, Community Newspapers, Shoppers, Magazines and Other Periodicals), instead of Rule 12A-1.027, F.A.C. (Printing of Tangible Personal Property), and in Rule 12A-1.038, F.A.C. (Consumer's Certificate of Exemption; Exemption Certificates). In agreement with these recommendations, amendments to Rule 12A-1.008, F.A.C., have been proposed.

**DEPARTMENT OF REVENUE**

**Corporate, Estate and Intangible Tax**

RULE NO.: 12C-1.0221  
 RULE TITLE: Returns, Notices, and Elections; Signing and Verification

PURPOSE AND EFFECT: The purpose of the proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), is to provide procedures for how and when the Department will accept electronic signatures on corporate income tax returns or notices that are filed with the Department electronically.

SUMMARY: The proposed amendments to Rule 12C-1.0221, F.A.C. (Returns, Notices, and Elections; Signing and Verification), provide when an electronic return will be deemed to be signed and when the signature of the taxpayer or the taxpayer's representative will be deemed to serve as the written declaration made under penalties of perjury required on returns or notices filed with the Department.

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

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

SPECIFIC AUTHORITY: 213.06(1), 220.51 FS.

LAW IMPLEMENTED: 213.755, 220.221, 220.23(2)(a) FS.

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

DATE AND TIME: November 5, 2007, 10:00 a.m.

PLACE: Room 118, Carlton Building, 501 South Calhoun Street, Tallahassee, 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 48 days before the workshop/meeting by contacting: Larry Green at (850)922-4830. 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: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

THE FULL TEXT OF THE PROPOSED RULES IS:

12C-1.0221 Returns, Notices, and Elections; Signing and Verification.

(1) A return, election, or notice required of a taxpayer shall be signed by an officer duly authorized to sign. A return or notice required of a taxpayer made by a fiduciary under subsection 220.22(3), F.S., shall be signed by the fiduciary. An officer's or fiduciary's signature on a return or notice made by or for a taxpayer shall be prima facie evidence that such individual was authorized to sign the return or notice on behalf of the taxpayer. The filing of a return that is not signed or that is improperly signed and verified may be treated as a failure to file the return for purposes of starting the limitation period or for the imposition of penalty for failure to file.

(a) Florida corporate income/franchise and emergency excise tax returns (Form F-1120), amended returns (Form F-1120X), or notices shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer duly authorized to sign such returns or notices.

(b) Consolidated returns (Form F-1120) and affiliations schedules (Form F-851) shall be signed by the president, vice-president, treasurer, assistant treasurer, chief accounting officer, or any other officer of the common parent authorized to

sign. Each authorization and consent of subsidiary corporation to be included in a consolidated return (Form F-1122) shall be signed by an officer duly authorized by the subsidiary to sign.

(c) Form F-7004 shall be signed by a person authorized by the taxpayer to request such extension. Such person must be an individual authorized under paragraph (a) or (b) to sign the taxpayer's return; a person currently enrolled as an agent under Treasury Department Circular Number 230 to practice before the Internal Revenue Service; an attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia; or any certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia.

(d) A fiduciary includes a receiver, trustee in dissolution, trustee in bankruptcy, or assignee, who, by order of a court of competent jurisdiction, by operation of law or otherwise, has possession of or holds title to all or substantially all of the property or business of a corporation.

(e) Notices include, but are not limited to, waivers of ~~on~~ restrictions on assessment and collection of proposed assessments under Section 220.715, F.S., consents to extend the statutory period under Section 213.23, F.S., and notifications of federal adjustments under subsection 220.23(2), F.S.

(2) A Florida partnership information return (Form F-1065) or notice required of a partnership shall be signed by any one ~~(1)~~ of the general partners, and the fact that a partner has signed a return or notice shall be prima facie evidence that such partner was authorized to sign such document on behalf of the partnership. A Florida partnership return or notice made by a receiver, trustee in bankruptcy, or assignee shall be signed by such fiduciary. A Form F-7004, application ~~for~~ ~~of~~ extension of time to file a Florida partnership return, shall be signed by a person authorized to make such application. Such person shall include a general partner; a person currently enrolled as an agent under Treasury Department Circular Number 230 to practice before the Internal Revenue Service; an attorney who is a member in good standing of the bar of the highest court of any state, possession, territory, commonwealth, or the District of Columbia; or any certified public accountant who is duly qualified to practice in any state, possession, territory, commonwealth, or the District of Columbia.

(3) Each return or notice required to be filed under this code shall be verified by a written declaration that is made under the penalties of perjury. A return prepared for the taxpayer by another person shall contain a declaration by the preparer that it was prepared on the basis of all information of which the preparer has knowledge.

(a) Florida ~~corporate corporation~~ income tax returns (Form F-1120), amended returns (Form F-1120X), and partnership information returns (Form F-1065) shall contain a declaration, under the penalties of perjury, that the officer, partner, or fiduciary signing the return has examined the return, including accompanying schedules and statements, and declares that to the best of his or her knowledge and belief the return is true, correct, and complete. If such returns are prepared by a person other than the taxpayer, the preparer shall declare, under penalties of perjury, that the return, accompanying schedules, and statements, are true, correct, and complete to the best of his or her knowledge and belief based on all of the information of which he or she has any knowledge.

(b) Affiliations schedules (Form F-851) shall contain a declaration, under the penalties of perjury, that the officer or ~~of~~ fiduciary signing the schedule has examined the information and statements contained therein and declares to the best of his or her knowledge and belief that the schedule is true and correct.

(c) Florida tentative income tax return and application for extension of time to file income tax return (Form F-7004) and authorization and consent of subsidiary corporation to be included in a consolidated return (Form F-1122) shall contain a declaration, under the penalties of perjury, that the person signing such form has been authorized to sign the form and that the information and statements therein are true and correct to the best of his or her knowledge and belief.

(4)(a) An electronically filed return or notice shall be deemed to be signed when the individual who is authorized to sign under subsection (1) includes his or her name in the filed electronic return data identified as signature information.

(b) When the individual who is authorized to sign includes his or her name in the filed electronic return data identified as signature information, it will also be deemed to serve as the written declaration made under penalties of perjury in accordance with subsection (3).

Specific Authority 213.06(1), 220.51 FS. Law Implemented 213.755, 220.221, 220.23(2)(a) FS. History-New 3-5-80, Amended 12-18-83, Formerly 12C-1.221, Amended 12-21-88, 4-8-92, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Robert DuCasse, Tax Law Specialist, Technical Assistance and Dispute Resolution, Department of Revenue, P. O. Box 7443, Tallahassee, Florida 32314-7443, telephone (850)922-4715

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Rodney Felix, Revenue Program Administrator I, Technical Assistance and Dispute Resolution, P. O. Box 7443, Tallahassee, Florida 32314-7443; telephone number (850)922-4111

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 25, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: The proposed amendments to Rule Chapter 12C-1, F.A.C. (Corporate Income Tax), were noticed in the Florida Administrative Weekly on July 27, 2007 (Vol. 33, No. 30, pp. 3290-3291). A rule development workshop was held on August 14, 2007. No one appeared to provide comment regarding these proposed rule changes. No written comments have been received by the Department.

**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**

**Florida Prepaid Postsecondary Education Expense Board**

RULE NO.: 19B-16.003  
 RULE TITLE: Participation Agreement

PURPOSE AND EFFECT: To update the Florida College Investment Plan Participation Agreement Form.

SUMMARY: This rule change is being made to update the Florida College Investment Plan Participation Agreement Form.

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

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

SPECIFIC AUTHORITY: 1009.971(1), (4), (6) FS.

LAW IMPLEMENTED: 1009.81(2) FS.

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

DATE AND TIME: November 5, 2007, 2:00 p.m.

PLACE: Suite 210, Hermitage Building, 1801 Hermitage Boulevard, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Thomas J. Wallace, Executive Director, 1801 Hermitage Boulevard, Suite 210, Tallahassee, Florida 32308, telephone (850)488-8514

THE FULL TEXT OF THE PROPOSED RULE IS:

19B-16.003 Participation Agreement.

(1) The contract between the Board and a benefactor shall consist of the benefactor's completed application and the participation agreement. The Florida College Investment Plan Participation Agreement, Form No. FPCB 2007-4, is hereby incorporated by reference. The form may be obtained from the Board by calling 1(800)552-GRAD (4723) (prompt 1).

(2) through (4) No change.

Specific Authority 1009.971(1), (4), (6) FS. Law Implemented 1009.981(2) FS. History--New 11-27-02, Amended 12-28-04, 6-2-05, 7-13-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Florida Prepaid College Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Prepaid College Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 7, 2006

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

**PUBLIC SERVICE COMMISSION**

RULE NO.: 25-4.0665  
 RULE TITLE: Lifeline Service

PURPOSE AND EFFECT: To implement a procedure to ensure the automatic enrollment of subscribers in Lifeline with the appropriate Eligible Telecommunications Carrier (ETC) and to require ETCs to maintain current information on the Universal Service Administrative Company website. Docket No. 070572-TL.

SUMMARY: The amendment of Rule 25-4.0665, F.A.C., Lifeline Service, creates and implements procedures to automatically enroll eligible customers in Lifeline service. Section 364.10(3)(h)2, F.S., requires the Commission to adopt such procedures by December 31, 2007.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The SERC shows that the proposed rule will benefit customers eligible for Lifeline service by expediting the enrollment process. There will be an incremental cost to the Commission in terms of time and resources. ETCs will experience some transactional costs in complying with the proposed rule. There should be no negative impact on local governments.

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: 350.127(2), 364.10(3)(j) FS.

LAW IMPLEMENTED: 364.10, 364.105 FS.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 48 hours before the workshop/meeting by contacting: Office of Commission Clerk, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6770. 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: Kira Scott, Office of General Counsel, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6216.

THE FULL TEXT OF THE PROPOSED RULE IS:

25-4.0665 Lifeline Service

(1) through (2) No change.

(3) All eligible telecommunications carriers shall participate in the Lifeline service Automatic Enrollment Process. For purposes of this rule, the Lifeline service Automatic Enrollment Process is an electronic interface between the Department of Children and Families, the Commission, and the eligible telecommunications carrier that allows low-income individuals to automatically enroll in Lifeline following enrollment in a qualifying public assistance program.

(a) The Commission shall send an e-mail to the eligible telecommunications carrier informing the eligible telecommunications carrier that Lifeline service applications are available for retrieval for processing.

(b) The eligible telecommunications carrier shall enroll the subscriber in the Lifeline service program as soon as practicable, but no later than 60 days from the receipt of the e-mail notification. Upon completion of initial enrollment, the eligible telecommunications carrier shall credit the subscriber's bill for Lifeline service as of the date the eligible telecommunications carrier received the e-mail notification from the Commission.

(c) The eligible telecommunications carrier shall maintain a current e-mail address with the Commission, which the Commission will use to inform the eligible telecommunications carrier that new Lifeline service applications are available for retrieval for processing.

(d) The eligible telecommunications carrier shall maintain with the Commission the names, e-mail addresses and telephone numbers of one primary and one secondary company representative who will manage the user accounts on the Commission's secure website.

(e) Within 20 calendar days of receiving the Commission's e-mail notification that the Lifeline service application is available for retrieval, the eligible telecommunications carrier shall provide a facsimile response to the Commission via the Commission's dedicated Lifeline service facsimile telephone line at (850)413-7142, identifying the customer name, address, telephone number, and date of the application for:

- 1. Misdirected Lifeline service applications;
- 2. Applications for customers currently receiving Lifeline service; and

3. Rejected applicants, which shall include the reason(s) why the applicants were rejected.

In lieu of a facsimile, the eligible telecommunications carrier may file the information with the Office of Commission Clerk.

(f) Pursuant to Section 364.107(1), F.S., information filed by the eligible telecommunications carrier in accordance with paragraph (3)(e) of this rule is confidential and exempt from Section 119.07(1), F.S. However, the eligible telecommunications carrier may disclose such information consistent with the criteria in Section 364.107(3)(a), F.S. For purposes of this rule, the information filed by the eligible telecommunications carrier will be presumed necessary for disclosure to the Commission pursuant to the criteria in Section 364.107(3)(a)4., F.S.

(4) All eligible telecommunications carriers shall provide current Lifeline service company information to the Universal Service Administrative Company (USAC) at www.lifelinesupport.org so that the information can be posted on the USAC's consumer website.

Specific Authority 350.127(2), 364.10(3)(j) FS. Law Implemented 364.10, 364.105 FS. History--New 1-2-07, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Curtis Williams, Division of Economic Regulation, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850, (850)413-6924

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Florida Public Service Commission  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 25, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: Vol. 33, No. 27, July 6, 2007

**LAND AND WATER ADJUDICATORY COMMISSION  
Capital Region Community Development District**

RULE NO.: 42CC-1.002  
RULE TITLE: Boundary

PURPOSE AND EFFECT: The petition, as revised, was filed by the Capital Region Community Development District (the "District") with its registered office located at 123 South Calhoun Street, Tallahassee, Florida 32301. The petition proposes to modify the land area presently serviced by the District by amending its boundary to remove approximately 1,081.55 acres from the District located within the City of Tallahassee and unincorporated Leon County, Florida. The District currently covers approximately 3,286.94 acres of land and after amendment the District will encompass approximately 2,205.39 acres. There are 2 parcels of land located within the proposed contracted boundaries of the District that are to be excluded from the District. The parcels are owned by the Board of Trustees Internal Improvement Trust Fund, 3900 Commonwealth Boulevard, Tallahassee,

Florida 32399. Petitioner has obtained written consent to amend the boundaries of the District from the owners of 100% of the real property located within the contraction parcel.

SUMMARY: The petition, as revised, was filed by the Capital Region Community Development District (the "District") with its registered office located at 123 South Calhoun Street, Tallahassee, Florida 32301. The petition proposes to modify the land area presently serviced by the District by amending its boundary to remove approximately 1,081.55 acres from the District located within the City of Tallahassee and unincorporated Leon County, Florida. The District currently covers approximately 3,286.94 acres of land and after amendment the District will encompass approximately 2,205.39 acres. There are 2 parcels of land located within the proposed contracted boundaries of the District that are to be excluded from the District. The parcels are owned by the Board of Trustees Internal Improvement Trust Fund, 3900 Commonwealth Boulevard, Tallahassee, Florida 32399. Petitioner has obtained written consent to amend the boundaries of the District from the owners of 100% of the real property located within the contraction parcel.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition, as revised, to establish the District. The complete text of the SERC is contained as Exhibit 10 to the petition, as revised. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses as defined by Section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by Section 120.52, F.S.; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the District, the State of Florida, the City of Tallahassee, and Leon County are principal entities that are likely to be required to comply with the rule. In addition, current and future property owners will be affected by the establishment of the proposed District. Under section (b), FLWAC and the State of Florida will incur administrative costs. The City of Tallahassee and Leon County will incur costs resulting from the initial review and on-going costs resulting from the on-going administration of the District. There is a \$15,000 filing fee paid to the City of Tallahassee and

Leon County to offset any costs it may incur. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition, as revised, to establish the District will have no impact or a positive impact on small businesses. The petition, as revised, to establish the District will not have an impact on small cities or small counties as defined by section 120.52(17), F.S., as the City of Tallahassee and Leon County are not defined as a small city or small county. Under section (e), the analysis provided in the SERC was based on a straightforward application of economic theory. Input was received from the developer's engineer and other professionals associated with the developer.

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: 190.005, 190.046 FS.

LAW IMPLEMENTED: 190.004, 190.005, 190.046 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: Wednesday, November 7, 2007, 10:00 a.m.

PLACE: The Capitol, Room 2103, Tallahassee, Florida 32399-0007

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULE IS:

42CC-1.002 Boundary.

The boundaries of the district are as follows:

The following descriptions include all or part of Sections 2, 3, 9, 10, 11, 14, 15, 16, 20, 21, 22, 23, 26, 27, 28 and 29, Township 1 South, Range 1 East, Leon County, Florida.

Portions of Sections 2, 11, 14, 23 and 26, Township 1 South, Range 1 East, more particularly described as follows:

BEGIN at the Northwest corner of Section 26, Township 1 South, Range 1 East; thence run South along the West line of said Section 26 for 451.73 feet more or less to the Northerly right-of-way line of State Road 261-A (Tram Road); thence run South 77 degrees 00 minutes 41 seconds East 191.64 feet; thence run North 495.02 feet more or less to the North line of said Section 26; thence continue North 2829.68 feet more or less to the beginning of a curve concave to the East; thence Northeasterly along said curve having a radius of 3444.00 feet through a central angle of 20 degrees 02 minutes 36 seconds for an arc distance of 1204.80 feet to the end of the curve; thence run North 20 degrees 02 minutes 37 seconds East for 635.00 feet to the beginning of a compound curve concave to the West; thence Northeasterly along said curve having a radius of 1956.02 feet, through a central angle of 19 degrees 57 minutes 51 seconds for an arc distance of 681.56 feet to the point of compound curvature; thence continue Northerly and Northwesterly along said curve having a radius of 1956.02 feet; through a central angle of 23 degrees 44 minutes 04 seconds for an arc distance of 810.27 feet to a point of reverse curve concave to the East; thence Northerly along said curve having a radius of 3144.08 feet, through a central angle of 21 degrees 38 minutes 15 seconds for an arc distance of 1187.35 feet to the beginning of a curve concave to the East; thence Northerly along said curve having a radius of 4983.90 feet through a central angle of 12 degrees 57 minutes 37 seconds for an arc distance of 1127.35 feet; thence run North 00 degrees 09 minutes 48 seconds East for 610.30 feet to the beginning of a curve concave to the West; thence Northerly along said curve having a radius of 10852.98 feet through a central angle of 04 degrees 30 minutes 46 seconds for an arc distance of 854.79 feet, thence run North 12 degrees 23 minutes 29 seconds West 425.58 feet to the beginning of a curve concave to the Southwest, thence Northwesterly along said curve having a radius of 3342.64 feet through a central angle of 07 degrees 08 minutes 57 seconds for an arc distance of 417.09 feet to the beginning of a curve concave to the Southwest, thence Northwesterly along said curve having a radius of 3342.64 feet through a central angle of 01 degrees 25

minutes 18 seconds for an arc distance of 82.93 feet; thence run North 06 degrees 51 minutes 48 seconds East for 945.08 feet to the beginning of a curve concave to the West, thence along said curve having a radius of 2700.04 feet through a central angle of 03 degrees 50 minutes 52 seconds for an arc distance of 181.33 feet; thence run North 03 degrees 00 minutes 57 seconds East for 4071.36 feet; thence continue North 03 degrees 00 minutes 57 seconds East for 1320.00 feet, more or less, to the North line of the South Half of the South Half of Section 2, Township 1 South, Range 1 East; thence run West along said North line of the South Half of the South Half of Section 2 to its intersection with the West line of said Section 2; thence run South along the West section lines of Sections 2, 11, 14 and 23, Township 1 South, Range 1 East to the Northwest corner of Section 26, Township 1 South, Range 1 East and the POINT OF BEGINNING.

LESS AND EXCEPT;

The rights of way for Southwood Plantation Road and Old St. Augustine Road.

ALSO, LESS AND EXCEPT;

That portion of the following description lying within Section 11, Township 1 South, Range 1 East.

COMMENCE at the intersection of the South right-of-way line of State Road No. 364 (Old St. Augustine Road) and the West boundary of the East Half of the Northeast Quarter of Section 10, Township 1 South, Range 1 East, Leon County, Florida; thence run South 76 degrees 57 minutes East along the South right-of-way line of said State Road No. 364 a distance of 670.59 feet to the POINT OF BEGINNING; thence run South 00 degrees 34 minutes 40 seconds East 1399.27 feet to a concrete monument; thence run South 89 degrees 13 minutes 20 seconds East 648.44 feet to a St. Joe Paper Company concrete monument on the West right-of-way line of Southwood Plantation Road; thence run North 03 degrees 33 minutes 20 seconds East along said West right of way line of Southwood Plantation Road a distance of 1251.37 feet, more or less, to a concrete monument marking the intersection of the West right-of-way line of Southwood Plantation Road with the South right-of-way line of Old St. Augustine Road; thence run North 76 degrees 57 minutes West along said South right-of-way line of Old St. Augustine Road a distance of 758 feet, more or less, to the POINT OF BEGINNING.

SECTION 3

Commence at the Southwest corner of Section 3, Township 1 South, Range 1 East, and run thence North along the Section line 1336.6 feet, thence East 880.0 feet to a point which is the POINT OF BEGINNING. From said POINT OF BEGINNING run thence East 1250.0 feet more or less to a point 500 feet West of a point 1336.6 North of the Southeast corner of the Southwest Quarter of said Section 3, thence South 1336.6 feet more or less to the South line of said Section 3, thence West

along said South line of Section 3 to a point due South of the point of beginning, thence North 1336.6 feet more or less to the POINT OF BEGINNING.

AND ALSO;

Begin at the Southwest corner of Section 3, Township 1 South, Range 1 East, thence run North 162.4 feet along the Section line to the South boundary of Old St. Augustine Road, thence southeasterly 845.19 along the South boundary of said road to its intersection with the South Line of said Section 3, thence West along said South line to the POINT OF BEGINNING.

AND ALSO;

Commence at the Northwest corner of the Northwest quarter of the Southeast quarter of Section 3, Township 1 South, Range 1 East, and run thence South 00 degrees 30 minutes West 1266.8 feet along the quarter-section line, thence South 89 degrees 30 minutes East 647.3 feet, thence South 00 degrees 30 minutes West 13.6 feet, thence South 89 degrees 30 minutes East 336.35 feet to a point which is the POINT OF BEGINNING. From said POINT OF BEGINNING, run thence South 89 degrees 30 minutes East 336.35 feet, thence North 00 degrees 30 minutes East 1081.3 feet along the East boundary of the Northwest quarter of the Southeast quarter of said Section 3, to a point 207.7 feet South 00 degrees 30 minutes West of the Northeast corner of the Northwest quarter of the Southeast quarter of said Section 3, thence North 89 degrees 30 minutes West 336.35 feet, thence South 00 degrees 30 minutes West 1081.3 feet to the POINT OF BEGINNING.

AND ALSO;

Begin at the Southeast corner of Section 3, Township 1 South, Range 1 East, and thence run North 1495.0 feet along the East boundary of said Section 3, thence West 701.0 feet, thence North 1158.0 feet to a point on the North boundary of the Southeast Quarter of said Section 3, thence West 639.3 feet to the Northwest corner of the East 1/2 of the Southeast quarter of said Section 3, thence South 1289.0 feet, thence West 672.7 feet, thence North 13.6 feet, thence West 323.15 feet, thence South 537.53 feet, thence West 324.15 feet to a point on the West boundary of the Southeast quarter of said Section 3, which said point is 1804.33 feet South of the Northwest corner of the Southeast quarter of said Section 3, thence run South 867.4 feet more or less to the South line of said Section 3, thence East along said South line 2640.0 feet more or less to the POINT OF BEGINNING.

AND ALSO;

Commence at the Southwest corner of the East half of the Northeast quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, marked by a one inch iron pipe and run thence South 89 degrees 17 minutes 39 seconds East 429.17 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run thence South 89 degrees 17 minutes 38 seconds East 142.0 feet to the West boundary of that property described in Official Records Book 1410, Page 1913 of the Public Records of Leon County, Florida, thence North 00

degrees 49 minutes 21 seconds East along said boundary 322.92 feet to the southerly right of way boundary of State Road No. 20 (Apalachee Parkway), thence South 85 degrees 40 minutes 30 seconds West along said boundary 200.81 feet, thence leaving said boundary South 00 degrees 58 minutes 17 seconds West 218.30 feet, thence South 32 degrees 54 minutes 08 seconds East 104.47 feet to the POINT OF BEGINNING.

LESS AND EXCEPT;

Begin at the Southwest corner of the East half of the Northeast quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, marked by a one inch iron pipe and run thence North 00 degrees 36 minutes 43 seconds East along the West boundary of that property described in Official Records Book 1306, Page 2238 of the Public Records of Leon County, Florida, 272.53 feet to the Southern right of way boundary of State Road 20 (Apalachee Parkway), thence along said right of way boundary North 83 degrees 40 minutes 30 seconds East 292.77 feet, thence leaving said right of way boundary run South 03 degrees 41 minutes 54 seconds East along the East boundary of said property in Official Records Book 1306, Page 2238 for a distance of 299.09 feet, thence South 89 degrees 17 minutes 38 seconds East 115.01 feet, thence South 32 degrees 53 minutes 35 seconds East 17.31 feet, thence South 00 degrees 35 minutes 30 seconds West 1171.25 feet, thence South 87 degrees 54 minutes 45 seconds West 777.95 feet to the East boundary of that property described in Official Records Book 610, Page 165 of the Public Records of Leon County, Florida, thence North 00 degrees 41 minutes 14 seconds East along said boundary 1012.36 feet to the South boundary of that property described in Official Records Book 1257, Page 614 of the Public Records of Leon County, Florida, thence South 89 degrees 11 minutes 08 seconds East along said boundary 336.62 feet, thence North 00 degrees 36 minutes 43 seconds East along the East boundary of said property 211.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

The rights of way for Southwood Plantation Road, Old St. Augustine Road and the 100 foot power line right of way conveyed to the City of Tallahassee.

SECTION 9

The Southeast Quarter of the Southeast Quarter of the Southwest Quarter of Section 9, Township 1 South, Range 1 East, less the right-of-way of State Road No. 363 (Capital Circle).

AND ALSO;

That part of the West Half of the Northeast Quarter lying South and East of State Road No. 363 (Capital Circle).

AND ALSO;

The Southeast Quarter of the Northeast Quarter less the North 66 feet thereof.

AND ALSO;

BEGIN at a point 66 feet South of the Southwest corner of the Northeast Quarter of the Northeast Quarter, thence run North 210 feet; thence East 210 feet; thence run South 210 feet; thence run West 210 feet to the POINT OF BEGINNING.

LESS AND EXCEPT;

The 100 foot Power Line right-of-way conveyed to the City of Tallahassee and the right-of-way for State Road No. 363 (Capital Circle).

#### SECTION 10

All of Section 10, Township 1 South, Range 1 East.

LESS AND EXCEPT;

COMMENCE at the intersection of the South right-of-way line of State Road No. 364 (Old St. Augustine Road) and the West boundary of the East Half of the Northeast Quarter of Section 10, Township 1 South, Range 1 East, Leon County, Florida; thence run South 76 degrees 57 minutes East along the South right-of-way line of said State Road No. 364 a distance of 670.59 feet to the POINT OF BEGINNING; thence run South 00 degrees 34 minutes 40 seconds East 1399.27 feet to a concrete monument; thence run South 89 degrees 13 minutes 20 seconds East 648.44 feet to a St. Joe Paper Company concrete monument on the West right-of-way line of Southwood Plantation Road; thence run North 03 degrees 33 minutes 20 seconds East along said West right of way line of Southwood Plantation Road a distance of 1251.37 feet, more or less, to a concrete monument marking the intersection of the West right-of-way line of Southwood Plantation Road with the South right-of-way line of Old St. Augustine Road; thence run North 76 degrees 57 minutes West along said South right-of-way line of Old St. Augustine Road a distance of 758 feet, more or less, to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

BEGIN at the Southwest corner of the Southeast Quarter of the Southeast Quarter of Section 10, Township 1 South, Range 1 East, and run thence North 200 feet, thence East 500 feet, thence South 185 feet, thence East 820 feet to the East line of said Section 10, thence South 15 feet to the South line of said Section 10, thence West 1320 feet, more or less, to the POINT OF BEGINNING, containing 2.57 acres, more or less.

ALSO, LESS AND EXCEPT;

BEGIN at the Southwest corner of the Northwest Quarter of the Northeast Quarter of Section 10, Township 1 South, Range 1 East, thence run East 362 feet, thence run North 385 feet to a point in the center of the St. Augustine Road, thence run in a Northwesterly direction 398 feet to a point on the West boundary of the Northeast Quarter of said Section 10, said point being 579 feet North of the POINT OF BEGINNING, thence run South 579 feet to the POINT OF BEGINNING, except the portion thereof included in the right-of-way of the Old St. Augustine Road.

ALSO, LESS AND EXCEPT;

COMMENCE at the Southeast corner of Section 10, Township 1 South, Range 1 East, Leon County, Florida, and run thence West along the section line a distance of 20 feet, or to the West boundary of Southwood Road, thence North along the West boundary of said Southwood Road, a distance of 40 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING continue thence North along said West boundary 100 feet, thence West parallel to the South line of said Section 10 a distance of 435.6 feet, thence South 100 feet, thence East 435.6 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

BEGIN at the Northeast corner of the Northeast Quarter of the Northwest Quarter of Section 10, Township 1 South, Range 1 East and run West along the North line of said Section 10 for 500 feet; thence run south 456 feet, more or less, to the Northerly right-of-way line of Old St. Augustine Road; thence Southeasterly along the North right-of-way line of Old St. Augustine Road 589 feet, more or less, to the East boundary of the Northwest Quarter of said Section 10; thence North 678.6 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

The rights of way for Old St. Augustine Road, Southwood Plantation Road and the 100 foot power line right of way are conveyed to the City of Tallahassee.

#### SECTION 15

All of Section 15, Township 1 South, Range 1 East, Leon County, Florida.

LESS AND EXCEPT;

That part of the following described parcel lying in Section 15, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04

seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way),

thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING,

#### SECTION 16

All of Section 16, Township 1 South, Range 1 East lying East of State Road 261 (Capital Circle).

AND ALSO;

The North 34.99 chains of the East half of the Northwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida, lying West of State Road 261 (Capital Circle).

AND ALSO;

The West half of the Southwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida.

AND ALSO;

All that part of the South 26.66 chains of the East half of the Southwest quarter of Section 16, Township 1 South, Range 1 East, Leon County, Florida, lying West of State Road 261 (Capital Circle).

LESS AND EXCEPT;

The right of way for State Road 261 (Capital Circle), the 100 foot power line right of way conveyed to the City of Tallahassee and the right of way conveyed as the Blair Stone Road Extension recorded in Leon County Official Records Book 2080, Page 1542.

ALSO, LESS AND EXCEPT;

That part of the following described property lying in Section 16, Township 1 South, Range 1 East.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast (State Road No. 261), thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.97 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 05 degrees 31 minutes 26 seconds for an arc length of 368.25 feet (chord of 368.10 feet bears North 09 degrees 14 minutes 44 seconds East), thence leaving said centerline run North 82 degrees 45 minutes 59 seconds West 125.01 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 82 degrees 45 minutes 59 seconds West along the northerly right of way of a

proposed road (100 foot right of way) a distance of 407.94 feet to set iron rebar and cap marking a point of curve to the left, thence along said curve with a radius of 4425.00 feet through a central angle of 06 degrees 47 minutes 31 seconds for an arc length of 524.55 feet (chord of 524.25 feet bears North 86 degrees 09 minutes 44 seconds West) to a set iron rebar and cap, thence North 89 degrees 33 minutes 30 seconds West 254.27 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 00 seconds for an arc length of 47.12 feet (chord of 42.43 feet bears North 44 degrees 33 minutes 30 seconds West) to a set iron rebar and cap on the easterly right of way of a proposed roadway (100 foot right of way), thence North 00 degrees 26 minutes 30 seconds East along said right of way 992.45 feet to a set iron rebar and cap marking a point of curve to the right, thence along said right of way curve with a radius of 750.00 feet through a central angle of 92 degrees 45 minutes 19 seconds for an arc length of 1214.16 feet (chord of 1085.85 feet bears North 46 degrees 49 minutes 10 seconds East) to a set iron rebar and cap thence South 86 degrees 48 minutes 11 seconds East along said right of way 444.13 feet to a set iron rebar and cap, thence leaving said right of way run South 00 degrees 18 minutes 28 seconds West 1433.65 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 3694.66 feet through a central angle of 06 degrees 09 minutes 02 seconds for an arc length of 396.61 feet (chord of 396.42 feet bears South 03 degrees 22 minutes 59 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described property lying in Section 16, Township 1 South, Range 1 East.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds

East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right

of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast (State Road No. 261), thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.96 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 11 degrees 41 minutes 59 seconds for an arc length of 779.97 feet (chord of 778.61 feet bears North 06 degrees 09 minutes 27 seconds East), thence North 00 degrees 18 minutes 28 seconds East 2903.59 feet, thence leaving said centerline run South 89 degrees 57 minutes 06 seconds East 125.00 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 18 minutes 28 seconds East 812.00 feet to a set iron rebar and cap, thence South 89 degrees 41 minutes 32 seconds East 778.83 feet to a set iron rebar and cap on the westerly right of way of a proposed roadway (65 foot right of way), thence South along said westerly right of way 176.04 feet to a set iron rebar and cap marking a point of curve to the left, thence along said right of way curve with a radius of 2550.10 feet through a central angle of 13 degrees 38 minutes 55 seconds for an arc length of 607.47 feet (chord of 606.03 feet bears South 06 degrees 49 minutes 28 seconds East) to a set iron rebar and cap, thence South 13 degrees 38 minutes 58 seconds East 31.65 feet to a set iron rebar and cap, thence leaving said proposed right of way run North 89 degrees 57 minutes 06 seconds West 867.59 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described property lying in Section 16, Township 1 South, Range 1 East.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 East, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary

of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

SECTION 20

The East Half of Section 20, Township 1 South, Range 1 East LESS AND EXCEPT;

That part of the North Half of the North Half of said Section 20 lying North of State Road 261-A (Tram Road).

The right of way for State Road 261-A (Tram Road) and the 100 foot power line right of way conveyed to the City of Tallahassee.

#### SECTION 21

All of Section 21, Township 1 South, Range 1 East, lying North of State Road 261-A (Tram Road) and the following portion of said Section 21 lying South of Tram Road and West of Capital Circle:

BEGIN at the Southwest corner of Section 21, Township 1 South, Range 1 East, thence run North along the West line of said Section 21 to its intersection with the Southerly right-of-way line of State Road 261-A (Tram Road); thence run Southeasterly along said right-of-way line to the West boundary of that property described as Parcel No. Three in Official Records Book 2006, Page 2252 of the Public Records of Leon County, Florida; thence run South along said boundary and continuation thereof for 1002.3, more or less, to the North boundary of that property described in Official Records Book 1225, Page 2379 of the Public Records of Leon County, Florida; thence run South along the West boundary of said property described in Official Records Book 1225, Page 2379 and a continuation thereof to the South line of said Section 21; thence run West for 660 feet, more or less, to the Southwest corner of said Section 21 and the POINT OF BEGINNING.

#### AND ALSO;

The following described parcel lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector, thence run South 13 degrees 01 minutes 22 seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said

northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod and cap to the POINT OF BEGINNING. From said POINT OF BEGINNING thence continue North 21 degrees 57 minutes 48 seconds East 95.89 feet to a concrete monument, thence run North 10 degrees 53 minutes 34 seconds East 219.79 feet to a concrete monument, thence run North 02 degrees 57 minutes 51 seconds East 603.14 feet to a concrete monument, thence run North 07 degrees 58 minutes 29 seconds East 112.07 feet to a point on the southerly right of way boundary of Shumard Oak Boulevard and a curve concave southwesterly, thence run southeasterly along said right of way curve with a radius of 666.67 feet through a central angle of 24 degrees 05 minutes 36 seconds for an arc distance of 280.34 feet (chord of 278.28 feet bears South 76 degrees 41 minutes 39 seconds East) to a point of reverse curve to the left, thence run southeasterly along said curve with a radius of 1293.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc distance of 528.55 feet (chord of 524.87 feet bears South 76 degrees 21 minutes 29 seconds East), thence run South 88 degrees 04 minutes 07 seconds East 297.07 feet to a point of curve to the right, thence run southeasterly along said curve with a radius of 30.00 feet through a central angle of 90 degrees 54 minutes 41 seconds for an arc distance of 47.60 feet (chord of 42.76 feet bears South 42 degrees 36 minutes 47 seconds East) to a point of curve to the right and the westerly right of way boundary of Tram Road Connector, thence run southwesterly along said right of way curve with a radius of 1168.00 feet through a central angle of 17 degrees 26 minutes 30 seconds for an arc distance of 355.56 feet (chord of 354.19 feet bears South 11 degrees 33 minutes 49 seconds West), thence run South 20 degrees 17 minutes 04 seconds West 816.47 feet, thence leaving said westerly right of way boundary run North 69 degrees 42 minutes 56 seconds West 934.79 feet to the POINT OF BEGINNING.

#### AND ALSO;

The existing St. Joe Corp. property lying in the Southeast Quarter of Section 21, Township 1 South, Range 1 East, Leon County, Florida lying south of Tram Road (know as Tax ID parcel 31-21-20-002-000.0).

#### LESS AND EXCEPT;

The right-of-way of State Road No. 263 (Capital Circle), the right-of-way of State Road No. 261-A (Tram Road), and the 100 foot Power Line right-of-way deeded to the City of Tallahassee.

#### ALSO, LESS AND EXCEPT;

BEGIN at a point on the West line of Section 21, Township 1 South, Range 1 East, said point being 1326.2 feet North of the Southwest corner of the Northwest Quarter of the Southwest Quarter of said Section 21, and run thence East 100 feet, thence

North 01 degrees 58 minutes West for 390.25 feet to a point on the South boundary of the right-of-way of the public road, thence Northwesterly along said right-of-way boundary for 100 feet to a point on the West line of said Section 21, thence South along the Section line for 440 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying in Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of

468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run Easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1469.04 feet to a point of curve to the right, thence along said curve with a radius of 3205.07 feet through a central angle of 17 degrees 06 minutes 44 seconds for an arc length of 957.24 feet (chord of 953.69 feet bears North 68 degrees 25 minutes 19 seconds West), thence North 59 degrees 51 minutes 57 seconds West 846.38 feet to the intersection of the centerline of Tram Road with the centerline of Capital Circle Southeast (State Road No. 261),

thence North 12 degrees 00 minutes 01 seconds East along said centerline 1.97 feet, thence North 12 degrees 00 minutes 27 seconds East along said centerline 1844.79 feet to a point of curve to the left, thence along said curve with a radius of 3819.66 feet through a central angle of 05 degrees 31 minutes 26 seconds for an arc length of 368.25 feet (chord of 368.10 feet bears North 09 degrees 14 minutes 44 seconds East), thence leaving said centerline run North 82 degrees 45 minutes 59 seconds West 125.01 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 82 degrees 45 minutes 59 seconds West along the northerly right of way of a proposed road (100 foot right of way) a distance of 407.94 feet to set iron rebar and cap marking a point of curve to the left, thence along said curve with a radius of 4425.00 feet through a central angle of 06 degrees 47 minutes 31 seconds for an arc length of 524.55 feet (chord of 524.25 feet bears North 86 degrees 09 minutes 44 seconds West) to a set iron rebar and cap, thence North 89 degrees 33 minutes 30 seconds West 254.27 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 00 seconds for an arc length of 47.12 feet (chord of 42.43 feet bears North 44 degrees 33 minutes 30 seconds West) to a set iron rebar and cap on the Easterly right of way of a proposed roadway (100 foot right of way), thence North 00 degrees 26 minutes 30 seconds East along said right of way 992.45 feet to a set iron rebar and cap marking a point of curve to the right, thence along said right of way curve with a radius of 750.00 feet through a central angle of 92 degrees 45 minutes 19 seconds for an arc length of 1214.16 feet (chord of 1085.85 feet bears North 46 degrees 49 minutes 10 seconds East) to a set iron rebar and cap thence South 86 degrees 48 minutes 11 seconds East along said right of way 444.13 feet to a set iron rebar and cap, thence leaving said right of way run South 00 degrees 18 minutes 28 seconds West 1433.65 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 3694.66 feet through a central angle of 06 degrees 09 minutes 02 seconds for an arc length of 396.61 feet (chord of 396.42 feet bears South 03 degrees 22 minutes 59 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the

centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING thence run South 13 degrees 01 minutes 22 seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod and cap; thence leaving said easterly boundary of the existing Capital Circle Office Center run South 69 degrees 42 minutes 56 seconds East 739.36 feet; thence run southwesterly along a non-tangent curve to the right with a radius of 140.00 feet through a central angle of 40 degrees 16 minutes 49 seconds for an arc distance 98.42 feet (chord bears South 14 degrees 04 minutes 23 seconds West 96.41 feet) to a point of reverse curve to the left; thence run southeasterly along said curve with a radius of 110.00 feet through a central angle of 101 degrees 55 minutes 47 seconds for an arc distance of 195.69 feet (chord bears South 16 degrees 42 minutes 26 seconds East 170.89 feet); thence run South 67 degrees 43 minutes 00 seconds East 81.70 feet to the westerly right-of-way boundary of said Tram Road Connector; thence run southwesterly along said westerly right-of-way along a curve to the right with a radius of 690.00 feet through a central angle of 14 degrees 01 minutes 10 seconds for an arc distance of 168.83 feet (chord bears South 29 degrees 17 minutes 35 seconds West 168.41 feet) to a concrete monument; thence run South 36 degrees 18 minutes 10 seconds West along said westerly right of way 873.23 feet to a concrete monument marking a point of curve to the right, thence run southwesterly along said right of way curve with a radius of 810.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc distance of 329.11 feet (chord bears South 24 degrees 39 minutes 46 seconds West 326.85 feet) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 East, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described right of way of Satellite Boulevard, Shumard Oak Boulevard, and Tram Road Connector lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 East, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord

bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259 - 66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 575.14 feet to the easterly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said easterly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said curve, on a radius of 690.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 280.36 feet (chord of 278.43 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 182.52 feet to the POINT OF BEGINNING.

From said POINT OF BEGINNING, continue North 36 degrees 20 minutes 50 seconds East, along said easterly right-of-way boundary, a distance of 341.40 feet; thence South 53 degrees 39 minutes 10 seconds East, leaving said easterly right-of-way boundary, a distance of 80.41 feet; thence South 24 degrees 32 minutes 39 seconds East a distance of 102.95 feet; South 22 degrees 38 minutes 05 seconds West a distance of 140.69 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 125.00 feet, through a central angle of 103 degrees 42 minutes 45 seconds, an arc distance of 226.27 feet (chord of 196.62 feet bears South 74 degrees 29 minutes 27 seconds West) to a point of tangency; thence North 53 degrees 39 minutes 10 seconds West a distance of 82.27 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259-66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 695.14 feet to the westerly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said westerly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said

curve, on a radius of 810.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 329.11 feet (chord of 326.86 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 908.41 feet to a point of curve to left; thence Northeasterly, along said curve, on a radius of 690.00 feet, through a central angle of 14 degrees 01 minutes 10 seconds, an arc distance of 168.83 feet (chord of 168.41 feet bears North 29 degrees 20 minutes 15 seconds East) to the POINT OF BEGINNING.

From said POINT OF BEGINNING, thence North 67 degrees 40 minutes 20 seconds West a distance of 81.70 feet to a point of curve to the right; thence Northwesterly, along said curve, on a radius of 110.00 feet, an arc distance of 195.69 feet (chord of 170.89 feet bears North 16 degrees 42 minutes 26 seconds West) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 140.00 feet; through a central angle of 41 degrees 09 minutes 41 seconds, an arc distance of 100.58 feet (chord of 98.43 feet bears North 13 degrees 40 minutes 37 seconds East) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 150.00 feet, through a central angle of 65 degrees 22 minutes 28 seconds, an arc distance of 171.15 feet (chord of 162.02 feet bears North 25 degrees 47 minutes 01 seconds East) to a point of tangency; thence North 58 degrees 28 minutes 15 seconds East a distance of 108.90 feet; thence South 69 degrees 40 minutes 16 seconds East a distance of 113.74 feet to the westerly right-of-way boundary of said Tram Connector; thence South 20 degrees 19 minutes 44 seconds West a distance of 459.89 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 690.00 feet, through a central angle of 01 degrees 59 minutes 56 seconds, an arc distance of 24.07 feet (chord of 24.07 feet bears South 21 degrees 19 minutes 42 seconds West) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259 - 66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 1461.36 feet to a point of curve to the right; thence Northwesterly, along said northerly right-of-way curve, on a radius of 3173.42 feet, through a central angle of 06 degrees 02 minutes 35 seconds, an arc distance of 334.71 feet (chord of 334.55 feet bears North 73 degrees 54 minutes 41 seconds West) to the easterly boundary of the Capital Circle Office Center; thence along said easterly boundary as follows: North 35 degrees 45 minutes 00 seconds East a distance of 1562.75 feet; thence North 27 degrees 54 minutes 38 seconds East a

distance of 214.56 feet; thence North 22 degrees 00 minutes 33 seconds East a distance of 117.90 feet; thence North 10 degrees 57 minutes 24 seconds East a distance of 219.90 feet; thence North 03 degrees 00 minutes 34 seconds East a distance of 403.26 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING, thence continue North 03 degrees 00 minutes 34 seconds East, along said easterly right-of-way boundary of Capital Circle Office Center, a distance of 200.00 feet; thence North 07 degrees 59 minutes 51 seconds East a distance of 111.96 feet to a point on a curve concave to the south for the southerly right-of-way boundary of Shumard Oak Boulevard (proposed 140' Right-of-way extension); thence Easterly, leaving said easterly boundary of Capital Circle Office Center, along said curve, on a radius of 666.68 feet, through a central angle of 24 degrees 07 minutes 25 seconds, an arc distance of 280.70 feet (chord of 278.63 feet bears South 75 degrees 39 minutes 54 seconds East); thence South 23 degrees 59 minutes 03 seconds West, leaving said southern right-of-way boundary of Shumard Oak Boulevard, a distance of 48.29 feet to a point of curve to the left; thence Southwesterly, along said curve, on a radius of 140.00 feet, through a central angle of 52 degrees 35 minutes 41 seconds, an arc distance of 128.51 feet (chord of 124.05 feet bears South 02 degrees 18 minutes 47 seconds West) to a point of reverse curve; thence Southeasterly, along said curve, on a radius of 140.00 feet, through a central angle of 42 degrees 21 minutes 34 seconds, an arc distance of 103.50 feet (chord of 101.16 feet bears South 07 degrees 25 minutes 51 seconds East); thence South 13 degrees 44 minutes 56 seconds West a distance of 101.60 feet; thence South 76 degrees 08 minutes 21 seconds West a distance of 73.52 feet to a point on a curve concave to the northeast; thence Northwesterly, along said curve, on a radius of 320.00 feet, through a central angle of 33 degrees 52 minutes 27 seconds, an arc distance of 189.19 feet (chord of 186.45 feet bears North 43 degrees 46 minutes 53 seconds West) to a point on a line; thence North 86 degrees 59 minutes 26 seconds West a distance of 71.22 feet to the POINT OF BEGINNING.

#### SECTION 22

All of Section 22, Township 1 South, Range 1 East, Leon County, lying North of State Road 261-A (Tram Road).

#### LESS AND EXCEPT;

That part of the following described parcel lying Section 22, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence

run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a nail and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a nail and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a nail and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a nail and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a nail and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a nail and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oaks Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West) to a concrete monument, thence North 45 degrees 02 minutes 49 seconds West 16.88 feet to a concrete monument on the easterly right of way of Satellite Boulevard, thence run North 12 degrees 57 minutes 04 seconds East 425.57 feet to a concrete monument, thence North 06 degrees 56 minutes 31 seconds East 313.58 feet to a concrete monument, thence North 00 degrees 03 minutes 25 seconds West 403.16 feet to a concrete monument, thence North 03 degrees 44 minutes 41 seconds East 288.47 feet to an iron rod and cap, thence North 11 degrees 09 minutes 38 seconds East 286.37 feet to a concrete monument, thence North 16 degrees 57 minutes 18 seconds East 242.82 feet to a point on the southerly right of way of a proposed roadway (65 foot right of way); thence run South 73 degrees 00 minutes 38

seconds East along said southerly right of way 412.87 feet to a point of curve to the left having a radius of 1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING, containing 45.938 acres more or less.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 21, Township 1 South, Range 1 East, Leon County, Florida.

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the Tram Road Connector (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet; thence leaving said centerline run North 76 degrees 58 minutes 38 seconds West 60.00 feet to a concrete monument on the westerly right-of-way boundary of said Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING thence run South 13 degrees 01 minutes 22 seconds West along said westerly right-of-way 53.22 feet to a concrete monument marking the north right-of-way boundary of said Tram Road; thence run North 76 degrees 58 minutes 41 seconds West along said northerly right-of-way of Tram Road 766.36 feet to a set iron rod and cap marking a point of curve to the right, thence run northwesterly along said right of way curve with a radius of 3172.07 feet through a central angle of 06 degrees 02 minutes 20 seconds for an arc distance of 334.34 feet (chord bears North 73 degrees 57 minutes 31 seconds West 334.18 feet) to a concrete monument marking the easterly boundary of the existing Capital Circle Office Center; thence leaving said northerly right-of-way run North 35 degrees 42 minutes 40 seconds East 1562.71 feet to a concrete monument; thence run North 27 degrees 52 minutes 52 seconds East 214.31 feet to a concrete monument; thence run North 21 degrees 57 minutes 48 seconds East 22.24 feet to an iron rod

and cap; thence leaving said easterly boundary of the existing Capital Circle Office Center run South 69 degrees 42 minutes 56 seconds East 739.36 feet; thence run southwesterly along a non-tangent curve to the right with a radius of 140.00 feet through a central angle of 40 degrees 16 minutes 49 seconds for an arc distance of 98.42 feet (chord bears South 14 degrees 04 minutes 23 seconds West 96.41 feet) to a point of reverse curve to the left; thence run southeasterly along said curve with a radius of 110.00 feet through a central angle of 101 degrees 55 minutes 47 seconds for an arc distance of 195.69 feet (chord bears South 16 degrees 42 minutes 26 seconds East 170.89 feet); thence run South 67 degrees 43 minutes 00 seconds East 81.70 feet to the westerly right-of-way boundary of said Tram Road Connector; thence run southwesterly along said westerly right-of-way along a curve to the right with a radius of 690.00 feet through a central angle of 14 degrees 01 minutes 10 seconds for an arc distance of 168.83 feet (chord bears South 29 degrees 17 minutes 35 seconds West 168.41 feet) to a concrete monument; thence run South 36 degrees 18 minutes 10 seconds West along said westerly right of way 873.23 feet to a concrete monument marking a point of curve to the right, thence run southwesterly along said right of way curve with a radius of 810.00 feet through a central angle of 23 degrees 16 minutes 48 seconds for an arc distance of 329.11 feet (chord bears South 24 degrees 39 minutes 46 seconds West 326.85 feet) to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described right of way of Satellite Boulevard, Shumard Oak Boulevard, and Tram Road Connector lying in Sections 21 and 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCE at the Northeast corner of Section 16, Township 1 South, Range 1 East, Leon County, Florida, and run thence Southerly along the East boundary of said Section 16 a distance of 5267.45 feet, thence departing said East boundary of said Section 16 run North 89 degrees 55 minutes West 2435.48 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING run North 00 degrees 22 minutes East 539.88 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 1145.90 feet, through a central angle of 13 degrees 38 minutes 11 seconds for an arc distance of 272.72 feet (chord bears North 85 degrees 10 minutes 09 seconds East 272.08 feet) thence North 78 degrees 21 minutes 04 seconds East 534.04 feet to a point on a curve concave Southwesterly, thence along said curve having a radius of 1495.50 feet, through a central angle of 28 degrees 41 minutes 51 seconds for an arc distance of 749.04 feet (chord bears South 87 degrees 18 minutes 01 seconds East 741.24 feet), thence South 72 degrees 57 minutes 06 seconds East 648.97 feet, thence South 17 degrees West 242.82 feet, thence South 11 degrees West 286.37 feet, thence South 04 degrees West 288.47 feet, thence South 403.15 feet, thence South 07 degrees West 313.63 feet, thence South 13 degrees

West 501.05 feet, thence South 08 degrees West 189.52 feet, thence South 03 degrees West 603.15 feet, thence South 11 degrees East 219.95 feet, thence South 22 degrees West 117.84 feet, thence South 28 degrees West 214.38 feet, thence South 35 degrees 43 minutes 28 seconds West 1562.52 feet to a point on the Northerly right of way boundary of State Road 261-A (Tram Road), said point being on a curve concave Northeasterly, thence along said Northerly right of way boundary of Tram Road and said curve having a radius of 3178.52 feet, through a central angle of 02 degrees 14 minutes 42 seconds for an arc distance of 124.54 feet (chord bears South 69 degrees 46 minutes 38 seconds East 124.53 feet) to a point on a curve concave Northeasterly, thence along said curve having a radius of 3178.52 feet, through a central angle of 08 degrees 47 minutes 00 seconds for an arc distance of 487.26 feet (chord bears North 64 degrees 15 minutes 48 seconds West 486.79 feet), thence North 59 degrees 56 minutes West 733.87 feet, thence departing said Northerly right of way boundary of Tram Road run North 12 degrees 04 minutes 1851.01 feet to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 00 degrees 10 minutes 46 seconds for an arc distance of 12.35 feet (chord bears North 11 degrees 58 minutes 49 seconds East 12.35 feet) to a point on a curve concave Northwesterly, thence along said curve having a radius of 3944.83 feet, through a central angle of 11 degrees 31 minutes 14 seconds for an arc distance of 793.19 feet (chord bears North 06 degrees 07 minutes 37 seconds East 791.86 feet), thence North 00 degrees 22 minutes 897.83 feet to the POINT OF BEGINNING.

ALSO, LESS AND EXCEPT;

That part of the following described parcel lying Section 22, Township 1 South, Range 1 East, Leon County, Florida.

COMMENCING at a concrete monument marking the Southeast Corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida: thence North 00 degrees 16 minutes 20 seconds East a distance of 971.56 feet to the northerly right-of-way boundary of Tram Road (County Road 259 - 66' Right-of-way); thence North 76 degrees 55 minutes 58 seconds West, along said northerly right-of-way boundary, a distance of 695.14 feet to the westerly right-of-way boundary of Tram Connector (proposed 120' Right-of-way); thence along said westerly right-of-way boundary as follows: North 13 degrees 04 minutes 02 seconds East a distance of 53.58 feet to a point of curve to the right; thence Northeasterly, along said curve, on a radius of 810.00 feet, through a central angle of 23 degrees 16 minutes 48 seconds, an arc distance of 329.11 feet (chord of 326.86 feet bears North 24 degrees 42 minutes 26 seconds East) to a point of tangency; thence North 36 degrees 20 minutes 50 seconds East a distance of 908.41 feet to a point of curve to left; thence Northeasterly, along said curve, on a radius of 690.00 feet, through a central angle of 14 degrees 01

minutes 10 seconds, an arc distance of 168.83 feet (chord of 168.41 feet bears North 29 degrees 20 minutes 15 seconds East) to the POINT OF BEGINNING.

From said POINT OF BEGINNING, thence North 67 degrees 40 minutes 20 seconds West a distance of 81.70 feet to a point of curve to the right; thence Northwesterly, along said curve, on a radius of 110.00 feet, an arc distance of 195.69 feet (chord of 170.89 feet bears North 16 degrees 42 minutes 26 seconds West) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 140.00 feet; through a central angle of 41 degrees 09 minutes 41 seconds, an arc distance of 100.58 feet (chord of 98.43 feet bears North 13 degrees 40 minutes 37 seconds East) to a point of reverse curve; thence Northeasterly, along said curve, on a radius of 150.00 feet, through a central angle of 65 degrees 22 minutes 28 seconds, an arc distance of 171.15 feet (chord of 162.02 feet bears North 25 degrees 47 minutes 01 seconds East) to a point of tangency; thence North 58 degrees 28 minutes 15 seconds East a distance of 108.90 feet; thence South 69 degrees 40 minutes 16 seconds East a distance of 113.74 feet to the westerly right-of-way boundary of said Tram Connector; thence South 20 degrees 19 minutes 44 seconds West a distance of 459.89 feet to a point of curve to the right; thence Southwesterly, along said curve, on a radius of 690.00 feet, through a central angle of 01 degrees 59 minutes 56 seconds, an arc distance of 24.07 feet (chord of 24.07 feet bears South 21 degrees 19 minutes 42 seconds West) to the POINT OF BEGINNING.

SECTION 27

That portion of Section 27, Township 1 South, Range 1 East, lying North of the right of way of State Road 261-A (Tram Road).

SECTIONS 28 and 29

Any portions of the North Half of Sections 28 and 29, Township 1 South, Range 1 East, which may be found to lie North of State Road 261 (Capital Circle).

AND ALSO

A 45.94-acre parcel lying in Sections 15, 16, 21 and 22 of Township 1 South, Range 1 South, Leon County, Florida and being recorded in Official Records Book 2245, Page 40 of the Public Records of Leon County, Florida as follows:

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 642.68 feet to a nail and cap marking the intersection of the centerline of Four Oaks Boulevard (a 120 foot right-of-way) and the centerline of said Tram Road; thence run North 13 degrees 01 minutes 22 seconds East along the centerline of said Tram Road Connector 86.22 feet to a iron rod and cap marking a point of curve to the right, thence along said curve with a radius of 750.00 feet

through a central angle of 23 degrees 16 minutes 48 seconds for an arc length of 304.74 feet (chord of 302.64 feet bears North 24 degrees 39 minutes 46 seconds East) to a iron rod and cap, thence North 36 degrees 18 minutes 10 seconds East 873.23 feet to a iron rod and cap marking a point of curve to the left, thence along said curve with a radius of 750.00 feet through a central angle of 16 degrees 01 minutes 06 seconds for an arc length of 209.68 feet (chord of 209.00 feet bears North 28 degrees 17 minutes 37 seconds East) to a iron rod and cap, thence North 20 degrees 17 minutes 04 seconds East 1027.50 feet to a iron rod and cap marking a point of curve to the left, thence along said curve with a radius of 1228.00 feet through a central angle of 18 degrees 21 minutes 41 seconds for an arc length of 393.53 feet (chord of 391.85 feet bears North 11 degrees 06 minutes 13 seconds East) to a iron rod and cap, thence North 01 degrees 55 minutes 23 seconds East 381.73 feet to a iron rod and cap, thence leaving said centerline run North 88 degrees 04 minutes 37 seconds West 60.00 feet to the westerly right of way of Tram Road Connector for the POINT OF BEGINNING. From said POINT OF BEGINNING run South 01 degrees 55 minutes 23 seconds West 199.99 feet to a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 00 minutes 30 seconds for an arc length of 47.13 feet (chord of 42.43 feet bears South 46 degrees 55 minutes 38 seconds West) to a point on the northerly right of way of Shumard Oak Boulevard (a 140 foot right of way), thence along said roadway as follows: North 88 degrees 04 minutes 07 seconds West 297.19 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 1153.00 feet through a central angle of 23 degrees 25 minutes 16 seconds for an arc length of 471.32 feet (chord of 468.04 feet bears North 76 degrees 21 minutes 29 seconds West) to a set iron rebar and cap marking a point of reverse curve, thence along said curve with a radius of 806.67 feet through a central angle of 21 degrees 29 minutes 44 seconds for an arc length of 302.64 feet (chord of 300.87 feet bears North 75 degrees 23 minutes 43 seconds West), thence North 45 degrees 02 minutes 49 seconds West 17.81 feet to a point on the easterly right of way boundary of Bald Cypress Way (right of way varies), thence along said easterly right of way boundary run North 01 degrees 59 minutes 19 seconds West 113.27 feet to a point of curve to the right, thence run northeasterly along said curve with a radius of 1357.00 feet through a central angle of 08 degrees 56 minutes 38 seconds for an arc distance of 211.83 feet (chord of 211.62 feet bears North 02 degrees 29 minutes 00 seconds East), thence run North 06 degrees 57 minutes 19 seconds East 105.16 feet, thence run North 83 degrees 02 minutes 41 seconds West 10.00 feet, thence run North 06 degrees 57 minutes 19 seconds East 1536.52 feet to a point on the southerly right of way boundary of Merchants Row Boulevard (right of way varies), thence run South 73 degrees 00 minutes 38 seconds East along said southerly right of way 501.22 feet to a point of curve to the left having a radius of

1560.50 feet; thence run easterly along said curve through a central angle of 13 degrees 47 minutes 34 seconds for an arc length of 375.66 feet (chord of 374.75 feet bears South 79 degrees 54 minutes 25 seconds East) to a set iron rebar, thence South 86 degrees 48 minutes 12 seconds East 126.21 feet to a set iron rebar and cap marking a point of curve to the right, thence along said curve with a radius of 30.00 feet through a central angle of 90 degrees 19 minutes 33 seconds for an arc length of 47.29 feet (chord of 42.55 feet bears South 41 degrees 38 minutes 25 seconds East) to a set iron rebar and cap on the westerly right of way of Tram Road Connector (120.00 foot right of way), thence along said westerly right of way run South 03 degrees 31 minutes 21 seconds West 1676.79 feet to a set iron rebar and cap, thence South 01 degrees 55 minutes 23 seconds West 10.84 feet to the POINT OF BEGINNING. The above-described parcel contains 45.94 acres more or less.

LESS AND EXCEPT the following described 1,081.55 acres more or less including all or part of Sections 2, 3, 9, 10, 11, 14, 15, and 16 Township 1 South, Range 1 East, Leon County, Florida.

A 38.37 Acre Parcel in Section 3 and 10, Township 1 South, range 1 East, Leon County Florida, more particularly described as follows:

Commence at a found 3/4" iron pipe marking the Southwest corner of Section 3, Township 1 South, Range 1 East, Leon County, Florida; thence along the Westerly boundary of Section 3 run North 00°27'17" West, a distance of 177.44 feet to the approximate centerline of Old St. Augustine Road (a Leon County, Florida maintained right of way); thence along said centerline run South 79°50'29" East, a distance of 994.58 feet, thence leaving said centerline run North 00°12'53" West, a distance of 17.95 feet to a point on the maintained right of way of said Old St Augustine Road and the POINT OF BEGINNING. From said POINT OF BEGINNING thence along the easterly boundary of a 100 foot City of Tallahassee Utility Right of Way run North 00°12'53" West, a distance of 1,316.49 feet to a point on the southerly boundary of Paradise Village East, Unit 2 (a subdivision as per map or plat recorded in Plat Book 6, Page 1 of the Public Records of Leon County, Florida); thence along said southerly boundary run North 89°14'24" East, a distance of 821.87 feet to a found 4" x 4" concrete monument, flat top; thence North 89°26'38" East, a distance of 200.27 feet to a found iron pipe; thence North 89°21'13" East, a distance of 131.76 feet to a found 3/4" iron pipe and SJPC guard monument; thence along the westerly boundary of that property recorded in Official Records Book 1528, page 1751 run South 00°13'43" West, a distance of 1,687.99 feet to a point on the northerly right of way boundary of said Old St Augustine Road; thence along said maintained right of way run North 58°29'23" West, a distance of 193.63 feet; thence North 60°47'12" West, a distance of 103.39 feet; thence North 67°03'52" West, a distance of 103.19 feet; thence North 72°58'14" West, a distance of 99.98 feet; thence North

77°44'32" West, a distance of 111.58 feet; thence North 79°39'27" West, a distance of 217.22 feet; thence North 78°24'57" West, a distance of 213.86 feet; thence North 81°19'22" West, a distance of 98.63 feet; thence North 76°55'43" West, a distance of 68.24 feet to the POINT OF BEGINNING. The above-described parcel contains 1,671,449.70 square feet or 38.37 acres, more or less.

AND ALSO

A 176.80-Acre Parcel in Sections 3, 10 and 11, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

BEGIN at a found pinched iron pipe marking the Southwest corner of the Southeast Quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, thence along the easterly boundary of that property recorded in Official Records Book 1528, Page 1751 run North 00°11'54" East, a distance of 864.83 feet to a found iron pipe and SJPC guard monument; thence along the southerly boundary of that property recorded in Official Records Book 845, Page 729 run South 89°20'40" East, a distance of 323.66 feet to a found pinched iron pipe; thence along the easterly boundary of said property run North 00°14'32" East, a distance of 537.65 feet to a found 1" iron pipe; thence South 89°29'00" East, a distance of 322.81 feet to a found 6" x 6" SJPC concrete monument; thence South 00°48'39" West, a distance of 13.55 feet to a found 6" x 6" SJPC concrete monument; thence South 89°20'53" East, a distance of 167.41 feet to a found iron rod and cap, LB#6745; thence along the southerly boundary of the Wal-Mart Super Center (a subdivision as per map or plat recorded in Plat Book 12, Page 8 of the Public Records of Leon County, Florida) run South 89°28'59" East, a distance of 168.17 feet to a found iron rod and cap, LB#6246; thence North 00°38'19" East, a distance of 71.43 feet to a found iron rod and cap, LB#6246; thence North 87°50'52" East, a distance of 778.25 feet to a found iron rod and cap, LB#6246; thence along the easterly boundary of said Wal-Mart Super Center run North 00°31'30" East, a distance of 1,171.19 feet to a found iron and cap, LB# 6745; thence North 32°56'29" West, a distance of 121.96 feet to a found iron rod and cap, LB#6745; thence North 00°45'41" East, a distance of 218.75 feet to the southerly right of way boundary of Appalachee Parkway (State Road 20); thence along said southerly right of way boundary run North 85°34'35" East, a distance of 200.77 feet; thence leaving said southerly right of way boundary along the westerly boundary of that property recorded in Official Records Book 2317, Page 788 run South 00°36'45" West, a distance of 322.86 feet; thence along the southerly boundary of said property run South 89°41'02" East, a distance of 66.54 feet to a found pinched iron pipe; thence along the westerly boundary of those properties recorded in Official Records Book 1623, Page 739 and Official Records Book 133, Page 389 run South 00°33'01" West, a distance of 1,157.48 feet to a found 1-1/4" iron rod; thence along the southerly boundary of said property recorded in

Official Records Book 133, Page 389 run South 89°25'54" East, a distance of 646.13 feet to a point on the westerly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said westerly maintained right of way run South 00°16'14" West, a distance of 5.39 feet; thence South 01°14'59" West, a distance of 377.99 feet; thence South 00°17'47" West, a distance of 485.66 feet; thence South 01°05'15" West, a distance of 307.47 feet; thence South 00°08'19" East, a distance of 105.02 feet; thence South 00°41'21" East, a distance of 67.66 feet; thence South 03°46'52" East, a distance of 72.89 feet; thence South 01°56'57" East, a distance of 62.01 feet; thence South 04°25'57" East, a distance of 63.83 feet; thence South 04°10'13" East, a distance of 61.89 feet; thence South 07°47'37" East, a distance of 62.60 feet; thence South 10°47'55" East, a distance of 61.46 feet; thence South 17°02'15" East, a distance of 64.74 feet; thence South 16°47'27" East, a distance of 59.13 feet; thence South 21°33'22" East, a distance of 62.50 feet; thence South 19°35'59" East, a distance of 108.30 feet; thence South 15°31'45" East, a distance of 66.10 feet; thence South 14°48'33" East, a distance of 61.60 feet; thence South 12°18'18" East, a distance of 58.84 feet; thence South 05°59'07" East, a distance of 58.06 feet; thence South 03°04'19" East, a distance of 60.47 feet; thence South 03°09'07" West, a distance of 60.44 feet; thence South 03°32'44" West, a distance of 68.32 feet; thence South 01°17'33" West, a distance of 151.12 feet; thence South 04°16'10" West, a distance of 153.69 feet; thence South 02°47'24" West, a distance of 220.92 feet; thence South 03°07'53" West, a distance of 305.65 feet; thence South 42°22'36" West, a distance of 36.68 feet to a point on the northerly maintained right of way boundary of Old St Augustine Road (a Leon County, Florida, maintained right of way); thence along said northerly maintained right of way boundary run North 87°25'23" West, a distance of 101.08 feet; thence North 77°26'22" West, a distance of 151.23 feet; thence North 78°16'36" West, a distance of 137.90 feet; thence North 78°31'10" West, a distance of 325.77 feet; thence North 77°40'43" West, a distance of 151.37 feet; thence North 78°04'42" West, a distance of 130.55 feet; thence North 78°22'42" West, a distance of 264.02 feet; thence North 74°13'57" West, a distance of 135.72 feet; thence North 68°20'13" West, a distance of 172.86 feet; thence North 58°57'37" West, a distance of 51.13 feet; thence North 57°18'14" West, a distance of 298.31 feet; thence North 55°53'57" West, a distance of 149.20 feet; thence North 56°56'17" West, a distance of 150.16 feet; thence North 57°34'22" West, a distance of 305.49 feet; thence North 57°11'09" West, a distance of 254.03 feet; thence North 56°33'32" West, a distance of 195.77 feet; thence leaving said northerly maintained right of way boundary run North 00°03'21" West along the easterly boundary of said property

recorded in Official Records Book 1528, Page 1751, a distance of 688.72 feet to the POINT OF BEGINNING. The above-described parcel contains 7,701,214.91 square feet or 176.80 acres, more or less.

AND ALSO

The above described parcel being subject to a City of Tallahassee Utility Easement as recorded in Official Records Book 1511, Page 109 and also a City of Tallahassee Utility Easement as recorded in Official Records Book 1951, Page 801 of the Public Records of Leon County, Florida.

A 26.59-Acre Parcel in Sections 2 and 11, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

Commence at a concrete monument, LB#3293 marking the Southwest corner of Section 2, Township 1 South, Range 1 East, Leon County, Florida, thence along the South boundary of said Section 2 run South 89°33'23" East, a distance of 401.70 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING thence South 03°00'57" West, a distance of 1,884.82 feet to a point on the northerly maintained right of way boundary of Old St Augustine Road (a Leon County, Florida maintained right of way); thence along said northerly maintained right of way run North 77°20'37" West, a distance of 23.36 feet; thence North 78°59'50" West, a distance of 97.61 feet; thence North 75°10'21" West, a distance of 40.67 feet; thence North 75°09'17" West, a distance of 76.34 feet to a point on the easterly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said easterly maintained right of way boundary run North 02°19'12" East, a distance of 46.74 feet; thence North 03°36'00" East, a distance of 305.64 feet; thence North 03°39'29" East, a distance of 220.91 feet; thence North 03°57'13" East, a distance of 153.68 feet; thence North 03°14'09" East, a distance of 151.00 feet; thence North 03°27'10" East, a distance of 68.32 feet; thence North 01°43'15" East, a distance of 63.49 feet; thence North 00°47'36" West, a distance of 64.38 feet; thence North 06°56'30" West, a distance of 61.87 feet; thence North 10°08'20" West, a distance of 62.73 feet; thence North 15°03'48" West, a distance of 65.77 feet; thence North 17°45'08" West, a distance of 68.93 feet; thence North 23°33'56" West, a distance of 108.43 feet; thence North 14°02'16" West, a distance of 60.34 feet; thence North 20°47'22" West, a distance of 57.40 feet; thence North 14°23'40" West, a distance of 62.12 feet; thence North 11°45'14" West, a distance of 59.01 feet; thence North 08°42'24" West, a distance of 60.96 feet; thence North 06°00'01" West, a distance of 60.08 feet; thence North 03°57'56" West, a distance of 62.18 feet; thence North 04°17'08" West, a distance of 60.83 feet; thence North 00°13'34" West, a distance of 71.97 feet; thence North 00°15'43" West, a distance of 66.90 feet; thence North 00°08'23" West, a distance of 104.57 feet; thence North

00°26'07" East, a distance of 307.44 feet; thence North 00°03'26" East, a distance of 485.08 feet; thence North 01°12'53" East, a distance of 198.13 feet; thence leaving said easterly maintained right of way run North 89°50'19" East along the southerly boundary of that property recorded in Official Records Book 1890, Page 1175, a distance of 520.78 feet; thence South 03°00'57" West, a distance of 1,305.69 feet to the POINT OF BEGINNING. The above-described parcel contains 1,158,279.37 square feet or 26.59 acres, more or less.

AND ALSO

A 793.22-Acre parcel in Sections 3, 9, 10, 11, 14, 15, 16, 21, 22, 23, 26, and 27, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

BEGIN at a found 3/4" iron pipe marking the Southwest corner of Section 3, Township 1 South, Range 1 East, Leon County, Florida, thence along the westerly boundary of said Section 3 run North 00°27'17" West, a distance of 154.44 feet to a point on the southerly maintained right of way of Old St. Augustine Road; thence along said southerly maintained right of way run South 80°30'42" East, a distance of 105.57 feet; thence South 81°09'37" East, a distance of 199.64 feet; thence South 79°56'18" East, a distance of 188.58 feet; thence South 78°33'10" East, a distance of 73.47 feet; thence South 79°57'32" East, a distance of 147.21 feet; thence South 78°22'23" East, a distance of 100.71 feet; thence South 79°09'51" East, a distance of 77.52 feet to a point on the westerly boundary of a 100 foot City of Tallahassee utility right of way as recorded in Official Records Book 152, Page 128 of the Public records of Leon County, Florida; thence along said right of way run South 00°12'53" East, a distance of 46.15 feet; thence run South 33°37'19" West, a distance of 3144.51 feet; thence run South 89°06'28" East, a distance of 118.87 feet to a point on the easterly boundary of said 100 foot utility right of way; thence along said easterly right of way boundary run North 33° 37'19" East, a distance of 3110.66 feet; thence run North 00°12'53" West, a distance of 58.04 feet to a point on the southerly maintained right of way of said Old St. Augustine Road; thence along said southerly maintained right of way run South 81°34'29" East, a distance of 61.55 feet; thence South 79°29'20" East, a distance of 527.69 feet; thence South 76°49'05" East, a distance of 108.23 feet; thence South 73°20'10" East, a distance of 97.35 feet; thence South 66°37'08" East, a distance of 101.55 feet; thence South 61°33'30" East, a distance of 104.58 feet; thence South 56°53'17" East, a distance of 232.32 feet; thence South 57°14'20" East, a distance of 202.97 feet; thence South 57°03'35" East, a distance of 227.63 feet; thence South 56°14'10" East, a distance of 99.46 feet; thence South 57°41'48" East, a distance of 48.03 feet; thence leaving said southerly maintained right of way boundary run South 00°45'50" West, a distance of 591.82 feet to a found 1" iron pipe; thence South 88°44'41" East, a distance of 361.06 feet to a found 1" iron pipe; thence North 00°50'42" East, a distance

of 372.43 feet to a point on the southerly maintained right of way boundary of said Old St Augustine Road; thence along said southerly maintained right of way run South 56°45'39" East, a distance of 161.73 feet; thence South 57°45'47" East, a distance of 148.31 feet; thence South 56°43'39" East, a distance of 154.67 feet; thence South 58°02'32" East, a distance of 167.40 feet; thence South 56°36'42" East, a distance of 228.78 feet; thence South 58°11'05" East, a distance of 101.62 feet; thence South 64°07'41" East, a distance of 181.67 feet; thence South 76°10'54" East, a distance of 137.29 feet; thence South 78°18'21" East, a distance of 134.58 feet; thence South 77°17'09" East, a distance of 133.90 feet; thence South 78°18'16" East, a distance of 124.13 feet; thence South 77°28'58" East, a distance of 145.86 feet; thence leaving said southerly maintained right of way boundary run South 00°40'55" East, a distance of 1,396.29 feet to a found 6" round terra-cotta monument; thence South 89°21'19" East, a distance of 650.26 feet to the westerly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said westerly maintained right of way run South 03°27'00" West, a distance of 2,055.74 feet to a found SJPC concrete monument; thence South 03°27'00" West, a distance of 76.43 feet; thence South 02°05'35" West, a distance of 23.41 feet; thence South 00°44'23" East, a distance of 25.46 feet; thence South 03°05'10" East, a distance of 15.02 feet to a point on the southerly boundary of Section 10, Township 1 East, Range 1 South, Leon County, Florida; thence leaving said westerly maintained right of way boundary along the southerly boundary of said Section 10 run North 89°39'35" East, a distance of 38.08 feet to a point on the easterly maintained right of way boundary of said Southwood Plantation Road; thence along said easterly maintained right of way boundary run North 07°04'29" East, a distance of 61.33 feet; thence North 05°43'01" East, a distance of 75.84 feet; thence North 03°33'16" East, a distance of 123.04 feet; thence North 03°33'11" East, a distance of 414.42 feet; thence North 00°58'27" East, a distance of 71.59 feet; thence North 08°20'06" West, a distance of 29.91 feet; thence North 03°26'50" East, a distance of 53.09 feet; thence North 03°29'10" East, a distance of 271.66 feet; thence North 03°27'09" East, a distance of 554.25 feet; thence North 03°26'40" East, a distance of 538.52 feet; thence North 02°33'12" East, a distance of 128.63 feet; thence North 04°25'53" East, a distance of 58.06 feet; thence North 03°33'19" East, a distance of 172.58 feet; thence North 03°29'20" East, a distance of 146.13 feet; thence North 03°23'09" East, a distance of 292.88 feet; thence North 03°41'47" East, a distance of 250.34 feet; thence North 03°00'17" East, a distance of 112.07 feet; thence North 03°18'24" East, a distance of 73.28 feet; thence North 55°51'48" East, a distance of 15.18 feet to a point on the southerly maintained right of way boundary of said Old St

Augustine Road; thence along said southerly maintained right of way boundary run South 83°43'49" East, a distance of 56.95 feet; thence South 80°39'06" East, a distance of 54.68 feet; thence South 77°29'03" East, a distance of 98.39 feet; thence South 77°34'21" East, a distance of 15.69 feet; thence leaving said southerly maintained right of way boundary run South 03°00'57" West, a distance of 2,197.60 feet to a point of curve to the right; thence run southerly along said curve with a radius of 2,700.39 feet through a central angle of 03°50'50" for an arc distance of 181.32 feet (chord of 181.29 feet bears South 04°56'22" West); thence South 06°51'48" West, a distance of 945.08 feet to a point on a non tangent curve concave west; thence run southerly along said curve with a radius of 3,342.64 feet through a central angle of 08°34'15" for an arc distance of 500.02 feet (chord of 499.56 feet bears South 16°40'37" East); thence South 76°00'03" West, a distance of 64.09 feet to a point on the easterly right of way boundary of Biltmore Avenue (a 68 foot right of way) as dedicated in Southwood Unit 25, a subdivision as recorded in Plat Book 16, Pages 86-88 of the Public Records of Leon County, Florida; thence along said easterly right of way boundary run South 13°59'57" East, a distance of 5.22 feet; thence leaving said easterly right of way boundary run South 76°00'03" West, a distance of 68.00 feet to a found 4" x 4" concrete monument, LB#3293, marking the intersection of westerly right of way boundary of said Biltmore Avenue with the northerly right of way boundary of Duxbury Lane (a 50 foot right of way) as dedicated in said Southwood Unit 25; thence along the northerly right of way of said Duxbury Lane continue South 76°00'03" West, a distance of 116.56 feet to a point of curve to the left; thence run southwesterly along said right of way curve with a radius of 702.00 feet through a central angle of 38°10'46" for an arc distance of 467.78 feet (chord of 459.18 feet bears South 56°54'40" West) to a point on the northeasterly right of way boundary of Strolling Way (a 50 foot right of way) as dedicated in said Southwood Unit 25; thence along the northeasterly right of way of said Strolling Way run North 52°10'43" West, a distance of 3.00 feet; thence leaving said northeasterly right of way boundary run South 37°49'17" West, a distance of 50.00 feet to a point on the southwesterly right of way of said Strolling Way; thence along the southwesterly right of way of said Strolling Way run South 52°10'43" East, a distance of 247.79 feet to a point of curve to the left; thence run southeasterly along said right of way curve with a radius of 325.00 feet through a central angle of 25°05'13" for an arc distance of 142.30 feet (chord of 141.17 feet bears South 64°43'19" East) to a point on a curve concave easterly and the westerly right of way boundary of Longfellow Road (a 54 foot right of way) as dedicated in said Southwood Unit 25; thence run southwesterly along the westerly right of way boundary of said Longfellow Road and curve with a radius of 407.00 feet through a central angle of 09°41'30" for an arc distance of 68.84 feet (chord of 68.76 feet bears South 01°27'47" West); thence South 03°22'58" East, a distance of 133.29 feet to found

4" x 4" concrete monument, LB#3293, and the northerly boundary of Lot 5, Southwood Golf Course, as per map or plat recorded in Plat Book 13, Pages 59-64 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Golf Course, Lot 5, North 52°10'43" West, a distance of 951.22 feet; thence North 00°28'00" West, a distance of 735.02 feet; thence South 89°39'35" West, a distance of 285.68 feet; thence South 10°32'05" East, a distance of 160.66 feet; thence South 09°27'52" West, a distance of 82.37 feet; thence South 54°28'32" West, a distance of 116.57 feet; thence South 26°10'33" West, a distance of 71.41 feet; thence South 08°21'09" East, a distance of 126.58 feet; thence South 17°03'42" West, a distance of 88.44 feet; thence South 55°49'54" West, a distance of 88.93 feet; thence leaving said northerly boundary run South 15°14'02" East, a distance of 185.57 feet; thence run North 62°42'15" East, a distance of 92.19 feet; thence run South 29°00'09" East, a distance of 134.11 feet; thence run South 57°37'06" East, a distance of 533.88 feet; thence run South 63°45'53" East, a distance of 273.80 feet; thence run South 18°04'11" East, a distance of 414.68 feet; thence run South 36°22'45" West, a distance of 268.09 feet; thence run South 48°51'04" West, a distance of 794.98 feet; thence run South 09°45'40" East, a distance of 436.81 feet; thence run South 34°09'29" West, a distance of 645.54 feet; thence run South 70°06'07" West, a distance of 716.14 feet to a point on a curve concave easterly and the easterly boundary of Mossy Creel Lane (a 48-foot right of way) as per Southwood Unit 4, Phase 3, a subdivision as per map or plat recorded in Plat Book 13, Page 1 of the Public Records of Leon County, Florida; thence run northeasterly along said right of way curve with a radius of 926.00 feet through a central angle of 09°55'36" for an arc distance of 160.43 feet (chord of 160.23 feet bears North 06°50'59" East); thence run North 11 degrees 48 minutes 47 seconds East, a distance of 510.64 feet; thence leaving said easterly right of way boundary and along the easterly boundary of said Southwood Unit 4, Phase 3, run South 78°11'13" East, a distance of 129.00 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 16°13'22" East, a distance of 311.92 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 34°08'29" East, a distance of 258.83 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 02°20'35" East, a distance of 698.48 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 13°38'19" East, a distance of 494.96 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 02°29'52" West, a distance of 427.40 feet to a found 4" x 4" concrete monument, LB#3293; thence leaving said easterly boundary run North 62°42'15" East, a distance of 94.40 feet; thence run North 15°14'02" West, a distance of 177.81 feet to a point on the northerly boundary of said Southwood Golf Course Lot 5; thence along said northerly boundary run South 55°49'54" West, a distance of 59.12 feet; thence North 80°18'16" West, a distance of 84.81 feet; thence North 48°09'59" West, a distance

of 71.31 feet; thence North 63°13'39" West, a distance of 105.17 feet; thence North 32°37'47" West, a distance of 147.72 feet; thence North 10°22'35" West, a distance of 87.39 feet; thence North 20°04'27" West, a distance of 91.69 feet; thence North 10°31'34" West, a distance of 113.96 feet; thence North 18°47'15" West, a distance of 82.89 feet; thence North 18°47'15" West, a distance of 84.24 feet; thence North 29°50'20" West, a distance of 99.13 feet; thence North 68°26'44" West, a distance of 82.14 feet; thence North 10°15'22" West, a distance of 63.03 feet; thence North 13°07'12" East, a distance of 163.19 feet; thence North 44°49'43" West, a distance of 130.49 feet; thence North 44°12'28" West, a distance of 164.22 feet; thence North 24°27'15" West, a distance of 105.94 feet; thence North 38°00'44" East, a distance of 93.30 feet; thence run North 62°23'33" East, a distance of 144.16 feet; thence run North 73°30'52" East, a distance of 85.52 feet; thence North 89°17'07" East, a distance of 116.01 feet; thence North 16°27'15" East, a distance of 121.96 feet; thence North 36°16'13" West, a distance of 53.07 feet; thence North 89°03'54" West, a distance of 564.76 feet; thence North 73°32'43" West, a distance of 205.82 feet; thence South 04°56'32" East, a distance of 53.70 feet to a found 5/8" iron rod and cap, LB#3293, marking the Northeast corner of Mossy Creek Lane (a 48 foot right of way) as dedicated in Southwood Unit 9, a subdivision as per map or plat recorded in Plat Book 13, Page 36 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Unit 9 run North 73°32'43" West, a distance of 51.55 feet to a found 4"x 4" concrete monument, LB#3293 marking the Northwest corner of said Mossy Creek Lane and the Southeast corner of Lot 4 of said Southwood Golf Course; thence along the easterly boundary of said Southwood Golf Course run North 04°56'32" West, a distance of 231.94 feet; thence along the northerly boundary of said Southwood Golf Course Lot 4 run North 78°15'27" West, a distance of 452.86 feet; thence North 11°31'58" East, a distance of 180.44 feet; thence North 68°49'43" West, a distance of 56.81 feet to a point of curve to the left; thence run northwesterly along said curve with a radius of 1175.00 feet through a central angle of 19°52'06" for an arc distance of 407.45 feet (chord of 405.41 feet bears North 78°45'46" West); thence South 01°47'27" West, a distance of 194.49 feet; thence South 81°21'10" West, a distance of 582.89 feet to a found 4"x 4" concrete monument, LB#3293, and the easterly right of way boundary of Four Oaks Boulevard (a 121 foot right of way) as dedicated in Southwood Unit 17, a subdivision as recorded in Plat Book 15, Pages 56-60 of the Public Records of Leon County, Florida; thence run northeasterly along said easterly right of way and a curve concave northwesterly with a radius of 6600.50 feet through a central angle of 00°35'35" for an arc distance of 68.31 feet (chord of 68.31 feet bears North 00°30'40" East) to a found 4"x 4" concrete monument, LB#3293, marking the Northeast corner of said Four Oaks Boulevard; thence along the northerly

boundary of said Southwood Unit 17 run North 89°47'08" West, a distance of 121.00 feet to a found 4"x 4" concrete monument, LB#3293, marking the Northwest corner of said Four Oaks Boulevard; thence continuing along the northerly boundary of said Southwood Unit 17 run South 89°58'05" West, a distance of 201.80 feet; thence South 40°54'27" West, a distance of 162.47 feet; thence South 00°50'38" East, a distance of 22.07 feet to a found 4"x 4" concrete monument, LB#3293, and the northerly boundary of Southwood Unit 18, a subdivision as per map or plat recorded in Plat Book 15, Page 75-77 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Unit 18 run South 61°49'45" West, a distance of 104.17 feet; thence South 71°56'10" West, a distance of 280.66 feet; thence South 79°39'09" West, a distance of 259.02 feet; thence South 35°20'40" East, a distance of 260.59 feet; thence South 08°47'44" West, a distance of 133.24 feet; thence South 27°43'31" West, a distance of 137.91 feet; thence South 48°28'21" West, a distance of 228.85 feet; thence South 87°15'54" West, a distance of 116.85 feet to a found 4"x 4" concrete monument, LB#3293, and the northerly boundary of Lot 1 of said Southwood Golf Course; thence along the northerly boundary of said Southwood Golf Course Lot 1 run South 59°41'38" East, a distance of 90.06 feet to a found 4"x 4" concrete monument, LB#3293; thence run South 58°28'11" East, a distance of 123.26 feet to a found 4"x 4" concrete monument, LB#3293; thence run South 60°04'19" East, a distance of 398.96 feet to a found 4"x 4" concrete monument, LB#3293; thence run South 59°41'38" East, a distance of 498.10 feet to a point on a curve concave northwesterly and the easterly right of way boundary of said Four Oaks Boulevard; thence run southwesterly along said curve with a radius of 6479.50 feet through a central angle of 00°32'09" for an arc distance of 60.60 feet (chord of 60.60 feet bears South 13°58'45" West) to a point of compound curve to the right; thence run southwesterly along said right of way curve with a radius of 665.50 feet through a central angle of 46°27'54" for an arc distance of 539.70 feet (chord of 525.03 feet bears South 37°28'47" West) to a point on the southerly boundary of said Southwood Golf Course, Lot 1; thence continue along said right of way curve with a radius of 665.50 feet through a central angle of 16°58'13" for an arc distance of 197.11 feet (chord of 196.39 feet bears South 69°11'51" West) to a point on the northerly right of way boundary of Blair Stone Road (a 121-foot roadway) as recorded in said Southwood Unit 17; thence along said northerly right of way boundary run South 77°40'57" West, a distance of 148.82 feet to a point of curve to the right; thence run southwesterly along said right of way curve with a radius of 1339.50 feet through a central angle of 22°05'26" for an arc distance of 516.45 feet (chord of 513.26 feet bears South 88°43'40" West); thence run North 80°13'36" West, a distance of 147.85 feet to a point on the southerly boundary of said Southwood Golf Course, Lot 1; thence continue along said northerly right of way boundary North

80°13'36" West, a distance of 52.12 feet to a point of curve to the left; thence run southwesterly along said right of way curve with a radius of 1560.50 feet through a central angle of 31°39'55" for an arc distance of 862.43 feet (chord of 851.49 feet bears South 83°56'26" West); thence run South 68°06'29" West, a distance of 216.19 feet to a point on the westerly boundary of said Southwood Golf Course, Lot 1; thence along said northerly right of way boundary continue South 68°06'29" West, a distance of 59.74 feet to a point of curve to the right; thence run southwesterly along said right of way curve with a radius of 1214.80 feet through a central angle of 20°26'09" for an arc distance of 433.28 feet (chord of 430.99 feet bears South 78°19'35" West); thence leaving said northerly right of way boundary along the westerly boundary of Lot 2 of Southwood Unit 24, a subdivision as per map or plat recorded in Plat Book 16, Page 65 of the Public Records of Leon County, Florida run North 03°40'38" West, a distance of 240.85 feet to a point on the southerly boundary of Southwood Unit 20, Phases 1 & 2, a subdivision as per map or plat recorded in Plat Book 16, Page 58 of the Public Records of Leon County, Florida; thence along said southerly boundary run North 89°49'59" East, a distance of 196.46 feet; thence North 78°28'33" East, a distance of 50.00 feet to a point on a curve concave northeasterly and the westerly right of way boundary of Esplanade Way (right of way varies) as dedicated in said Southwood Unit 20, Phases 1 & 2; thence run northeasterly along said right of way curve with a radius of 2002.82 feet through a central angle of 27°42'05" for an arc distance of 968.32 feet (chord of 958.52 feet bears North 02°19'35" East); thence North 16°10'38" East, a distance of 104.52 feet to terminus of said Esplanade Way; thence along the easterly boundary of said Southwood Unit 20, Phases 1 & 2 continue North 16°10'38" East, a distance of 279.07 feet to a point of curve to the left; thence northeasterly along said curve with a radius of 817.50 feet through a central angle of 30°31'34" for an arc distance of 435.55 feet (chord of 430.42 feet bears North 00°54'51" East); thence along the northerly boundary of said Southwood Unit 20, Phases 1 & 2 run South 75°39'04" West, a distance of 50.00 feet; thence North 89°58'19" West, a distance of 572.39 feet to a found 4"x 4" concrete monument, LB#3293; thence continue North 89°58'19" West, a distance of 150.00 feet to the easterly right of way boundary of Capital Circle SE (State Road 261); thence along said easterly right run North 00°01'41" East, a distance of 422.60 feet; thence North 89°58'19" West, a distance of 5.00 feet; thence North 00°01'41" East, a distance of 854.62 feet; thence North 00°53'29" East, a distance of 444.58 feet; thence South 89°06'31" East, a distance of 15.00 feet; thence North 00°53'29" East, a distance of 533.70 feet to a point of curve to the right; thence run northerly along said curve with a radius of 1,844.78 feet through a central angle of 26°00'07" for an arc distance of 837.19 feet (chord of 830.03 feet bears North 13°53'32" East); thence North 63°06'25" West, a distance of 15.00 feet to a point on a non tangent curve concave southeast; thence run northeasterly along said curve with a radius of

1,859.78 feet through a central angle of 26°57'30" for an arc distance of 875.05 feet (chord of 867.00 feet bears North 40°22'20" East); thence North 53°51'06" East, a distance of 577.38 feet; thence leaving said easterly right of way boundary run South 00°09'17" West along the westerly boundary of the Plat of Alice Hill Property (unrecorded), a distance of 992.07 feet a found 1" iron pipe; thence North 87°42'40" East, a distance of 209.98 feet to a found iron rod and cap, LB#3732, and SJPC guard monument; thence South 00°20'38" West, a distance of 209.74 feet to a found 1" pinched iron pipe and SJPC guard monument; thence along the southerly boundary of said Plat of Alice Hill Property run North 87°47'14" East, a distance of 1,111.11 feet a SJPC concrete monument; thence along the easterly boundary of said Plat of Alice Hill Property run North 00°01'12" East, a distance of 1,356.16 feet to the POINT OF BEGINNING. The above-described parcel contains 34,705,184.45 square feet or 796.72 acres, more or less.

LESS AND EXCEPT

A 1.0-acre parcel recorded in Official Records Book 923, Page 1378 of the Public Records of Leon County, Florida and being more particularly described as follows:

COMMENCE at the Southeast corner of Section 10, Township 1 South, Range 1 East, Leon County, Florida thence North 89°19'08" West, a distance of 143.31 feet to a point on the westerly maintained right of way boundary of Southwood Plantation Road; thence along said westerly maintained right of way boundary run North 03°05'10" West, a distance of 15.02 feet; thence North 00°44'23" West, a distance of 25.46 to the POINT OF BEGINNING. From said POINT OF BEGINNING thence South 89°53'09" West, a distance of 433.49 feet to a found SJPC concrete monument; thence North 02°53'38" East, a distance of 99.81 feet to a found SJPC concrete monument; thence North 89°53'09" East, a distance of 433.91 feet to a found SJPC concrete monument and the maintained westerly boundary of said Southwood Plantation Road; thence along said maintained westerly right of way boundary run South 03°27'00" West, a distance of 76.43 feet; thence South 02°05'35" West, a distance of 23.41 feet to the POINT OF BEGINNING. The above-described property contains 0.99 acres more or less.

LESS AND EXCEPT

A 2.57-acre parcel recorded in Official Records Book 1446, Page 1291 of the Public Records of Leon County, Florida and being more particularly described as follows:

BEGIN at a found 6" round terra-cotta monument marking the Southwest corner of the Southeast quarter of Section 10, Township 1 South, Range 1 East, Leon County, Florida and thence run North 00°20'25" West, a distance of 200.00 feet; thence run South 89°39'35" East, a distance of 500.00 feet; thence South 00°20'25" East, a distance of 185.00 feet; thence North 89°39'35" East, a distance of 630.68 feet to a point on the maintained westerly right of way boundary of Southwood Plantation Road; thence along said maintained westerly right

of way boundary run South 03°05'10" East, a distance of 15.02 feet; thence South 89°39'35" West, a distance of 1131.40 feet to the POINT OF BEGINNING. The above-described parcel contains 2.51 acres more or less.

AND ALSO

A 46.57 Acre Parcel in Section 21, Township 1 South, Range 1 East, Leon County, Florida, recorded in Official Records Book 2245, Page 40 of the Public Records of Leon County, Florida, being more particularly described as follows:

Commencing at a concrete monument marking the Southeast corner of Section 21, Township 1 South, Range 1 East, Leon County, Florida, thence run North 00 degrees 13 minutes 37 seconds East 937.73 feet to a nail and cap marking the centerline of the 66 foot right-of-way of Tram Road (County Road No. 259); thence run North 76 degrees 58 minutes 41 seconds West along said centerline 1101.78 feet to a nail and cap marking a point of curve to the right having a radius of 3205.07 feet; thence continue along said centerline curve 957.24 feet (chord bears North 68 degrees 25 minutes 19 seconds West 953.69 feet) to a nail and cap; thence run North 59 degrees 51 minutes 57 seconds West along said centerline 1469.04 feet to the centerline of Capital Circle (State Road No. 261); thence continue along the centerline of said Tram Road, North 59 degrees 59 minutes 41 seconds West 131.43 feet; thence leaving said centerline run North 12 degrees 00 minutes 27 seconds East 34.47 feet to a concrete monument on the northerly right-of-way of said Tram Road marking the POINT OF BEGINNING. From said POINT OF BEGINNING thence run North 59 degrees 59 minutes 41 seconds West along the right-of-way boundary of Tram Road 1302.84 feet to a concrete monument marking the easterly right-of-way boundary of a proposed 120 foot roadway; thence run North 30 degrees 00 minutes 19 seconds East along said easterly right-of-way 253.21 feet to a point of curve to the left having a radius of 1575.00 feet; thence run northeasterly along said right-of-way curve 812.67 feet (chord bears North 15 degrees 13 minutes 25 seconds East 803.69 feet); thence run North 00 degrees 26 minutes 30 seconds East 396.20 feet to a point of curve to the right having a radius of 30.00 feet; thence run northeasterly along said curve 47.12 feet (chord bears North 58 degrees 20 minutes 27 seconds East 68.51 feet) to the southerly right-of-way boundary of Shumard Oak Blvd.; thence run South 89 degrees 33 minutes 30 seconds East along said south right-of-way 254.27 feet to a point of curve to the right having a radius of 4325.00 feet; thence run southeasterly along said curve 512.70 feet (chord bears South 86 degrees 09 minutes 44 seconds East 512.40 feet); thence run South 82 degrees 45 minutes 59 seconds East 407.94 feet to a point lying 150 feet west of the centerline of said Capital Circle; thence run southerly along a line lying 150 feet west of and parallel to the centerline of said Capital Circle along a curve to the right having a radius of 3694.66 feet for an arc distance of 257.83 feet (chord bears South 10 degrees 00 minutes 30 seconds West

257.78 feet); thence run South 12 degrees 00 minutes 27 seconds West along said parallel line 1769.49 feet to the POINT OF BEGINNING; containing 46.57 acres, more or less.

The above-described parcels contain an aggregate area of 2,205.39 ~~3,286.94~~ acres more or less.

Specific Authority 190.005, 190.046 FS. Law Implemented 190.004, 190.005, 190.046 FS. History—New 2-28-00, Amended 11-1-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
 Lisa Saliba, Florida Land and Water Adjudicatory Commission  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Saliba, Florida Land and Water Adjudicatory Commission  
 DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2007  
 DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: August 31, 2007

**LAND AND WATER ADJUDICATORY COMMISSION**

**Southeastern Community Development District**

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

PURPOSE AND EFFECT: The petition, as revised, filed by The St. Joe Company requests the Commission establish a community development district located entirely within the City of Tallahassee, and unincorporated Leon County, Florida. The land area proposed to be served by the District comprises approximately 1,034.98 acres. A general location map is contained as Exhibit 1 to the petition, as revised, to establish the District. The proposed land area is generally located north of Tram Road, east of Capital Circle S.E. and south of Apalachee Parkway. There are two out-parcels located within the external boundaries of the proposed District to be excluded from the District. The current owners’ names and addresses of the two out-parcels are contained in the petition, as revised. The Petitioner either owns or has obtained written consent to establish the District from the owners of 100% of the real property located within the proposed District. The current plans within the District boundaries envision approximately 1,184 single family homes, 222 townhomes, 28 villas, 451 apartments and 200,000 square feet of commercial and office space. The District plans to finance certain master infrastructure improvements within the District boundaries. These improvements include roadways, entrance features, recreation improvements and storm water management facilities.

SUMMARY: The petition, as revised, filed by The St. Joe Company requests the Commission establish a community development district located entirely within the City of

Tallahassee, and unincorporated Leon County, Florida. The land area proposed to be served by the District comprises approximately 1,034.98 acres. A general location map is contained as Exhibit 1 to the petition, as revised, to establish the District. The proposed land area is generally located north of Tram Road, east of Capital Circle S.E. and south of Apalachee Parkway. There are two out-parcels located within the external boundaries of the proposed District to be excluded from the District. The current owners’ names and addresses of the two out-parcels are contained in the petition, as revised. The Petitioner either owns or has obtained written consent to establish the District from the owners of 100% of the real property located within the proposed District. The current plans within the District boundaries envision approximately 1,184 single family homes, 222 townhomes, 28 villas, 451 apartments and 200,000 square feet of commercial and office space. The District plans to finance certain master infrastructure improvements within the District boundaries. These improvements include roadways, entrance features, recreation improvements and storm water management facilities.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The statement of estimated regulatory costs (SERC) supports the petition, as revised, to establish the District. The complete text of the SERC is contained as Exhibit 8 to the petition, as revised. The requirements for a SERC are found in Section 120.541(2), F.S. A SERC must contain (a) a good faith estimate of the number of individuals and entities likely to be required to comply with the rule, together with a description of the types of individuals likely to be affected by the rule; (b) a good faith estimate of the costs to the agency, and to any other state and local government entities, of implementing and enforcing the proposed rule, and any anticipated effect on state or local revenues; (c) a good faith estimate of the transactional costs likely to be incurred by individuals and entities, including local governmental entities, required to comply with the requirements of the rule; (d) an analysis of the impact on small businesses as defined by section 288.703, F.S., and an analysis of the impact on small counties and small cities as defined by section 120.52, F.S.; (e) any additional information that the agency determines may be useful; and (f) any good faith written proposal submitted under section (a) and either a statement adopting the alternative or a statement rejecting the alternative in favor of the proposed rule. Addressing section (a), the District, the State of Florida, the City of Tallahassee, and Leon County are principal entities that are likely to be required to comply with the rule. In addition, current and future property owners will be affected by the establishment of the proposed District. Under section (b), FLWAC and the State of Florida will incur administrative costs. The City of Tallahassee and Leon County will incur costs resulting from the initial review and on-going costs resulting from the on-going administration of the District. There is a \$15,000 filing fee paid to the City of Tallahassee and

Leon County to offset any costs it may incur. Adoption of the proposed rule to approve the formation of the District will not have an adverse impact on State and local revenues. Addressing section (c), the District may levy non-ad valorem special assessments on properties within its boundaries to finance infrastructure that the District funds and to defray the costs of operating and maintaining the infrastructure and associated community facilities. The District may issue notes, bonds, or other indebtedness to fund its improvement program. Prospective future land owners would be required to pay off such indebtedness over time in the form of non-ad valorem special assessments or other rates, fees or charges. The District may also impose an annual levy for the operation and maintenance of the District. Under section (d), approval of the petition, as revised, to establish the District will have no impact or a positive impact on small businesses. The petition, as revised, to establish the District will not have an impact on small cities or small counties as defined by section 120.52(17), F.S., as the City of Tallahassee and Leon County are not defined as a small city or small county. Under section (e), the analysis provided in the SERC was based on a straightforward application of economic theory. Input was received from the developer's engineer and other professionals associated with the developer.

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: 190.005 FS.

LAW IMPLEMENTED: 190.004, 190.005 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: Wednesday, November 7, 2007, 10:00 a.m.

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

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least two days before the workshop/meeting by contacting: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Barbara Leighty, Florida Land and Water Adjudicatory Commission, Office of Policy and Budget, Executive Office of the Governor, The Capitol, Room 1801, Tallahassee, Florida 32399-0001, Telephone (850)487-1884

THE FULL TEXT OF THE PROPOSED RULES IS:

SOUTHEASTERN COMMUNITY DEVELOPMENT  
DISTRICT

42III-1.001 Establishment.

The Southeastern Community Development District is hereby established.

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

42III-1.002 Boundary.

The boundaries of the district are as follows:

1.034. 98 acres more or less including all or part of Section 2, 3, 9, 10, 11, 14, 15, and 16 Township 1 South, Range 1 East, Leon County, Florida

A 38.37 Acre Parcel in Section 3 and 10, Township 1 South, range 1 East, Leon County Florida, more particularly described as follows:

Commence at a found 3/4" iron pipe marking the Southwest corner of Section 3, Township 1 South, Range 1 East, Leon County, Florida; thence along the Westerly boundary of Section 3 run North 00°27'17" West, a distance of 177.44 feet to the approximate centerline of Old St. Augustine Road (a Leon County, Florida maintained right of way); thence along said centerline run South 79°50'29" East, a distance of 994.58 feet, thence leaving said centerline run North 00°12'53" West, a distance of 17.95 feet to a point on the maintained right of way of said Old St Augustine Road and the POINT OF BEGINNING. From said POINT OF BEGINNING thence along the easterly boundary of a 100 foot City of Tallahassee Utility Right of Way run North 00°12'53" West, a distance of 1,316.49 feet to a point on the southerly boundary of Paradise Village East, Unit 2 (a subdivision as per map or plat recorded in Plat Book 6, Page 1 of the Public Records of Leon County, Florida); thence along said southerly boundary run North 89°14'24" East, a distance of 821.87 feet to a found 4" x 4" concrete monument, flat top; thence North 89°26'38" East, a distance of 200.27 feet to a found iron pipe; thence North 89°21'13" East, a distance of 131.76 feet to a found 3/4" iron pipe and SJPC guard monument; thence along the westerly boundary of that property recorded in Official Records Book 1528, page 1751 run South 00°13'43" West, a distance of 1,687.99 feet to a point on the northerly right of way boundary of said Old St Augustine Road; thence along said maintained right of way run North 58°29'23" West, a distance of 193.63 feet; thence North 60°47'12" West, a distance of 103.39 feet; thence North 67°03'52" West, a distance of 103.19 feet; thence

North 72°58'14" West, a distance of 99.98 feet; thence North 77°44'32" West, a distance of 111.58 feet; thence North 79°39'27" West, a distance of 217.22 feet; thence North 78°24'57" West, a distance of 213.86 feet; thence North 81°19'22" West, a distance of 98.63 feet; thence North 76°55'43" West, a distance of 68.24 feet to the POINT OF BEGINNING. The above-described parcel contains 1,671,449.70 square feet or 38.37 acres, more or less.

AND ALSO

A 176.80-Acre Parcel in Sections 3, 10 and 11, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

BEGIN at a found pinched iron pipe marking the Southwest corner of the Southeast Quarter of Section 3, Township 1 South, Range 1 East, Leon County, Florida, thence along the easterly boundary of that property recorded in Official Records Book 1528, Page 1751 run North 00°11'54" East, a distance of 864.83 feet to a found iron pipe and SJPC guard monument; thence along the southerly boundary of that property recorded in Official Records Book 845, Page 729 run South 89°20'40" East, a distance of 323.66 feet to a found pinched iron pipe; thence along the easterly boundary of said property run North 00°14'32" East, a distance of 537.65 feet to a found 1" iron pipe; thence South 89°29'00" East, a distance of 322.81 feet to a found 6"x 6" SJPC concrete monument; thence South 00°48'39" West, a distance of 13.55 feet to a found 6"x 6" SJPC concrete monument; thence South 89°20'53" East, a distance of 167.41 feet to a found iron rod and cap, LB#6745; thence along the southerly boundary of the Wal-Mart Super Center (a subdivision as per map or plat recorded in Plat Book 12, Page 8 of the Public Records of Leon County, Florida) run South 89°28'59" East, a distance of 168.17 feet to a found iron rod and cap, LB#6246; thence North 00°38'19" East, a distance of 71.43 feet to a found iron rod and cap, LB#6246; thence North 87°50'52" East, a distance of 778.25 feet to a found iron rod and cap, LB#6246; thence along the easterly boundary of said Wal-Mart Super Center run North 00°31'30" East, a distance of 1,171.19 feet to a found iron and cap, LB# 6745; thence North 32°56'29" West, a distance of 121.96 feet to a found iron rod and cap, LB#6745; thence North 00°45'41" East, a distance of 218.75 feet to the southerly right of way boundary of Appalachee Parkway (State Road 20); thence along said southerly right of way boundary run North 85°34'35" East, a distance of 200.77 feet; thence leaving said southerly right of way boundary along the westerly boundary of that property recorded in Official Records Book 2317, Page 788 run South 00°36'45" West, a distance of 322.86 feet; thence along the southerly boundary of said property run South 89°41'02" East, a distance of 66.54 feet to a found pinched iron pipe; thence along the westerly boundary of those properties recorded in Official Records Book 1623, Page 739 and Official Records Book 133, Page 389 run South 00°33'01" West, a distance of 1,157.48 feet to a found 1-1/4" iron rod; thence

along the southerly boundary of said property recorded in Official Records Book 133, Page 389 run South 89°25'54" East, a distance of 646.13 feet to a point on the westerly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said westerly maintained right of way run South 00°16'14" West, a distance of 5.39 feet; thence South 01°14'59" West, a distance of 377.99 feet; thence South 00°17'47" West, a distance of 485.66 feet; thence South 01°05'15" West, a distance of 307.47 feet; thence South 00°08'19" East, a distance of 105.02 feet; thence South 00°41'21" East, a distance of 67.66 feet; thence South 03°46'52" East, a distance of 72.89 feet; thence South 01°56'57" East, a distance of 62.01 feet; thence South 04°25'57" East, a distance of 63.83 feet; thence South 04°10'13" East, a distance of 61.89 feet; thence South 07°47'37" East, a distance of 62.60 feet; thence South 10°47'55" East, a distance of 61.46 feet; thence South 17°02'15" East, a distance of 64.74 feet; thence South 16°47'27" East, a distance of 59.13 feet; thence South 21°33'22" East, a distance of 62.50 feet; thence South 19°35'59" East, a distance of 108.30 feet; thence South 15°31'45" East, a distance of 66.10 feet; thence South 14°48'33" East, a distance of 61.60 feet; thence South 12°18'18" East, a distance of 58.84 feet; thence South 05°59'07" East, a distance of 58.06 feet; thence South 03°04'19" East, a distance of 60.47 feet; thence South 03°09'07" West, a distance of 60.44 feet; thence South 03°32'44" West, a distance of 68.32 feet; thence South 01°17'33" West, a distance of 151.12 feet; thence South 04°16'10" West, a distance of 153.69 feet; thence South 02°47'24" West, a distance of 220.92 feet; thence South 03°07'53" West, a distance of 305.65 feet; thence South 42°22'36" West, a distance of 36.68 feet to a point on the northerly maintained right of way boundary of Old St Augustine Road (a Leon County, Florida, maintained right of way); thence along said northerly maintained right of way boundary run North 87°25'23" West, a distance of 101.08 feet; thence North 77°26'22" West, a distance of 151.23 feet; thence North 78°16'36" West, a distance of 137.90 feet; thence North 78°31'10" West, a distance of 325.77 feet; thence North 77°40'43" West, a distance of 151.37 feet; thence North 78°04'42" West, a distance of 130.55 feet; thence North 78°22'42" West, a distance of 264.02 feet; thence North 74°13'57" West, a distance of 135.72 feet; thence North 68°20'13" West, a distance of 172.86 feet; thence North 58°57'37" West, a distance of 51.13 feet; thence North 57°18'14" West, a distance of 298.31 feet; thence North 55°53'57" West, a distance of 149.20 feet; thence North 56°56'17" West, a distance of 150.16 feet; thence North 57°34'22" West, a distance of 305.49 feet; thence North 57°11'09" West, a distance of 254.03 feet; thence North 56°33'32" West, a distance of 195.77 feet; thence leaving said northerly maintained right of way boundary run North

00°03'21" West along the easterly boundary of said property recorded in Official Records Book 1528, Page 1751, a distance of 688.72 feet to the POINT OF BEGINNING. The above-described parcel contains 7,701,214.91 square feet or 176.80 acres, more or less.

The above described parcel being subject to a City of Tallahassee Utility Easement as recorded in Official Records Book 1511, Page 109 and also a City of Tallahassee Utility Easement as recorded in Official Records Book 1951, Page 801 of the Public Records of Leon County, Florida.

AND ALSO

A 26.59-Acre Parcel in Sections 2 and 11, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

Commence at a concrete monument, LB#3293 marking the Southwest corner of Section 2, Township 1 South, Range 1 East, Leon County, Florida, thence along the South boundary of said Section 2 run South 89°33'23" East, a distance of 401.70 feet to the POINT OF BEGINNING. From said POINT OF BEGINNING thence South 03°00'57" West, a distance of 1,884.82 feet to a point on the northerly maintained right of way boundary of Old St Augustine Road (a Leon County, Florida maintained right of way); thence along said northerly maintained right of way run North 77°20'37" West, a distance of 23.36 feet; thence North 78°59'50" West, a distance of 97.61 feet; thence North 75°10'21" West, a distance of 40.67 feet; thence North 75°09'17" West, a distance of 76.34 feet to a point on the easterly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said easterly maintained right of way boundary run North 02°19'12" East, a distance of 46.74 feet; thence North 03°36'00" East, a distance of 305.64 feet; thence North 03°39'29" East, a distance of 220.91 feet; thence North 03°57'13" East, a distance of 153.68 feet; thence North 03°14'09" East, a distance of 151.00 feet; thence North 03°27'10" East, a distance of 68.32 feet; thence North 01°43'15" East, a distance of 63.49 feet; thence North 00°47'36" West, a distance of 64.38 feet; thence North 06°56'30" West, a distance of 61.87 feet; thence North 10°08'20" West, a distance of 62.73 feet; thence North 15°03'48" West, a distance of 65.77 feet; thence North 17°45'08" West, a distance of 68.93 feet; thence North 23°33'56" West, a distance of 108.43 feet; thence North 14°02'16" West, a distance of 60.34 feet; thence North 20°47'22" West, a distance of 57.40 feet; thence North 14°23'40" West, a distance of 62.12 feet; thence North 11°45'14" West, a distance of 59.01 feet; thence North 08°42'24" West, a distance of 60.96 feet; thence North 06°00'01" West, a distance of 60.08 feet; thence North 03°57'56" West, a distance of 62.18 feet; thence North 04°17'08" West, a distance of 60.83 feet; thence North 00°13'34" West, a distance of 71.97 feet; thence North 00°15'43" West, a distance of 66.90 feet; thence North

00°08'23" West, a distance of 104.57 feet; thence North 00°26'07" East, a distance of 307.44 feet; thence North 00°03'26" East, a distance of 485.08 feet; thence North 01°12'53" East, a distance of 198.13 feet; thence leaving said easterly maintained right of way run North 89°50'19" East along the southerly boundary of that property recorded in Official Records Book 1890, Page 1175, a distance of 520.78 feet; thence South 03°00'57" West, a distance of 1,305.69 feet to the POINT OF BEGINNING. The above-described parcel contains 1,158,279.37 square feet or 26.59 acres, more or less.

AND ALSO

A 793.22-Acre parcel in Sections 3, 9, 10, 11, 14, 15, 16, 21, 22, 23, 26, and 27, Township 1 South, Range 1 East, Leon County, Florida, more particularly described as follows:

BEGIN at a found 3/4" iron pipe marking the Southwest corner of Section 3, Township 1 South, Range 1 East, Leon County, Florida, thence along the westerly boundary of said Section 3 run North 00°27'17" West, a distance of 154.44 feet to a point on the southerly maintained right of way of Old St. Augustine Road; thence along said southerly maintained right of way run South 80°30'42" East, a distance of 105.57 feet; thence South 81°09'37" East, a distance of 199.64 feet; thence South 79°56'18" East, a distance of 188.58 feet; thence South 78°33'10" East, a distance of 73.47 feet; thence South 79°57'32" East, a distance of 147.21 feet; thence South 78°22'23" East, a distance of 100.71 feet; thence South 79°09'51" East, a distance of 77.52 feet to a point on the westerly boundary of a 100 foot City of Tallahassee utility right of way as recorded in Official Records Book 152, Page 128 of the Public records of Leon County, Florida; thence along said right of way run South 00°12'53" East, a distance of 46.15 feet; thence run South 33°37'19" West, a distance of 3144.51 feet; thence run South 89°06'28" East, a distance of 118.87 feet to a point on the easterly boundary of said 100 foot utility right of way; thence along said easterly right of way boundary run North 33° 37'19" East, a distance of 3110.66 feet; thence run North 00°12'53" West, a distance of 58.04 feet to a point on the southerly maintained right of way of said Old St. Augustine Road; thence along said southerly maintained right of way run South 81°34'29" East, a distance of 61.55 feet; thence South 79°29'20" East, a distance of 527.69 feet; thence South 76°49'05" East, a distance of 108.23 feet; thence South 73°20'10" East, a distance of 97.35 feet; thence South 66°37'08" East, a distance of 101.55 feet; thence South 61°33'30" East, a distance of 104.58 feet; thence South 56°53'17" East, a distance of 232.32 feet; thence South 57°14'20" East, a distance of 202.97 feet; thence South 57°03'35" East, a distance of 227.63 feet; thence South 56°14'10" East, a distance of 99.46 feet; thence South 57°41'48" East, a distance of 48.03 feet; thence leaving said southerly maintained right of way boundary run South 00°45'50" West, a distance of 591.82 feet to a found 1" iron pipe; thence South 88°44'41" East, a distance of 361.06 feet to

a found 1" iron pipe; thence North 00°50'42" East, a distance of 372.43 feet to a point on the southerly maintained right of way boundary of said Old St Augustine Road; thence along said southerly maintained right of way run South 56°45'39" East, a distance of 161.73 feet; thence South 57°45'47" East, a distance of 148.31 feet; thence South 56°43'39" East, a distance of 154.67 feet; thence South 58°02'32" East, a distance of 167.40 feet; thence South 56°36'42" East, a distance of 228.78 feet; thence South 58°11'05" East, a distance of 101.62 feet; thence South 64°07'41" East, a distance of 181.67 feet; thence South 76°10'54" East, a distance of 137.29 feet; thence South 78°18'21" East, a distance of 134.58 feet; thence South 77°17'09" East, a distance of 133.90 feet; thence South 78°18'16" East, a distance of 124.13 feet; thence South 77°28'58" East, a distance of 145.86 feet; thence leaving said southerly maintained right of way boundary run South 00°40'55" East, a distance of 1,396.29 feet to a found 6" round terra-cotta monument; thence South 89°21'19" East, a distance of 650.26 feet to the westerly maintained right of way boundary of Southwood Plantation Road (a Leon County, Florida maintained right of way); thence along said westerly maintained right of way run South 03°27'00" West, a distance of 2,055.74 feet to a found SJPC concrete monument; thence South 03°27'00" West, a distance of 76.43 feet; thence South 02°05'35" West, a distance of 23.41 feet; thence South 00°44'23" East, a distance of 25.46 feet; thence South 03°05'10" East, a distance of 15.02 feet to a point on the southerly boundary of Section 10, Township 1 East, Range 1 South, Leon County, Florida; thence leaving said westerly maintained right of way boundary along the southerly boundary of said Section 10 run North 89°39'35" East, a distance of 38.08 feet to a point on the easterly maintained right of way boundary of said Southwood Plantation Road; thence along said easterly maintained right of way boundary run North 07°04'29" East, a distance of 61.33 feet; thence North 05°43'01" East, a distance of 75.84 feet; thence North 03°33'16" East, a distance of 123.04 feet; thence North 03°33'11" East, a distance of 414.42 feet; thence North 00°58'27" East, a distance of 71.59 feet; thence North 08°20'06" West, a distance of 29.91 feet; thence North 03°26'50" East, a distance of 53.09 feet; thence North 03°29'10" East, a distance of 271.66 feet; thence North 03°27'09" East, a distance of 554.25 feet; thence North 03°26'40" East, a distance of 538.52 feet; thence North 02°33'12" East, a distance of 128.63 feet; thence North 04°25'53" East, a distance of 58.06 feet; thence North 03°33'19" East, a distance of 172.58 feet; thence North 03°29'20" East, a distance of 146.13 feet; thence North 03°23'09" East, a distance of 292.88 feet; thence North 03°41'47" East, a distance of 250.34 feet; thence North 03°00'17" East, a distance of 112.07 feet; thence North 03°18'24" East, a distance of 73.28 feet; thence North 55°51'48" East, a distance of 15.18 feet to a point on the

southerly maintained right of way boundary of said Old St Augustine Road; thence along said southerly maintained right of way boundary run South 83°43'49" East, a distance of 56.95 feet; thence South 80°39'06" East, a distance of 54.68 feet; thence South 77°29'03" East, a distance of 98.39 feet; thence South 77°34'21" East, a distance of 15.69 feet; thence leaving said southerly maintained right of way boundary run South 03°00'57" West, a distance of 2,197.60 feet to a point of curve to the right; thence run southerly along said curve with a radius of 2,700.39 feet through a central angle of 03°50'50" for an arc distance of 181.32 feet (chord of 181.29 feet bears South 04°56'22" West); thence South 06°51'48" West, a distance of 945.08 feet to a point on a non tangent curve concave west; thence run southerly along said curve with a radius of 3,342.64 feet through a central angle of 08°34'15" for an arc distance of 500.02 feet (chord of 499.56 feet bears South 16°40'37" East); thence South 76°00'03" West, a distance of 64.09 feet to a point on the easterly right of way boundary of Biltmore Avenue (a 68 foot right of way) as dedicated in Southwood Unit 25, a subdivision as recorded in Plat Book 16, Pages 86-88 of the Public Records of Leon County, Florida; thence along said easterly right of way boundary run South 13°59'57" East, a distance of 5.22 feet; thence leaving said easterly right of way boundary run South 76°00'03" West, a distance of 68.00 feet to a found 4" x 4" concrete monument, LB#3293, marking the intersection of westerly right of way boundary of said Biltmore Avenue with the northerly right of way boundary of Duxbury Lane (a 50 foot right of way) as dedicated in said Southwood Unit 25; thence along the northerly right of way of said Duxbury Lane continue South 76°00'03" West, a distance of 116.56 feet to a point of curve to the left; thence run southwesterly along said right of way curve with a radius of 702.00 feet through a central angle of 38°10'46" for an arc distance of 467.78 feet (chord of 459.18 feet bears South 56°54'40" West) to a point on the northeasterly right of way boundary of Strolling Way (a 50 foot right of way) as dedicated in said Southwood Unit 25; thence along the northeasterly right of way of said Strolling Way run North 52°10'43" West, a distance of 3.00 feet; thence leaving said northeasterly right of way boundary run South 37°49'17" West, a distance of 50.00 feet to a point on the southwesterly right of way of said Strolling Way; thence along the southwesterly right of way of said Strolling Way run South 52°10'43" East, a distance of 247.79 feet to a point of curve to the left; thence run southeasterly along said right of way curve with a radius of 325.00 feet through a central angle of 25°05'13" for an arc distance of 142.30 feet (chord of 141.17 feet bears South 64°43'19" East) to a point on a curve concave easterly and the westerly right of way boundary of Longfellow Road (a 54 foot right of way) as dedicated in said Southwood Unit 25; thence run southwesterly along the westerly right of way boundary of said Longfellow Road and curve with a radius of 407.00 feet through a central angle of 09°41'30" for an arc distance of 68.84 feet (chord of 68.76 feet bears South 01°27'47" West);

thence South 03°22'58" East, a distance of 133.29 feet to found 4" x 4" concrete monument, LB#3293, and the northerly boundary of Lot 5, Southwood Golf Course, as per map or plat recorded in Plat Book 13, Pages 59-64 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Golf Course, Lot 5, North 52°10'43" West, a distance of 951.22 feet; thence North 00°28'00" West, a distance of 735.02 feet; thence South 89°39'35" West, a distance of 285.68 feet; thence South 10°32'05" East, a distance of 160.66 feet; thence South 09°27'52" West, a distance of 82.37 feet; thence South 54°28'32" West, a distance of 116.57 feet; thence South 26°10'33" West, a distance of 71.41 feet; thence South 08°21'09" East, a distance of 126.58 feet; thence South 17°03'42" West, a distance of 88.44 feet; thence South 55°49'54" West, a distance of 88.93 feet; thence leaving said northerly boundary run South 15°14'02" East, a distance of 185.57 feet; thence run North 62°42'15" East, a distance of 92.19 feet; thence run South 29°00'09" East, a distance of 134.11 feet; thence run South 57°37'06" East, a distance of 533.88 feet; thence run South 63°45'53" East, a distance of 273.80 feet; thence run South 18°04'117" East, a distance of 414.68 feet; thence run South 36°22'45" West, a distance of 268.09 feet; thence run South 48°51'04" West, a distance of 794.98 feet; thence run South 09°45'40" East, a distance of 436.81 feet; thence run South 34°09'29" West, a distance of 645.54 feet; thence run South 70°06'07" West, a distance of 716.14 feet to a point on a curve concave easterly and the easterly boundary of Mossy Creel Lane (a 48-foot right of way) as per Southwood Unit 4, Phase 3, a subdivision as per map or plat recorded in Plat Book 13, Page 1 of the Public Records of Leon County, Florida; thence run northeasterly along said right of way curve with a radius of 926.00 feet through a central angle of 09°55'36" for an arc distance of 160.43 feet (chord of 160.23 feet bears North 06°50'59" East); thence run North 11 degrees 48 minutes 47 seconds East, a distance of 510.64 feet; thence leaving said easterly right of way boundary and along the easterly boundary of said Southwood Unit 4, Phase 3, run South 78°11'13" East, a distance of 129.00 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 16°13'22" East, a distance of 311.92 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 34°08'29" East, a distance of 258.83 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 02°20'35" East, a distance of 698.48 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 13°38'19" East, a distance of 494.96 feet to a found 4" x 4" concrete monument, LB#3293; thence run North 02°29'52" West, a distance of 427.40 feet to a found 4" x 4" concrete monument, LB#3293; thence leaving said easterly boundary run North 62°42'15" East, a distance of 94.40 feet; thence run North 15°14'02" West, a distance of 177.81 feet to a point on the northerly boundary of said Southwood Golf Course Lot 5; thence along said northerly boundary run South 55°49'54" West, a distance of 59.12 feet; thence North 80°18'16" West, a

distance of 84.81 feet; thence North 48°09'59" West, a distance of 71.31 feet; thence North 63°13'39" West, a distance of 105.17 feet; thence North 32°37'47" West, a distance of 147.72 feet; thence North 10°22'35" West, a distance of 87.39 feet; thence North 20°04'27" West, a distance of 91.69 feet; thence North 10°31'34" West, a distance of 113.96 feet; thence North 18°47'15" West, a distance of 82.89 feet; thence North 18°47'15" West, a distance of 84.24 feet; thence North 29°50'20" West, a distance of 99.13 feet; thence North 68°26'44" West, a distance of 82.14 feet; thence North 10°15'22" West, a distance of 63.03 feet; thence North 13°07'12" East, a distance of 163.19 feet; thence North 44°49'43" West, a distance of 130.49 feet; thence North 44°12'28" West, a distance of 164.22 feet; thence North 24°27'15" West, a distance of 105.94 feet; thence North 38°00'44" East, a distance of 93.30 feet; thence run North 62°23'33" East, a distance of 144.16 feet; thence run North 73°30'52" East, a distance of 85.52 feet; thence North 89°17'07" East, a distance of 116.01 feet; thence North 16°27'15" East, a distance of 121.96 feet; thence North 36°16'13" West, a distance of 53.07 feet; thence North 89°03'54" West, a distance of 564.76 feet; thence North 73°32'43" West, a distance of 205.82 feet; thence South 04°56'32" East, a distance of 53.70 feet to a found 5/8" iron rod and cap, LB#3293, marking the Northeast corner of Mossy Creek Lane (a 48 foot right of way) as dedicated in Southwood Unit 9, a subdivision as per map or plat recorded in Plat Book 13, Page 36 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Unit 9 run North 73°32'43" West, a distance of 51.55 feet to a found 4" x 4" concrete monument, LB#3293 marking the Northwest corner of said Mossy Creek Lane and the Southeast corner of Lot 4 of said Southwood Golf Course; thence along the easterly boundary of said Southwood Golf Course run North 04°56'32" West, a distance of 231.94 feet; thence along the northerly boundary of said Southwood Golf Course Lot 4 run North 78°15'27" West, a distance of 452.86 feet; thence North 11°31'58" East, a distance of 180.44 feet; thence North 68°49'43" West, a distance of 56.81 feet to a point of curve to the left; thence run northwesterly along said curve with a radius of 1175.00 feet through a central angle of 19°52'06" for an arc distance of 407.45 feet (chord of 405.41 feet bears North 78°45'46" West); thence South 01°47'27" West, a distance of 194.49 feet; thence South 81°21'10" West, a distance of 582.89 feet to a found 4" x 4" concrete monument, LB#3293, and the easterly right of way boundary of Four Oaks Boulevard (a 121 foot right of way) as dedicated in Southwood Unit 17, a subdivision as recorded in Plat Book 15, Pages 56-60 of the Public Records of Leon County, Florida; thence run northeasterly along said easterly right of way and a curve concave northwesterly with a radius of 6600.50 feet through a central angle of 00°35'35" for an arc distance of 68.31 feet (chord of 68.31 feet bears North 00°30'40" East) to a found 4" x 4" concrete monument, LB#3293, marking the Northeast

corner of said Four Oaks Boulevard; thence along the northerly boundary of said Southwood Unit 17 run North 89°47'08" West, a distance of 121.00 feet to a found 4" x 4" concrete monument, LB#3293, marking the Northwest corner of said Four Oaks Boulevard; thence continuing along the northerly boundary of said Southwood Unit 17 run South 89°58'05" West, a distance of 201.80 feet; thence South 40°54'27" West, a distance of 162.47 feet; thence South 00°50'38" East, a distance of 22.07 feet to a found 4" x 4" concrete monument, LB#3293, and the northerly boundary of Southwood Unit 18, a subdivision as per map or plat recorded in Plat Book 15, Page 75-77 of the Public Records of Leon County, Florida; thence along the northerly boundary of said Southwood Unit 18 run South 61°49'45" West, a distance of 104.17 feet; thence South 71°56'10" West, a distance of 280.66 feet; thence South 79°39'09" West, a distance of 259.02 feet; thence South 35°20'40" East, a distance of 260.59 feet; thence South 08°47'44" West, a distance of 133.24 feet; thence South 27°43'31" West, a distance of 137.91 feet; thence South 48°28'21" West, a distance of 228.85 feet; thence South 87°15'54" West, a distance of 116.85 feet to a found 4" x 4" concrete monument, LB#3293, and the northerly boundary of Lot 1 of said Southwood Golf Course; thence along the northerly boundary of said Southwood Golf Course Lot 1 run South 59°41'38" East, a distance of 90.06 feet to a found 4" x 4" concrete monument, LB#3293; thence run South 58°28'11" East, a distance of 123.26 feet to a found 4" x 4" concrete monument, LB#3293; thence run South 60°04'19" East, a distance of 398.96 feet to a found 4" x 4" concrete monument, LB#3293; thence run South 59°41'38" East, a distance of 498.10 feet to a point on a curve concave northwesterly and the easterly right of way boundary of said Four Oaks Boulevard; thence run southwesterly along said curve with a radius of 6479.50 feet through a central angle of 00°32'09" for an arc distance of 60.60 feet (chord of 60.60 feet bears South 13°58'45" West) to a point of compound curve to the right; thence run southwesterly along said right of way curve with a radius of 665.50 feet through a central angle of 46°27'54" for an arc distance of 539.70 feet (chord of 525.03 feet bears South 37°28'47" West) to a point on the southerly boundary of said Southwood Golf Course, Lot 1; thence continue along said right of way curve with a radius of 665.50 feet through a central angle of 16°58'13" for an arc distance of 197.11 feet (chord of 196.39 feet bears South 69°11'51" West) to a point on the northerly right of way boundary of Blair Stone Road (a 121-foot roadway) as recorded in said Southwood Unit 17; thence along said northerly right of way boundary run South 77°40'57" West, a distance of 148.82 feet to a point of curve to the right; thence run southwesterly along said right of way curve with a radius of 1339.50 feet through a central angle of 22°05'26" for an arc distance of 516.45 feet (chord of 513.26 feet bears South 88°43'40" West); thence run North 80°13'36" West, a distance of 147.85 feet to a point on the southerly boundary of said Southwood Golf Course, Lot 1; thence

continue along said northerly right of way boundary North 80°13'36" West, a distance of 52.12 feet to a point of curve to the left; thence run southwesterly along said right of way curve with a radius of 1560.50 feet through a central angle of 31°39'55" for an arc distance of 862.43 feet (chord of 851.49 feet bears South 83°56'26" West); thence run South 68°06'29" West, a distance of 216.19 feet to a point on the westerly boundary of said Southwood Golf Course, Lot 1; thence along said northerly right of way boundary continue South 68°06'29" West, a distance of 59.74 feet to a point of curve to the right; thence run southwesterly along said right of way curve with a radius of 1214.80 feet through a central angle of 20°26'09" for an arc distance of 433.28 feet (chord of 430.99 feet bears South 78°19'35" West); thence leaving said northerly right of way boundary along the westerly boundary of Lot 2 of Southwood Unit 24, a subdivision as per map or plat recorded in Plat Book 16, Page 65 of the Public Records of Leon County, Florida run North 03°40'38" West, a distance of 240.85 feet to a point on the southerly boundary of Southwood Unit 20, Phases 1 & 2, a subdivision as per map or plat recorded in Plat Book 16, Page 58 of the Public Records of Leon County, Florida; thence along said southerly boundary run North 89°49'59" East, a distance of 196.46 feet; thence North 78°28'33" East, a distance of 50.00 feet to a point on a curve concave northeasterly and the westerly right of way boundary of Esplanade Way (right of way varies) as dedicated in said Southwood Unit 20, Phases 1 & 2; thence run northeasterly along said right of way curve with a radius of 2002.82 feet through a central angle of 27°42'05" for an arc distance of 968.32 feet (chord of 958.52 feet bears North 02°19'35" East); thence North 16°10'38" East, a distance of 104.52 feet to terminus of said Esplanade Way; thence along the easterly boundary of said Southwood Unit 20, Phases 1 & 2 continue North 16°10'38" East, a distance of 279.07 feet to a point of curve to the left; thence northeasterly along said curve with a radius of 817.50 feet through a central angle of 30°31'34" for an arc distance of 435.55 feet (chord of 430.42 feet bears North 00°54'51" East); thence along the northerly boundary of said Southwood Unit 20, Phases 1 & 2 run South 75°39'04" West, a distance of 50.00 feet; thence North 89°58'19" West, a distance of 572.39 feet to a found 4" x 4" concrete monument, LB#3293; thence continue North 89°58'19" West, a distance of 150.00 feet to the easterly right of way boundary of Capital Circle SE (State Road 261); thence along said easterly right run North 00°01'41" East, a distance of 422.60 feet; thence North 89°58'19" West, a distance of 5.00 feet; thence North 00°01'41" East, a distance of 854.62 feet; thence North 00°53'29" East, a distance of 444.58 feet; thence South 89°06'31" East, a distance of 15.00 feet; thence North 00°53'29" East, a distance of 533.70 feet to a point of curve to the right; thence run northerly along said curve with a radius of 1,844.78 feet through a central angle of 26°00'07" for an arc distance of 837.19 feet (chord of 830.03 feet bears North 13°53'32" East); thence North 63°06'25" West, a distance of 15.00 feet to a point on a non tangent curve concave southeast;

thence run northeasterly along said curve with a radius of 1,859.78 feet through a central angle of 26°57'30" for an arc distance of 875.05 feet (chord of 867.00 feet bears North 40°22'20" East); thence North 53°51'06" East, a distance of 577.38 feet; thence leaving said easterly right of way boundary run South 00°09'17" West along the westerly boundary of the Plat of Alice Hill Property (unrecorded), a distance of 992.07 feet a found 1" iron pipe; thence North 87°42'40" East, a distance of 209.98 feet to a found iron rod and cap, LB#3732, and SJPC guard monument; thence South 00°20'38" West, a distance of 209.74 feet to a found 1" pinched iron pipe and SJPC guard monument; thence along the southerly boundary of said Plat of Alice Hill Property run North 87°47'14" East, a distance of 1,111.11 feet a SJPC concrete monument; thence along the easterly boundary of said Plat of Alice Hill Property run North 00°01'12" East, a distance of 1,356.16 feet to the POINT OF BEGINNING. The above-described parcel contains 34,705,184.45 square feet or 796.72 acres, more or less.

**LESS AND EXCEPT**

A 1.0-acre parcel recorded in Official Records Book 923, Page 1378 of the Public Records of Leon County, Florida and being more particularly described as follows:

COMMENCE at the Southeast corner of Section 10, Township 1 South, Range 1 East, Leon County, Florida thence North 89°19'08" West, a distance of 143.31 feet to a point on the westerly maintained right of way boundary of Southwood Plantation Road; thence along said westerly maintained right of way boundary run North 03°05'10" West, a distance of 15.02 feet; thence North 00°44'23" West, a distance of 25.46 to the POINT OF BEGINNING. From said POINT OF BEGINNING thence South 89°53'09" West, a distance of 433.49 feet to a found SJPC concrete monument; thence North 02°53'38" East, a distance of 99.81 feet to a found SJPC concrete monument; thence North 89°53'09" East, a distance of 433.91 feet to a found SJPC concrete monument and the maintained westerly boundary of said Southwood Plantation Road; thence along said maintained westerly right of way boundary run South 03°27'00" West, a distance of 76.43 feet; thence South 02°05'35" West, a distance of 23.41 feet to the POINT OF BEGINNING. The above-described property contains 0.99 acres more or less.

**AND ALSO LESS AND EXCEPT**

A 2.57-acre parcel recorded in Official Records Book 1446, Page 1291 of the Public Records of Leon County, Florida and being more particularly described as follows:

BEGIN at a found 6" round terra-cotta monument marking the Southwest corner of the Southeast quarter of Section 10, Township 1 South, Range 1 East, Leon County, Florida and thence run North 00°20'25" West, a distance of 200.00 feet;

thence run South 89°39'35" East, a distance of 500.00 feet; thence South 00°20'25" East, a distance of 185.00 feet; thence North 89°39'35" East, a distance of 630.68 feet to a point on the maintained westerly right of way boundary of Southwood Plantation Road; thence along said maintained westerly right of way boundary run South 03°05'10" East, a distance of 15.02 feet; thence South 89°39'35" West, a distance of 1131.40 feet to the POINT OF BEGINNING. The above-described parcel contains 2.51 acres more or less.

The above described parcels contain an aggregate of 1,034.98 acres more or less.

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

42III-1.003 Supervisors.

The following five persons are designated as the initial members of the Board of Supervisors: Clay Smallwood, Chris Gent, Shaw Flippen, Sean Fennelly, and Pat Groeniger.

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

NAME OF PERSON ORIGINATING PROPOSED RULE: Lisa Saliba, Florida Land and Water Adjudicatory Commission  
 NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Saliba, Florida Land and water Adjudicatory Commission

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2007

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

**DEPARTMENT OF ELDER AFFAIRS**

**Long-Term Care Ombudsman Program**

RULE NOS.:	RULE TITLES:
58L-1.001	Confidentiality and Disclosure
58L-1.005	Access
58L-1.006	Conflict of Interest
58L-1.007	Complaint Procedures

PURPOSE AND EFFECT: The purpose of the proposed rule amendments is to add additional language; incorporate conflict of interest language into this rule chapter, which is currently included in Rule Chapter 58L-2, F.A.C.; and add a new rule for complaint procedures, including two forms incorporated by reference.

SUMMARY: The proposed rule amendments and new rule address confidentiality and disclosure of information; access to information; conflict of interest; and complaint procedures, including two forms incorporated by reference.

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

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

SPECIFIC AUTHORITY: 400.0065(3), 400.0067(4), 400.0069(10), 400.0071, 400.0077(5), 400.0081(3), 400.0087 FS.

LAW IMPLEMENTED: 400.0077, 400.0081, 400.0065(1)(a), (3), 400.0067, 400.0069(4), (10), 400.0071, 400.0087, 400.0091 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: November 5, 2007, 9:30 a.m. – 12:00 Noon

PLACE: Department of Elder Affairs, 4040 Esplanade Way, Conference Room 301, Tallahassee, Florida 32399-7000

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

THE FULL TEXT OF THE PROPOSED RULES IS:

#### 58L-1.001 Confidentiality and Disclosure.

(1) Pursuant to Section 400.0077(5), F.S., the Department of Elder Affairs, in consultation with the Office of the State Long-Term Care Ombudsman ~~and the State Long-Term Care Ombudsman Council~~, hereby adopt and incorporate by reference herein Sections 400.0077(1)-(4), F.S., Confidentiality, and Section 712(d) of Section 201 of the Older Americans Act of 1965, 42 USC 3058g, Disclosure, as policy and procedure for the confidentiality of and the disclosure by any ombudsman and all ombudsman councils of files maintained by the Office of the State Long-Term Care Ombudsman, the State Long-Term Care Ombudsman Council, their representatives and their employees, and their district or area councils, representatives and employees as established in Chapter 400, Part I, F.S.

(2) Case records will not be released by the Long-Term Care Ombudsman Program until the case is closed as defined in subsection 58L-1.007(1), F.A.C.

Specific Authority 400.0077(5) FS. Law Implemented 400.0077 FS. History--New 7-25-95, Amended.

58L-1.005 Access.

(1) Pursuant to Section 400.0081~~(2)(3)~~, F.S., the Department of Elder Affairs, in consultation with the Office of the State Long-Term Care Ombudsman and the State Long-Term Care Ombudsman Council, hereby adopts and incorporates by reference herein Section ss. 400.0081(1) and (2), F.S., Access to facilities, residents and records, and Section 712(b) of Section 201 of the Older Americans Act of 1965, 42 USC 3058g, Procedures for Access, as policy and procedure to ensure access by the Office of the State Long-Term Care Ombudsman, the State Long-Term Care Ombudsman Council, the district or area long-term care councils, and their representatives as established in Chapter 400, Part I, F.S., to long-term care facilities, facility records, facility licensure and certification records maintained by the state, residents, and resident records.

(2) The following terms within the above-incorporated statutory references are defined as follows:

(a) "Access" means the ability pursuant to Section 400.0073, F.S., to investigate. The denial of access constitutes an interference in the performance of official duties and is a violation of Section 400.0083, F.S.

(b) "Administrative records, policies, and documents to which the residents, or the general public, have access" means records maintained by the facility which concern, involve, or pertain to the ~~residents'~~ diet, comfort, health, distribution of medications, safety, or welfare of residents.

(c) "Social records" means non-medical resident records and includes resident financial records.

Specific Authority 400.0081(3) FS. Law Implemented 400.0081 FS. History--New 7-31-95, Formerly 58L-3.001, Amended.

#### 58L-1.006 Conflict of Interest.

(1) Definitions. All terms used in this rule and not defined herein are derived from and defined in Chapter 400, Part I, Florida Statutes, Long-Term Care Facilities; Ombudsman Program.

(a) "Conflict of Interest" means:

1. Having a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;

2. Having an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;

3. Employed by, or participating in the management of, a long-term care facility in the state of Florida; or

4. Receiving, or having the right to receive, directly or indirectly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

(b) "Department" means the Department of Elder Affairs.

(c) “District” means a geographic area in which the programs of the department are administered and services are delivered.

(d) “Immediate family” means father, mother, husband, wife, son, daughter, brother, sister, or an individual residing in the household.

(e) “Indirectly” means receiving remuneration from a company providing a service to a long-term care facility, such as a consulting pharmacist.

(f) “Long-term care facility” means a nursing home facility, assisted living facility, or an adult family care home as those terms are defined in Chapter 400 and Chapter 429, Florida Statutes.

(g) “Long-term care services” means services provided by a long-term care facility, home health agency, adult day care center, hospice, intermediate care facility, home for special services, or transitional living facility as those terms are defined in Chapters 400 and Chapter 429, Florida Statutes. Long term care services also includes services provided to residents of long term care facilities by geriatric care managers, guardians or representative payees who are not immediate family members.

(h) “Program” refers to the Office of the State Long-Term Care Ombudsman, its representatives and employees, the State Long-Term Care Ombudsman Council, and the district or local Long-Term Care Ombudsman councils as established in Chapter 400, Part I, Florida Statutes.

(2) Purpose.

The purpose of this chapter is to ensure that every effort is made to minimize any perception of conflicts of interest affecting the ombudsman program. It is promulgated to further the ability of ombudsmen to independently and fully carry out their functions, including the public perception of the program’s independence. The Department shall vigorously monitor the program in this regard to ensure that the program and its representatives have the objectivity and independence required to qualify it for federal funding under the Older Americans Act of 1965, as amended, and to comply with and implement all state laws, rules and regulations relating to the program.

(3) Prohibitions.

(a) No officer, employee or representative of the Office of State Long-Term Care Ombudsman or of the State or District Long-Term Care Ombudsman Councils, nor any member of the immediate family of such officer, employee, or representative, may have a conflict of interest.

(b) No employee of the Agency for Health Care Administration, the Department of Business and Professional Regulation, the Department of Children and Family Services, the Department of Health, the Department of Elder Affairs, or medical director of a long-term care facility shall be a member of a District or State Long-Term Care Ombudsman Council.

(4) Procedures.

(a) Upon approval, recertification, employment or affiliation with the program, each appointee, officer, employee or representative shall sign a conflict of interest certification form that

1. Acknowledges receipt and understanding of these rules, and

2. States that such individual has no conflict of interest as defined by these rules. The Office of the State Long-Term Care Ombudsman will keep the statements on file at its headquarters.

(b) Deliberate failure to disclose any conflict of interest, whether upon affiliation with the program or which subsequently develops, or the violation of any prohibition set forth in this chapter shall be considered sufficient grounds for:

1. A recommendation to the State Long-Term Care Ombudsman that the representative be immediately disqualified pursuant to Section 400.0091, Florida Statutes, to carry out ombudsman activities on behalf of the office of the State Long Term Care Ombudsman;

2. Termination for cause of any such employee.

(c) The State Long-Term Care Ombudsman shall receive and review all violations and allegations of conflict of interest and if appropriate shall,

1. Request that the person resign from the council; or

2. Request that the person remove the conflict.

(d) If the person does not resign from the council or remove the conflict, the State Long-Term Care Ombudsman shall disqualify the employee, or representative of the Office of the State Long Term Care Ombudsman from carrying out any authorized ombudsman duty or responsibility.

Specific Authority 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1) FS. Law Implemented 400.0065(3), 400.0067(4), 400.0069(10), 400.0087(1), 400.0091 FS. History–New \_\_\_\_\_.

58L-1.007 Complaint Procedures.

(1) Definitions.

(a) “Case” means an inquiry or allegation brought to, or initiated by, the Long-Term Care Ombudsman Program on behalf of a long-term care facility resident or group of residents involving one or more complaints or problems which requires opening a case and which includes ombudsman investigation, fact gathering, development and implementation of a resolution strategy.

(b) “Closed Case” means a case where the complaints within the case do not require further action on the part of the ombudsman, every complaint has been assigned the appropriate disposition code, and the case has been reviewed by the local council.

(c) "Complaint" means an allegation, made by a long-term care facility resident or someone on behalf of a resident, of a problem with resident care or a problem affecting the rights, health, safety, and/or welfare of the residents of a long-term care facility. One or more complaints constitute a case.

(d) "Resolved" means the complaint or problem was addressed to the satisfaction of the resident or the resident's legal representative.

(e) "Visit" means going to a facility to listen to, observe, and interact with residents.

(2) Receiving complaints against a long-term care facility or an employee of a long-term care facility.

(a) A complaint may be made by any person and may be received by the Office of State Long-Term Care Ombudsman or its representatives through written or oral communication. A complaint generated by a representative of the Office of State Long-Term Care Ombudsman shall be considered a complaint. A complaint may be anonymous.

(b) All complaints made to the program will be directed to the district ombudsman manager for the district in which the facility involved in the complaint is located. Receipt of the complaint by the district ombudsman manager triggers the opening of a case.

(c) The district ombudsman manager will code complaints based on federal standards of the National Ombudsman Reporting System by the Administration on Aging, U.S. Department of Health and Human Services.

(d) After entering the complaint information into the database, the district ombudsman manager will print the DOEA Form LTCOP-001, September, 2007, Case Investigation Form, which is incorporated herein by reference, and deliver it to the ombudsman who will be investigating the case.

(3) Conducting investigations of a long-term care facility or an employee of a long-term care facility subsequent to receiving a complaint.

(a) An investigation is initiated when an ombudsman makes contact with the complainant or resident; which shall happen within five (5) business days after receipt of the complaint by the district ombudsman manager.

(b) At the beginning of the investigation, the ombudsman investigating the case must visit the resident or residents on whose behalf the case was filed.

(c) The case investigation shall focus on the rights, health, safety and welfare of the resident and may include direct observation, interviews with residents and other individuals, and review of records.

(d) Investigations shall be closed within 90 calendar days of receipt. The local council may grant a request for extension if 90 days is not sufficient time to close the case.

(e) At the conclusion of a case investigation, the ombudsman investigating the case will:

1. Complete DOEA Form LTCOP-0001 using disposition codes developed for the National Ombudsman Reporting System by the Administration on Aging, U.S. Department of Health and Human Services.

2. Contact the resident or the resident's legal representative if possible, to inform them of the disposition.

3. Have an exit interview with the administrator or their designee to present the ombudsman's findings.

(f) After the investigation is complete, the investigation process and the case information will be reviewed by the Quality Assurance Review Team of the local council.

(g) Within twenty (20) business days of the closing of the case investigation, the district ombudsman manager will send a written summary of the case disposition to the resident or the resident's legal representative.

(h) If issues remain unresolved at the conclusion of the investigation, the ombudsman, the local council and the state council will proceed with actions pursuant to Section 400.0075, Florida Statutes in consultation with the State Ombudsman.

(4) Conducting onsite administrative assessments of long-term care facilities.

(a) All long-term care facilities shall receive at least one onsite administrative assessment during each federal reporting year, beginning October 1 and ending September 30 of the following year.

(b) Consistent with minimum requirements by the U.S. Administration on Aging as detailed in the National Ombudsman Reporting System program instructions, each long-term care facility shall receive three visits during the federal reporting year in addition to the administrative assessment.

(c) By October 1 of each year, the district ombudsman manager will assign all facilities within the district to individual members of the local council for assessment.

(d) The ombudsman conducting an assessment shall review available facility surveys conducted by Agency for Health Care Administration prior to the onsite administrative assessment.

(e) Administrative assessments shall include interviews with residents and shall focus on issues from the residents' perspective, including but not limited to: posting of required brochures and licenses, physical plant, residents' physical space, residents' rights, staffing levels, medical care and services, food service, activities, and disaster preparedness.

(f) At the conclusion of the assessment, the ombudsman will have a brief exit interview with the facility administrator or his/her designee to discuss assessment findings.

(g) Problems identified during the administrative assessment shall be provided to the facility administrator in writing and may be coded as complaints by the district ombudsman manager and assigned to an ombudsman for investigation and resolution.

(h) The results of an administrative assessment shall be recorded on the DOEA Form LTCOP-0002, September, 2007, Annual Assessment Form, which is incorporated herein by reference.

(i) The district ombudsman manager will keep the original completed Annual Assessment Forms in the district office and forward copies to Agency for Health Care Administration within 30 business days after receipt.

(j) If there are issues discovered during an assessment that remain unresolved, the ombudsman, the local council and the state council will proceed with actions pursuant to Section 400.0075, Florida Statutes in consultation with the State Ombudsman.

Specific Authority 400.0071 FS. Law Implemented 400.0081 FS. History-New

NAME OF PERSON ORIGINATING PROPOSED RULE: Abbie Messer, Department of Elder Affairs, 4040 Esplanade Way, Tallahassee, Florida 32399-7000; Telephone Number: (850)414-2000, SunCom 994-2000; Email address: messera@elderaffairs.org

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: E. Douglas Beach, Ph.D., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 26, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 9, 2007

**AGENCY FOR HEALTH CARE ADMINISTRATION**

**Medicaid**

RULE NOS.:	RULE TITLES:
59G-14.001	Definitions
59G-14.002	Confidentiality
59G-14.003	Federal Compliance
59G-14.004	Florida KidCare Dispute Review Process
59G-14.005	Florida KidCare Grievance Committee
59G-14.006	Florida KidCare Grievance Procedures
59G-14.007	Health Care Services Complaints and Disputes

PURPOSE AND EFFECT: Section 409.818(3)(e), F.S. directs the Agency for Health Care Administration (AHCA) to establish a mechanism for investigating and resolving complaints and grievances for the Florida KidCare Program. The purpose of the proposed rule is to establish the AHCA's Florida KidCare grievance process in rule.

In the Notice of Rule Development, the title of the rule Chapter 59G-14, F.A.C., was Florida KidCare; and we published preliminary text for two rules: 59G-14.001, Definitions, and 59G-14.002, Florida KidCare Grievance Process. We renamed

the rule chapter 59G-14, Florida KidCare Grievance Process, and divided the Florida KidCare Grievance Process into six separate rules: 59G-14.002 through 59G-14.007.

SUMMARY: The purpose of the proposed rule is to establish the AHCA's Florida KidCare grievance process in rule. The effect will be to incorporate AHCA's Florida KidCare grievance process in rule.

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

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

SPECIFIC AUTHORITY: 409.918 FS.

LAW IMPLEMENTED: 409.918 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, November 5, 2007, 2:00 p.m.

PLACE: Agency for Health Care Administration, 2727 Mahan Drive, Building 3, Conference Room B, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Angela Wiggins, Medicaid Services, 2727 Mahan Drive, Building 3, Mail Stop 20, Tallahassee, Florida 32308-5407, (850)922-7313, wigginsa@ahca.myflorida.com.

THE FULL TEXT OF THE PROPOSED RULES IS:

CHAPTER 59G-14 FLORIDA KIDCARE GRIEVANCE PROCESS

59G-14.001 Definitions.

The following definitions are applicable to the Title XXI, Florida KidCare Programs (Children's Medical Services Network, Florida Healthy Kids and MediKids) and to all sections of Florida KidCare Grievance Procedures, Chapter 59G-14, F.A.C. These definitions do not apply to any complaint or grievance issues relating to Medicaid for Children eligibility, enrollment or renewal activities. For Medicaid eligibility and enrollment complaint or grievance issues, families must request a Medicaid Fair Hearing by contacting the Department of Children and Family Services (DCF) as referenced in Rule 65-2.042, et. seq., F.A.C.

(1) "Applicant" refers to a parent or guardian of a child or a child whose disability of nonage has been removed under chapter 743, who applies for eligibility under subsections 409.810-409.820, F.S. (Florida KidCare Act).

(2) "Complaint" or "dispute" is a verbal or written expression of dissatisfaction, regarding an eligibility or enrollment decision.

(3) “Complainant” or “grievant” is a parent, legal guardian, or an authorized representative of the parent or legal guardian who submits a complaint or grievance on behalf of a child enrolled in Florida KidCare. If a parent or legal guardian appoints a representative to discuss the complaint or grievance on their behalf, they must complete and sign an Appointment of Representation Form, AHCA Med-Serv Form 017, August 2007, one page, and the Authorization for the Use and Disclosure of Protected Health Information Form, AHCA Med-Serv Form 018, August 2007, two pages, which are incorporated by reference. These forms name the representative and give the representative access to medical records in compliance with the Health Insurance Portability and Accountability Act (HIPAA).

(4) “Dispute Resolution Hearing” is the complainant’s opportunity to be heard by the Florida KidCare Dispute Review Panel during the third level of the Florida KidCare Formal Dispute Review Process. If requested, a professionally transcribed hearing is scheduled between the complainant and the Florida KidCare Dispute Review Panel in the complainant’s county of residence.

(5) “Florida KidCare Partners” include the Agency for Health Care Administration (MediKids), the Department of Children and Family Services (Medicaid for Children), the Department of Health (Children’s Medical Services Network), and the Florida Healthy Kids Corporation (Healthy Kids). Families with children receiving coverage under the Medicaid for Children Program must request a Medicaid Fair Hearing by contacting the Department of Children and Family Services (DCF) as referenced in Rule 65-2.042 to 65-2.066, F.A.C.

(6) “Florida KidCare Formal Dispute Review Process” is a comprehensive review of an eligibility or enrollment complaint. The formal dispute review process begins when a written request to resolve a dispute is received by the Florida Healthy Kids Corporation’s Resolution Coordinator. The entire dispute review process is conducted by the Florida Healthy Kids Corporation, the eligibility processor for the Florida KidCare, Title XXI Programs.

(7) “Florida KidCare Informal Dispute Review Process” is the initial contact in writing or telephone to the Florida Healthy Kids Corporation, expressing dissatisfaction with a disputable application or enrollment action.

(8) “Florida KidCare Grievance Committee” or “committee” is the entity responsible for hearing and resolving grievances related to the Florida KidCare Program when all avenues of resolutions through the Florida KidCare Dispute Review Process have been exhausted. For Medicaid eligibility and enrollment grievance issues, families must request a Medicaid Fair Hearing by contacting the Department of Children and Family Services (DCF) as referenced in Rules 65-2.042 to 65-2.066, F.A.C.

(9) “Grievance” means a formal written complaint initiated to challenge an eligibility or enrollment decision only after all other forms of resolution have been exhausted through the Florida KidCare Formal Dispute Review Process.

(10) “Health Services” means the medical benefits provided by an individual’s health care coverage (e.g., hospital services, physician services, prescription drugs and laboratory services).

(11) “Resolution Coordinator” is the person responsible for supervising the dispute review process and preparing a written response to the complainant explaining the Florida Healthy Kids Corporation or Florida KidCare Dispute Review Process decision regarding eligibility or enrollment.

(12) “Third Party Administrator” is the entity contracted by Florida Healthy Kids Corporation that is responsible for administrative services for the Florida KidCare Program, Title XXI Programs. These administrative services include: eligibility determination, referrals, enrollment, denials, premium processing, customer service, ongoing account maintenance and income and insurance verification.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History–New\_\_\_\_\_.

#### 59G-14.002 Confidentiality.

The Florida Healthy Kids Corporation Dispute Review Process and the Florida KidCare Grievance Review Process shall conform to Section 409.821, F.S., Health Insurance Portability and Accountability Act of 1996, and Title 42, Part 431, Subpart F of the Code of Federal Regulations with respect to confidentiality of information.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History–New\_\_\_\_\_.

#### 59G-14.003 Federal Compliance.

The Florida KidCare Program shall have a process for Program specific review that meets the requirements of 42 CFR ss. 457.1130-457.1180 with respect to Applicant and Enrollee Protections.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History–New\_\_\_\_\_.

#### 59G-14.004 Florida KidCare Dispute Review Process.

(1) The Florida KidCare Dispute Review Process is the means by which the Florida KidCare Program provides a comprehensive review of complaints relating to eligibility, enrollment and health services. The Florida KidCare Dispute Review Process includes an informal and formal dispute review process.

(2) Disputes involve at least one of two topics:

(a) Denial of eligibility; which includes failure to make a timely determination of eligibility and suspension or termination of enrollment, including disenrollment for failure to pay cost sharing.

(b) Health service matters consisting of a delay, denial, reduction, suspension, or termination of health services and failure to approve, furnish, or provide payment for health services in a timely manner.

(3) The Third Party Administrator for the Florida Healthy Kids Corporation determines eligibility for the non-Medicaid components of the Florida KidCare Program. The Florida Healthy Kids Corporation is responsible for reviewing eligibility and enrollment disputes. The Florida Healthy Kids Corporation Resolution Staff is responsible for conducting the Florida KidCare Dispute Review Process.

(4) The Florida KidCare Dispute Review Process is comprised of four review levels addressing the denial of eligibility, failure to make a timely determination of eligibility and suspension or termination of enrollment, including disenrollment for failure to pay the family premium. The Florida Healthy Kids Corporation shall provide information regarding the dispute review process in correspondence to families, making them aware of the existence and availability of the Florida KidCare Dispute Review Process.

(a) "Level One" initiates the informal dispute review for the Florida KidCare Dispute Review Process. The informal dispute review begins when a complainant calls a Florida KidCare customer service representative to discuss his or her dissatisfaction about an eligibility or enrollment decision. The initial contact can also be communicated in writing. The Florida KidCare customer service representative will attempt to clarify or resolve the dispute through the telephone conversation. If the complaint is resolved to the satisfaction of the complainant, no further action will be taken.

(b) If the Florida KidCare customer service representative determines that a dispute cannot be resolved through a telephone conversation, the Florida KidCare customer service representative shall request the complainant forward documentation concerning the dispute to the Florida Healthy Kids Corporation office. All Florida Healthy Kids Corporation customer service representatives and the Florida Healthy Kids Corporation's Third Party Administrator representatives shall offer the complainant a dispute review form to assist them in filing a request for a dispute review. A dispute review form is not mandatory. The complainant can request to dictate to a Florida Healthy Kids Corporation resolution representative any information that is necessary to begin or supplement a formal dispute. During the dictation process, the complainant shall provide the following information to the Florida Healthy Kids Corporation resolution representative: complainant's name, address, family account number, home and work telephone numbers; names of the children involved in the dispute, an explanation of the dispute and the names of other agencies sent a formal dispute about this matter.

(c) A written or e-mail request to begin the formal dispute review process shall be sent by the complainant to the Resolution Coordinator. A request to begin the formal dispute

process must be initiated by a parent, guardian, or another individual listed on the Florida KidCare account as the person authorized to discuss all details of the account.

(d) The Resolution Coordinator shall send written acknowledgement to the complainant within three (3) calendar days after the Florida Healthy Kids Corporation receives a written request to initiate the Florida KidCare Formal Dispute Review Process. The written notification will explain all remaining levels of the Florida KidCare Dispute Review process to the complainant.

(e) If the complainant requests continuation of enrollment pending the completion of the review, the Florida Healthy Kids Corporation Dispute Resolution staff shall take the following steps:

1. Determine whether the complainant requested the continuation of enrollment within ten (10) calendar days of the date of the letter indicating the suspension or termination of his or her child(ren)'s enrollment.

2. If the request was not made within ten (10) calendar days of the date of the letter the complainant received informing him or her of suspension or termination of his or her children's enrollment, the Florida Healthy Kids Corporation Dispute Resolution staff shall inform the complainant in writing of the denial of continuation of enrollment.

3. If the request was made within ten (10) calendar days of the date of the letter the complainant received informing him or her of suspension or termination of his or her child(ren)'s enrollment, the Florida Healthy Kids Corporation Dispute Resolution staff shall take the following action to ensure continuation of enrollment, if the child(ren) meets all other Florida KidCare Program qualifications:

a. Instruct the Third Party Administrator to stop the cancellation of the account or, if the account has already been cancelled, re-open the account back to the first day of the month in which the request for continuation was received.

b. If the dispute concerns an increase in the premium rate, the Third Party Administrator staff shall maintain the premium rate in effect prior to the notification of an increase.

(f) If the complainant's children receive continuation of enrollment pending the completion of the dispute review process, the complainant must be aware of the following conditions:

1. All premium payments must be paid in a timely manner in order to maintain the coverage during the continuation period.

2. If the formal dispute review is resolved in favor of Florida KidCare and not the complainant, the complainant will be legally responsible for paying back all premiums and the costs of services rendered during the continuation period.

(g) Disputes which involve more than one Florida KidCare Program entity shall be immediately referred to the Florida KidCare Grievance Committee. The Resolution Coordinator shall send written notification to the complainant within three

(3) calendar days and copy the relevant Florida KidCare Programs regarding a referral to the Florida KidCare Grievance Committee.

(h) The Resolution Coordinator shall review the complaint and make a determination regarding the complaint. The Resolution Coordinator shall send written notification to the complainant regarding the Level One Dispute Review decision.

(i) Level Two – Formal Dispute Review Process – The complainant can initiate the Level Two Formal Dispute Review Process verbally or in writing. The Resolution Coordinator shall send written notification to the complainant that the complaint has been forwarded to the Florida Healthy Kids Executive Director or a designee for review. The Resolution Coordinator shall also forward all pertinent review documents to the Florida Healthy Kids Executive Director or the designee, who shall render a decision regarding the request. The Florida Healthy Kids Executive Director or designee shall notify the complainant of the decision in writing within twenty (20) calendar days of the referral to the Level Two Formal Dispute Process.

(j) Level Three – Florida Healthy Kids Review Panel – If the complainant is dissatisfied with the decision determined at Level Two of the Florida KidCare Formal Dispute Review Process, the complainant can send a written request to the Florida KidCare Dispute Review Panel to further review the dispute.

(k) The Florida KidCare Dispute Review Panel shall schedule a dispute resolution hearing between the dispute review committee members and the complainant within thirty (30) calendar days from the date of the request. Florida Healthy Kids Corporation shall schedule a hearing in the complainant's county of residence. The hearing shall be professionally transcribed. The Florida Healthy Kids Corporation shall be responsible for providing the transcriber. The complainant can waive the right to appear at the hearing. If the complainant waives the right to appear in-person at the hearing, the hearing shall be conducted at the Florida Healthy Kids Corporation Offices in Tallahassee, Florida. Members of the Dispute Review Panel may participate in either hearing via a telephone conference call.

(l) The Florida Healthy Kids Corporation Executive Director or designee shall consider all complainant requests for assistance and respond to each on a case-by-case basis (e.g., reimbursement for parking, requests for a translator, etc.).

(m) The Florida Healthy Kids Corporation Dispute Review Panel shall consist of three (3) voting members appointed by the Florida Healthy Kids Corporation's Executive Director. The voting members shall consist of two (2) Florida Healthy Kids Corporation Board members chosen based on accessibility or availability for the dispute resolution hearing and one of these members shall serve as the Chair. A Consumer Representative shall be appointed from an entity

that assists families with health care or eligibility issues. The Florida Healthy Kids Corporation Corporate Counsel or, if the Corporate Counsel is not available, the Florida Healthy Kids Corporation General Counsel shall serve as an advisor to the Dispute Review Panel.

(n) The following applies to the Dispute Resolution hearing:

1. The complainant shall be given an adequate opportunity to examine the contents of the Dispute Review file and all other relevant documents and records prior to the hearing. The complainant can request and receive a complete copy of the materials provided to the Dispute Review Panel members prior to the hearing at no charge.

2. The complainant can represent themselves at the hearing or be assisted by a representative.

3. Complainants shall provide the names of any additional attendees (and their affiliations) they would like to have present at the hearing to the Resolution Coordinator in advance to be added to the hearing agenda.

(o) The Dispute Review Panel shall make a decision to approve or deny the complainant's dispute. The Resolution Coordinator shall notify the complainant of the Dispute Review Panel's decision in writing within ten (10) calendar days of the hearing.

(p) "Level Four" – Appeal to the Florida Healthy Kids Corporation Board – If the complainant is not satisfied with the Florida Healthy Kids Corporation Dispute Review Panel's decision, the complainant can request a review of the decision by the Florida Healthy Kids Corporation Board of Directors at its next regularly scheduled meeting. The complainant must submit a written statement and supporting documentation with the record of the Dispute Review hearing. No verbal testimony will be considered. The Board of Directors shall take one of three actions:

1. Accept the Dispute Review Panel's decision. This acceptance will be considered final for this segment of the review process;

2. Modify the Dispute Review Panel's decision. All modifications will be considered final for this segment of the review process; or

3. Send the dispute back to the Dispute Review Panel for further review as specifically directed by the Board of Directors.

(q) The Resolution Coordinator will prepare a final report comprising all information concerning the dispute review process to the Florida Healthy Kids Corporation Executive Director and Board of Directors. The Resolution Coordinator shall notify the complainant of the Florida Healthy Kids Corporation Board of Director's decision in writing within ten (10) calendar days of the Florida Healthy Kids Corporation Board meeting. The written notification from the Florida

Healthy Kids Corporation Board regarding the Board's decision shall also notify the complainant of the Florida KidCare Grievance Process.

(r) If a complainant is dissatisfied with the decision made at Level Four of the Florida KidCare Program Dispute Review and if the Florida KidCare Program Dispute Review Process has been completed, a grievance can be filed with the Florida KidCare Grievance Committee.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History--New.

#### 59G-14.005 Florida KidCare Grievance Committee.

(1) The Florida KidCare Grievance Committee shall review and resolve grievances related to the Florida KidCare Program when all four levels of resolution through the Florida KidCare Dispute Review Process have been completed. Grievances heard by the Florida KidCare Grievance Committee shall include eligibility and enrollment matters relating to Florida Healthy Kids, MediKids or the Children's Medical Services Network. Grievances involving more than one Florida KidCare Program will also be addressed by this committee. Disputes involving more than one Florida KidCare partner shall be immediately referred to the KidCare Grievance Committee. The following provisions apply to the Florida KidCare Grievance Committee:

(a) The Florida KidCare Grievance Committee consists of one representative from each of the following Florida KidCare partners, appointed by their respective agency. The fifth representative shall be the Project Director (or designee) of the Florida Covering Kids and Family Coalition.

1. Agency for Health Care Administration – (MediKids)

2. Department of Children and Family Services – (Medicaid for Children).

3. Department of Health – (Children's Medical Services Network).

4. Florida Healthy Kids Corporation – (Healthy Kids).

5. A representative of the Florida Covering Kids and Family Coalition.

(b) The Agency for Health Care Administration's representative shall serve as the committee chair. The committee members shall select a co-chair, who will serve as the chair in the absence of the Agency's representative.

(c) Staff from the Agency for Health Care Administration will serve as the administrative staff for the Florida KidCare Grievance Committee. The duties and responsibilities of the administrative staff include: evaluating the Florida KidCare Dispute Review procedures to determine if the complaint was properly resolved for each grievance presented for the committee's review; preparation of grievance committee correspondence and documents; preparation and distribution of grievance committee minutes; and provision of all necessary information, including the grievance committee's final decision to all contributing parties.

(d) The committee shall meet the second Monday of each month. The committee shall not meet if there are no pending grievances. Additional meetings to resolve a grievance will be scheduled, as needed. If further documentation is necessary for the committee to reach a decision, the complainant will be notified in writing. When a grievance decision is rendered by the committee, the complainant will be notified in writing within ten (10) calendar days.

(e) All committee members are required to be present or participate by telephone conference call on grievance decisions. Grievance review documents will be provided to committee members prior to committee meetings. If a committee member is not available to attend the committee meeting, a designated representative authorized to vote on behalf of the respective agency may participate as a substitute member. Anyone requiring special accommodations to participate in the committee meetings is asked to advise the Florida KidCare Grievance Committee administrative staff one week in advance of the day of the scheduled committee meeting.

(f) Unless otherwise specified, committee meetings will be held in Tallahassee at the Agency for Health Care Administration's headquarters offices. It is not mandatory for the grievant to be a participant at the grievance meeting(s). The grievant or authorized representative may attend the grievance committee meeting(s) at their own expense. If it is inconvenient for the grievant or representative to travel to the grievance committee meeting, the Agency for Health Care Administration staff will arrange for the grievant to participate by telephone conference call from the area Medicaid office closest to the grievant's place of residence.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History--New.

#### 59G-14.006 Florida KidCare Grievance Procedures.

(1) If the grievant is dissatisfied with the action taken by the Florida Healthy Kids Board of Directors, the grievant can submit a written request for the Florida KidCare Grievance Committee to review the grievance. The grievant's written request must be submitted to the Agency for Health Care Administration within ten (10) calendar days of the date appearing on the Florida KidCare Dispute Review Level Four final decision notice. In the event a grievant is unable to submit a request in writing, assistance will be provided by the Agency for Health Care Administration staff. If the request is not received within ten (10) calendar days, the Florida KidCare Grievance Committee reserves the right to decline the request. All grievances must be sent to: Florida KidCare Grievance Committee, Bureau of Medicaid Services, 2727 Mahan Drive, MS #20, Tallahassee, FL 32308.

(2) When the written grievance request is received, the Agency for Health Care Administration staff will send a letter of acknowledgement to the grievant explaining the procedures

of the grievance process within five (5) calendar days of receipt of the request for a grievance. The acknowledgement letter will include: the Florida KidCare Formal Grievance Form, AHCA Med-Serv Form 009, August 2007, one page; an Appointment of Representation Form, AHCA Med-Serv Form 017, August 2007; and the Authorization for the Use and Disclosure of Protected Health Information Form, AHCA Med-Serv Form 018, August 2007 which are incorporated by reference. In the event a grievance is submitted by someone other than the custodial parent or legal guardian, the Agency for Health Care Administration staff shall require the custodial parent or legal guardian to complete the forms referenced in this paragraph.

(3) The Agency for Health Care Administration staff will review the grievance and determine if the Florida Healthy Kids Corporation used appropriate measures as outlined in this rule when conducting the Dispute Review Process. When necessary, the relevant Florida KidCare partner of coverage will be contacted and asked to provide information associated with the case. If the initial eligibility or enrollment decision is correct and the Florida Healthy Kids Corporation followed the dispute review process outlined in this rule, the complainant will be notified in writing that the decision determined during the Florida KidCare Dispute Review Process shall remain unchanged.

(4) If it is determined that further remedy is warranted, the committee shall be required to hear the grievance. The committee shall discuss the grievance at its next regularly scheduled monthly meeting.

(5) The committee members will review all pertinent information prior to the scheduled meeting. During the scheduled meeting the committee members will discuss and assess the grievance and any supplemental information provided. The following considerations apply to the Florida Grievance Review Process:

(a) The grievant shall be given an adequate opportunity to examine the contents of the Florida KidCare Dispute Review file and all other relevant documents and records prior to the Florida KidCare Grievance Committee meeting. The grievant can request and receive a complete copy of the materials provided to the Florida KidCare Grievance Committee prior to the meeting at no charge.

(b) The grievant can represent themselves at the grievance meeting or be assisted by an authorized representative.

(c) The grievant shall be asked to provide the names and affiliations of any additional attendees he or she would like to have present during the grievance meeting prior to the scheduled grievance meeting.

(6) The committee members will verbally vote to render a decision. The committee's decision shall be based on a majority vote. The decision of the committee is final and all KidCare partners will abide by such decision. The grievant will

be notified in writing of the committee's decision within ten (10) calendar days of the Florida KidCare Grievance Committee meeting.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History--New\_\_\_\_\_.

59G-14.007 Health Services Complaints and Disputes.

(1) Health services complaints involve delay, denial, reduction, or termination of health services or payment for receipt of health services. When a health care service complaint warrants an expedited time frame, the relevant Florida KidCare Program shall be responsible for ensuring the review is conducted within the time frames outlined in 42 CFR s. 457.1160 (b) (2).

(2) Each Florida KidCare Program entity has developed their own particular process for resolving health service complaints and disputes.

(a) Florida Healthy Kids Corporation – The Resolution Coordinator shall contact the health services provider and request that the health services provider accept the complainant's written request to Florida Healthy Kids Corporation regarding a dispute as the initial step in the health services provider's dispute review process. With the complainant's consent, the Resolution Coordinator will forward any pertinent information to the health services provider. The Resolution Coordinator shall request the health services provider to respond to the complainant's dispute request in accordance with the time frames stated in its complaint or grievance process and 42 CFR s. 457.1160. The Resolution Coordinator shall follow up with the health services provider within twenty (20) calendar days of receipt of the complainant's dispute request to confirm appropriate action has been taken. The health services provider's action shall be documented including the date and time any action was taken.

(b) MediKids – The MediKids policy staff will refer the complainant to the appropriate health care provider for resolution of the dispute; or if the complainant requests, the MediKids policy staff will make a referral to the appropriate health care provider. When the complainant's child(ren) is enrolled in a managed care organization, the complainant will be referred to the managed care organization for resolution of the dispute. When the complainant's child(ren) is enrolled with a MediPass provider, the complainant will be referred to the area Medicaid office for assistance with the dispute process. The MediKids staff shall request the health services provider respond to the complainant's dispute request in accordance with the time frames stated in the providers complaint or grievance process and 42 CFR s. 457.1160.

(c) Children Medical Services Network – The Children's Medical Services Network staff will refer health services complaints to the relevant Children's Medical Service area office Nursing Director. The Children's Medical Services

Network staff shall request that the complainant's dispute request is completed in accordance with the time frames stated in 42 CFR s. 457.1160.

Specific Authority 409.818 FS. Law Implemented 409.818 FS. History--New \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
Angela Wiggins  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Andrew Agwunobi, M.D., Secretary  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 27, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: November 3, 2006

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: 61G19-6.012  
RULE TITLE: Provisional Certificates  
PURPOSE AND EFFECT: The proposed rule amendment provides clarifying language and increases the maximum time period which a provisional certification applicant may perform certain duties.

SUMMARY: The Board's proposed the amendment increases the time period in which a provisional certification applicant may perform certain duties.

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

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

SPECIFIC AUTHORITY: 468.606, 468.609(7) FS.  
LAW IMPLEMENTED: 468.609(7) FS.  
IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE SCHEDULED AND ANNOUNCED IN THE FAW.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT FOR THE PROPOSED RULE IS:

61G19-6.012 Provisional Certificates.

- (1) No change.
- (2) Provisional certificates are not renewable, and are valid for the following terms:
  - (a) Three years for inspectors.
  - (b) Three years for plans examiners.

(c) Three years for building code administrators or building.

(3) through (5) No change.

(6) Following the submission of an application for provisional certification as either an inspector or plans examiner, the applicant shall be eligible to perform duties in the category for which the application has been submitted for up to a maximum of one hundred twenty (120) ninety (90) days from the application is submitted, and subject to the following condition:

(a) through (b) No change.

(c) Prior to beginning the performance of duties under this exception, ~~all~~ applicants for plans examiner and inspector shall provide the building code administrator for the agency which employs them a copy of the completed application for provisional certification submitted to the Board by the applicant.

(d) Upon being notified that he or she has been determined by the Board to be not qualified for a provisional certificate in the category sought, an applicant shall immediately cease performing duties as a plans examiner or building code inspector under this exception.

Specific Authority 486.606, 468.609(7) FS Law Implemented 468.609(7) FS History--New 5-23-94, Amended 5-21-95, 8-28-95, 12-6-95, 1-3-96, 2-23-99, 4-30-01, \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: April 17, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 7, 2007

**DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION**

**Building Code Administrators and Inspectors Board**

RULE NO.: 61G19-6.017  
RULE TITLE: One and Two Family Dwelling Inspector Certification

PURPOSE AND EFFECT: The proposed rule amendment clarifies the eligibility requirements for One and Two Family Dwelling Inspector Certification.

SUMMARY: The rule amendment clarifies the qualification requirements for certification as an One and Two Family Dwelling Inspector.

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

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

SPECIFIC AUTHORITY: 468.606 FS.

LAW IMPLEMENTED: 468.609(2), (7) FS.

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

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Robyn Barineau, Executive Director, Building Code Administrators and Inspectors Board, 1940 North Monroe Street, Tallahassee, Florida 32399-0750

THE FULL TEXT OF THE PROPOSED RULE IS:

61G19-6.017 One and Two Family Dwelling Inspector Certification.

(1) No change.

(2) Applicants for standard or provisional certification in this category must meet the eligibility requirements according to one of the following criteria:

(a) Five years' experience as a registered or certified state general, building, or residential contractor in a ~~managerial~~ or supervisory capacity that included operational control and direction of building, mechanical, electrical, and plumbing personnel or subcontractors on residential projects; or

(b) Five years' experience as a job superintendent or project manager in a ~~managerial~~ or supervisory capacity that included operational control and direction of building, mechanical, electrical, and plumbing personnel or subcontractors on residential projects; or

(c) through (d) No change.

(e) A combination of postsecondary education in the field of construction or a related field and experience in the category sought which totals four years, with at least one year of such total being experience in the category sought in construction, building code inspection, or plans review; or

(f) A combination of technical education in the field of construction or a related field and experience in the category sought which totals four years, with at least one year of such total being experience in the category sought in construction, building code inspection, or plans review; or

(g) No change.

Specific Authority 468.606 FS Law Implemented 468.609(2), (7) FS History New 2-28-02, Amended.

NAME OF PERSON ORIGINATING PROPOSED RULE: Building Code Administrators and Inspectors Board

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Building Code Administrators and Inspectors Board

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: June 5, 2007

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

**Division of Medical Quality Assurance**

RULE NO.: 64B-3.004 RULE TITLE: Diagnostic Testing

PURPOSE AND EFFECT: The Department wants to eliminate an unnecessary rule.

SUMMARY: The rule being repealed identified those tests that could not be reimbursed from personal injury protection funds.

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

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

SPECIFIC AUTHORITY: 627.736(5) FS.

LAW IMPLEMENTED: 627.736(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: Larry McPherson, Executive Director, 4052 Bald Cypress Way, Bin #C-03, Tallahassee, Florida 32399-3250

THE FULL TEXT OF THE PROPOSED RULE IS:

64B-3.004 Diagnostic Testing.

Specific Authority 627.736(5) FS. Law Implemented 627.736(5) FS. History--New 1-7-04, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Larry McPherson

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lucy Gee

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 1, 2007

**DEPARTMENT OF HEALTH****Board of Medicine**

RULE NO.: 64B8-42.002  
 RULE TITLE: Licensure by Examination  
 PURPOSE AND EFFECT: The Board proposes the rule amendment to clarify the supervised experience hours required.

SUMMARY: The rule amendment will clarify the language concerning the hours of supervised experience required.

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

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

SPECIFIC AUTHORITY: 456.017(1), 468.507 FS.

LAW IMPLEMENTED: 456.027, 468.509 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: Susan Love, Executive Director, Dietetics and Nutrition Council/MQA, 4052 Bald Cypress Way, Bin #C05, Tallahassee, Florida 32399-3255

THE FULL TEXT OF THE PROPOSED RULE IS:

64B8-42.002 Licensure by Examination.

(1) through (2) No change.

(3) A documented and planned supervised practice experience component in dietetic and nutrition practice of not less than 900 hours shall provide the applicant with a broad spectrum of experiences in dietetics and nutrition. Such practice shall include, but not be limited to:

(a) A minimum of 200 hours in Clinical Nutrition (generally acquired in a hospital or other acute care setting) which may include, but not be limited to experiences in: Participating in the

1. Assessment of nutritional status for both complex and uncomplicated medical conditions, and the application of dietary measures for maintenance of health and treatment of disease or trauma;

2. Design and implementation of nutrition care plans.

3. Application of medical nutrition therapy for treatment of disease and trauma.

4. Selection, implementation and evaluation of enteral and parenteral nutrition regimens.

5. Counseling and nutrition education of patients on dietary modifications, including techniques that demonstrate integration of theoretical training, psychological and

behavioral aspects of interpersonal relationships, documentation of appropriate interventions, and proper decision-making.

6. Performance of basic physical assessments, and

7. Quality assurance.

(b) A minimum of 200 hours in Community Nutrition (generally acquired within a community or public health program or HMO) which may include, but not be limited to experiences in: Exposure to a cross-section of patients with varied educational levels and life styles in different cultural, ethnic, and economic settings and the opportunity to provide them relevant nutritional counseling;

1. Screening/assessment of nutritional status of the population or community group, including counseling techniques that demonstrate integration of theoretical training, psychological and behavioral aspects of interpersonal relationships, documentation of appropriate interventions, and proper decision-making.

2. Provision of nutritional care for people of diverse cultures and religions across the lifespan.

3. Development, evaluation or implementation of community – based health promotion program(s).

4. Nutrition surveillance and monitoring of the population or community group.

5. General health assessment, e.g. blood pressure and vital signs.

6. Development and review of educational materials for the target population, and

7. Development of food and nutrition policy for the population or community group.

(c) A minimum of 200 hours in Food Service Systems Management (generally acquired in an institutional or commercial setting) which may include, but not be limited to, experiences in: Participating in and observing food service management such as menu planning, purchasing, quantity food production, food delivery, employee supervision, budgeting and other aspects of food service systems in institutional settings;

1. Menu planning for target populations to meet nutritional guidelines and special dietary needs.

2. Development or modification of recipes or formulas.

3. Purchasing, production and delivery of food in the institutional or commercial setting.

4. Food safety and sanitation.

5. Budgeting.

6. Performance improvement and quality control; customer satisfaction.

7. Marketing.

8. Selection, operation and care of equipment; design and re-design of work units, and

9. Employee training and supervision; human resource functions.

~~(d) Participating in assessment and counseling techniques that demonstrate integration of theoretical training, psychological and behavioral aspects of interpersonal relationships, documentation of appropriate interventions, and proper decision-making.~~

(4) through (5) No change.

Specific Authority 456.017(1), 468.507 FS. Law Implemented 456.027, 468.509 FS. History—New 4-9-89, Amended 11-28-90, 3-24-91, 11-9-92, 5-6-93, Formerly 21M-48.002, Amended 11-4-93, 6-9-94, Formerly 61F6-48.002, Amended 11-12-95, Formerly 59R-42.002, Amended 8-19-99,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Dietetics and Nutrition Council  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Board of Medicine  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: August 10, 2007  
DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: September 14, 2007

**DEPARTMENT OF HEALTH**

**Division of Environmental Health**

RULE NOS.:	RULE TITLES:
64E-5.101	Definitions
64E-5.206	General Licenses - Radioactive Material Other Than Source Material
64E-5.210	Special Requirements for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material
64E-5.216	Reciprocal Recognition of Licenses for Byproduct, Source, Naturally Occurring and Accelerator Produced Radioactive Material, and Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass
64E-5.350	Reports of Transactions Involving Nationally Tracked Sources
64E-5.351	Nationally Tracked Source Thresholds
64E-5.430	Inspection and Maintenance
64E-5.440	Records
64E-5.441	Reporting Requirements
64E-5.11072	Energy Compensation Source
64E-5.1501	Purpose and Scope
64E-5.1502	Transportation of Radioactive Material

PURPOSE, EFFECT AND SUMMARY: All changes described herein are needed to comply with the requirements of Florida’s agreement with the U.S. Nuclear Regulatory Commission (NRC) to regulate radioactive material. As an agreement state, many of Florida’s regulations governing the possession and use of radioactive materials must be identical to the NRC’s regulations for federal radioactive materials licensees. The proposed rule specifies requirements for transportation of radioactive materials; national tracking of certain large radioactive sources; general license device transfers and export requirements; manufacturer or distributors of generally licensed devices requirements; reciprocity recognition of out of state licenses reporting requirements; technical changes in the use of energy compensation sources; and written procedures for inspection and maintenance of industrial radiography equipment.

SPECIFIC AUTHORITY: 404.042, 404.051, 404.051(4), (11), 404.061, 404.061(2), 404.071, 404.081, 404.081(1), 404.141, 404.20 FS.

LAW IMPLEMENTED: 404.022, 404.031, 404.051, 404.051(1), (2), (4), (6), (8), (9), (10), (11), 404.061, 404.061(2), 404.071(1), (3), 404.081, 404.081(1), 404.141, 404.20, 404.20(1), 404.22 FS.

THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Michael N. Stephens, (Mike\_Stephens@doh.state.fl.us) Environmental Health Program Consultant, Bureau of Radiation Control, Bin C21, 4052 Bald Cypress Way, Tallahassee, Florida 32399-1741

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULES IS:

**PART I  
GENERAL PROVISIONS**

64E-5.101 Definitions.

As used in these rules, these terms have the definitions set forth below. Additional definitions used only in a certain part are defined in that respective part.

(1) through (78) No change.

(79) “Low specific activity material (LSA)” means that as defined in 49 C.F.R. 173.403, any of the following:

~~(a) Uranium or thorium ores and physical or chemical concentrates of these ores;~~

~~(b) Unirradiated natural or depleted uranium or unirradiated natural thorium;~~

~~(c) Tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries (185 MBq) per milliliter;~~

~~(d) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration of contents does not exceed:~~

~~1. 0.0001 millicurie (3.7 kBq) per gram of radionuclides for which the A<sub>2</sub> quantity is not more than 0.05 curie (1.85 GBq);~~

~~2. 0.005 millicurie (185 kBq) per gram of radionuclides for which the A<sub>2</sub> quantity is more than 0.05 curie (1.85 GBq), but not more than 1 curie (37 GBq); or~~

~~3. 0.3 millicurie (11.1 MBq) per gram of radionuclides for which the A<sub>2</sub> quantity is more than 1 curie (37 GBq).~~

~~(e) Objects externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of 1 square meter, does not exceed 0.0001 millicurie (3.7 kBq) per square centimeter for radionuclides of which the A<sub>2</sub> quantity in Appendix A is not more than 0.05 curie (1.85 GBq), or, for all other radionuclides, 0.001 millicurie (37 kBq) per square centimeter.~~

(80) through (99) No change.

(100) "Package" means that as defined in 49 C.F.R. 173.403 the packaging, together with its radioactive contents, as presented for transport.

(101) through (121) No change.

(122) "Radiographic exposure device" means any instrument containing a sealed source, fastened or contained therein, in which the sealed source or shielding thereof may be moved, or otherwise changed from a shielded position to an unshielded position for the purpose of making that is used to make a radiographic exposure. It also is known as a camera or a projector.

(123) through (132) No change.

(133) "Sealed source" means radioactive material that is permanently bonded or fixed in a capsule ~~or matrix~~ designed to prevent release and dispersal of the radioactive material under the most severe conditions which are likely to be encountered in normal use and handling.

(134) through (193) No change.

(194) "Nationally tracked source" means a sealed source containing a quantity equal to or greater than Category 1 or Category 2 levels of any radioactive material listed in Rule 64E-5.351, F.A.C. In this context a sealed source is defined as radioactive material that is sealed in a capsule or closely bonded, in a solid form, and which is not exempt from regulatory control. It does not mean material encapsulated solely for disposal, or nuclear material contained in any fuel assembly, subassembly, fuel rod, or fuel pellet. Category 1 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 1

threshold. Category 2 nationally tracked sources are those containing radioactive material at a quantity equal to or greater than the Category 2 threshold but less than the Category 1 threshold.

Specific Authority 404.042, 404.051, 404.061 FS. Law Implemented 404.031, 404.051, 404.061, 404.20, 404.22, FS. History--New 7-17-85, Amended 4-4-89, 5-12-93, 1-1-94, 5-15-96, Formerly 10D-91.102, Amended 5-18-98, 10-8-00, 8-6-01, 9-11-01, 12-18-01, 9-28-06, 8-16-07, \_\_\_\_\_.

PART II

LICENSING OF RADIOACTIVE MATERIALS

SUBPART B

GENERAL LICENSES

64E-5.206 General Licenses – Radioactive Material Other Than Source Material.

(1) through (3) No change.

(4) Certain Measuring, Gauging and Controlling Devices.

(a) No change.

(b)1. The general license in paragraph (4)(a), above, applies only to radioactive material contained in devices which have been manufactured or initially transferred and labeled in accordance with the specifications contained in a specific license issued by the Department pursuant to subsection 64E-5.210(4), F.A.C., or in accordance with the specifications contained in a specific license issued by the ~~NRC U.S. Nuclear Regulatory Commission~~, an Agreement State or a Licensing State, which authorizes distribution of devices to persons granted a general license by the ~~NRC U.S. Nuclear Regulatory Commission~~, an Agreement State or a Licensing State. Regulations under the Federal Food, Drug, and Cosmetic Act authorizing the use of radioactive control devices in food production require certain additional labeling thereon which is found in Section 179.21 of 21 C.F.R. Part 179.

2. No change.

(c) Any person who owns, receives, acquires, possesses, uses, or transfers radioactive material in a device pursuant to the general license in paragraph (4)(a), above;

1. through 3. No change.

4. Shall maintain records showing compliance with the requirements of subparagraphs (4)(c)2. and 3., above. The records shall show the results of tests. The records also shall show the dates of performance of, and the names of persons performing testing, installation, servicing and removal from installation concerning the radioactive material, its shielding or containment. Records of tests for leakage of radioactive material required by subparagraph (4)(c)2., above, shall be maintained for at least ~~three~~ three years after the next required leak test is performed or until the transfer or disposal of the sealed source. Records of tests of the on-off mechanism and indicator required by subparagraph (4)(c)2., above, shall be maintained for at least ~~three~~ three years after the next required test of the on-off mechanism and indicator is performed or until the

sealed source is transferred or disposed. Records which are required by subparagraph (4)(c)3., above, shall be maintained for a period of at least three ~~2~~ years from the date of the recorded event or until the transfer or disposal of the device;

5. through 6. No change.

7. Except as provided in subparagraph (4)(c)8., below, shall transfer or dispose of the device containing radioactive material only by export as provided by subparagraph 15. below, transfer to a specific licensee of the Department, the ~~NRC U.S. Nuclear Regulatory Commission~~, an Agreement State or a Licensing State, whose specific license authorizes him to receive the device, and within 30 days after transfer of a device to a specific licensee, shall furnish to the Department a report containing identification of the device by manufacturer's or initial transferor's name and model number and serial number, the name, address, license number, where applicable, of the person receiving the device, and the date of the transfer;

8. Shall transfer the device by export as provided by paragraph 15 below, or to another general licensee only:

a. Where the device remains in use at a particular location. In such case the transferor shall give the transferee a copy of this section, a copy of Rules 64E-5.103, 64E-5.~~343328~~, and 64E-5.~~344329~~, F.A.C., and any safety documents identified in the label on the device and within 30 days of the transfer, report to the Department the manufacturer's or initial transferor's name and model number and serial number of device transferred, the transferor's name and mailing address for the location of use, and the name, title and phone number of the responsible individual identified by the transferee in accordance with subparagraph 64E-5.206(4)(c)11., F.A.C., to have knowledge of and authority to take actions to ensure compliance with these regulations; or

b. Where the device is held in storage in the original shipping container at its intended location of use prior to initial use by a general licensee; and

9. No change.

10. Shall be required to obtain written Department authorization before transferring the device to any other specific license not specifically identified in subparagraph 64E-5.206(4)(c)7., F.A.C. The Department authorization is granted provided the specific license identifies the device.

11. through 12. No change.

13. Shall report to the Department changes in the general licensee name and the mailing address for each location ~~of~~ use within 30 days of the effective date of the change. For a portable device, a report of address change is required for a change in the device's primary place of storage.

14. ~~Shall May~~ not hold devices that are not in use longer than 2 years. If the devices with shutters are not being used, the shutters must be locked in the closed position. The testing required by subparagraph 64E-5.206(4)(c)2., F.A.C., need not be performed during the period of storage only. However,

when devices are put back into service or transferred to another person, and have not been tested within the required test interval, they must be tested for leakage before use or transfer and the shutter tested before use. Devices kept in standby for future use are excluded from the two year time limit if the general licensee performs physical inventories at intervals not to exceed three months while they are in standby.

(d) through (e) No change.

15. Shall not export the device containing radioactive material except in accordance with 10 C.F.R. Part 110:

16. Shall respond to written requests from the Department to provide information relating to the general license within 30 calendar days of the date of the request, or other time specified in the request. If the general licensee cannot provide the requested information within the allotted time, it shall, within that same time period, request a longer period to supply the information by providing the Department, a written justification for the request for extension of time.

Specific Authority 404.051, 404.061, 404.071, 404.081 FS. Law Implemented 404.022, 404.051(1), (4), (6), (8), (9), (10), (11), 404.061(2), 404.071(1), (3), 404.081(1), 404.141 FS. History--New 7-17-85, Amended 4-4-89, 1-1-94, Formerly 10D-91.306, Amended 9-28-06,\_\_\_\_\_.

#### SUBPART C SPECIFIC LICENSES

64E-5.210 Special Requirements for a Specific License to Manufacture, Assemble, Repair or Distribute Commodities, Products or Devices Which Contain Radioactive Material.

(1) through (3) No change.

(4) Licensing the Manufacture and Distribution of Devices to General Licensees Under subsection 64E-5.206(4), F.A.C.

(a) through (c) No change.

(d) If a device containing radioactive material is transferred for use under the general license described in subsection 64E-5.206(4), F.A.C., each person that is licensed under subsection 64E-5.210(4), F.A.C., shall provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to the initial transfer to the intermediate person. The required information includes the following:

1. A copy of the general license contained in subsection 64E-5.206(4); subparagraphs 64E-5.206(4)(c)2., 3., and 4. or subparagraph 64E-5.206(4)(c)12., F.A.C., do not apply to the particular device, those paragraphs may be omitted;

2. A copy of Rules 64E-5.103, 64E-5.~~343328~~, and 64E-5.~~344329~~, F.A.C.;

3. through 5. No change.

(e) If a device containing radioactive material is transferred for use under an equivalent general license of an Agreement State or the ~~NRC U.S. Nuclear Regulatory Commission~~, each person that is licensed under subsection 64E-5.210(4), F.A.C., shall provide the information specified in this section to each person to whom a device is to be transferred. This information must be provided before the device may be transferred. In the case of a transfer through an intermediate person, the information must also be provided to the intended user prior to the initial transfer to the intermediate person. The required information includes the following:

1. A copy of the Agreement States or ~~NRC U.S. Nuclear Regulatory Commission~~ equivalent to Rules 64E-5.103, 64E-5.343328, and 64E-5.344329, F.A.C. If a copy of the ~~NRC U.S. Nuclear Regulatory Commission~~ regulations is provided to a prospective general licensee in lieu of the Agreement State's regulations, it shall be accompanied by a note explaining that the use of the device is regulated by the Agreement State. If certain parts of the regulations do not apply to the particular device, those regulations may be omitted;

2. through 4. No change.

(f) through (h) No change.

(i) Each person licensed under subsection 64E-5.210(4), F.A.C., shall comply with the following additional reporting and record keeping requirements for transfers and receipt of devices to Agreement States, Licensing States, or the NRC.

1. Report all transfers of devices to persons for use under the general license in an Agreement State, Licensing State, or the NRC, that are equivalent to subsection 64E-5.206(4), F.A.C., and all receipts of devices from persons licensed under a general license in Agreement State, Licensing State, or the NRC jurisdiction to the responsible Agreement State, Licensing State, or the NRC agency. This report must contain all of the information described in "Transfers of Industrial Devices Report 04/2007."

2. through 6. No change.

7. If no transfers have been made to or from a particular Agreement State, Licensing State, or the NRC during the reporting period, this information shall be reported to the responsible Agreement State, Licensing State, or the NRC agency upon request of the agency.

8. No change.

(j) No change.

(5) through (14) No change.

(15) Each licensee who manufactures a nationally tracked source after February 6, 2007 shall assign a unique serial number to each nationally tracked source. Serial numbers must be composed only of alpha-numeric characters.

Specific Authority 404.051, 404.061, 404.071, 404.081, 404.141 FS. Law Implemented 404.022, 404.051, 404.061, 404.081, 404.141 FS. History--New 7-17-85, Amended 8-25-91, 5-12-93, 1-1-94, 5-15-96, Formerly 10D-91.311, Amended 8-6-01, 9-28-06, 8-16-07, \_\_\_\_\_.

SUBPART D  
RECIPROCITY

64E-5.216 Reciprocal Recognition of Licenses for Byproduct, Source, Naturally Occurring and Accelerator Produced Radioactive Material, and Special Nuclear Material in Quantities Not Sufficient to Form a Critical Mass.

(1) Subject to these regulations, any person who holds a specific license from the ~~NRC U.S. Nuclear Regulatory Commission~~, an Agreement State or a Licensing State and issued by the agency having jurisdiction where the licensee maintains an office for directing the licensed activity and at which radiation safety records are normally maintained, will be granted a general license by the Department to conduct the activities authorized in such licensing document within the State of Florida, except for areas of exclusive federal jurisdiction, for a period not in excess of 365 consecutive days provided that:

(a) through (d) No change.

(e) Any licensee using or storing radioactive material at any location not listed on the license for a period in excess of 180 days in a calendar year, shall notify the Department with the information listed in paragraph 64E-5.216(1)(b), F.A.C., prior to exceeding the 180 days.

(2) through (3) No change.

Specific Authority 404.051(4), (11), 404.061(2), 404.081(1), 404.141 FS. Law Implemented 404.051(1), (2), (4), (6), (11), 404.061(2), 404.081(1) FS. History--New 7-17-85, Amended 4-4-89, Formerly 10D-91.321, Amended 10-8-00, \_\_\_\_\_.

PART III  
STANDARDS FOR PROTECTION AGAINST RADIATION  
SUBPART L  
REPORTS

64E-5.350 Reports of Transactions Involving Nationally Tracked Sources.

Each licensee who manufactures, transfers, receives, disassembles, or disposes of a nationally tracked source shall complete and submit to the NRC a National Source Tracking Transaction Report as specified in paragraphs (1) through (5) of this section for each type of transaction.

(1) Each licensee who manufactures a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source;

(d) The radioactive material in the source;

(e) The initial source strength in becquerels (curies) at the time of manufacture; and

(f) The manufacture date of the source.

(2) Each licensee that transfers a nationally tracked source to another person shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name and license number of the recipient facility and the shipping address;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The shipping date;

(i) The estimated arrival date; and

(j) For nationally tracked sources transferred as waste under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification of the container with the nationally tracked source.

(3) Each licensee that receives a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The name, address, and license number of the person that provided the source;

(d) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(e) The radioactive material in the source;

(f) The initial or current source strength in becquerels (curies);

(g) The date for which the source strength is reported;

(h) The date of receipt; and

(i) For material received under a Uniform Low-Level Radioactive Waste Manifest, the waste manifest number and the container identification with the nationally tracked source.

(4) Each licensee that disassembles a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The manufacturer, model, and serial number of the source or, if not available, other information to uniquely identify the source;

(d) The radioactive material in the source;

(e) The initial or current source strength in becquerels (curies);

(f) The date for which the source strength is reported;

(g) The disassemble date of the source.

(5) Each licensee who disposes of a nationally tracked source shall complete and submit a National Source Tracking Transaction Report. The report must include the following information:

(a) The name, address, and license number of the reporting licensee;

(b) The name of the individual preparing the report;

(c) The waste manifest number;

(d) The container identification with the nationally tracked source.

(e) The date of disposal; and

(f) The method of disposal.

(6) The National Source Tracking Transaction Report discussed in subsections (1) through (5) of this section must be submitted to the NRC by the close of the next business day after the transaction. A single report may be submitted for multiple sources and transactions. The reports must be submitted to the National Source Tracking System by using:

(a) The on-line National Source Tracking System;

(b) Electronically using a computer-readable format;

(c) By facsimile;

(d) By mail to the address on the NRC Form 748 National Source Tracking Transaction Report Form; or

(e) By telephone with followup by facsimile or mail.

(7)(a) Each licensee shall correct any error in previously filed reports or file a new report for any missed transaction within 5 business days of the discovery of the error or missed transaction. Such errors may be detected by a variety of methods such as administrative reviews or by physical inventories required by regulation.

(b) In addition, every year each licensee shall reconcile the inventory of nationally tracked sources possessed by the licensee against that licensee's data in the National Source Tracking System. The reconciliation must be conducted during the month of January in each year. The reconciliation process must include resolving any discrepancies between the National Source Tracking System and the actual inventory by filing the reports identified by paragraphs (1) through (5) of this section. In order to reconcile each transaction, the licensee shall file a report for missed transactions or file a corrected report for previously submitted reports containing inaccuracies. By January 31 of each year, each licensee must submit to the National Source Tracking System confirmation that the data in the National Source Tracking System is correct.

(8) Each licensee that possesses Category 1 nationally tracked sources shall report its initial inventory of Category 1 nationally tracked sources to the National Source Tracking System by January 31, 2009 or as specified in 10 C.F.R. 20.2207(h), whichever is the latest. Each licensee that possesses Category 2 nationally tracked sources shall report its initial inventory of Category 2 nationally tracked sources to the National Source Tracking System by January 31, 2009 or as specified in 10 C.F.R. 20.2207(h), whichever is the latest. The information may be submitted by using any of the methods identified by paragraphs (6)(a) through (6)(e) of this section. The initial inventory report must include the following information:

- (a) The name, address, and license number of the reporting licensee;
- (b) The name of the individual preparing the report;
- (c) The manufacturer, model, and serial number of each nationally tracked source or, if not available, other information to uniquely identify the source;
- (d) The radioactive material in the sealed source;
- (e) The initial or current source strength in becquerels (curies); and
- (f) The date for which the source strength is reported.

Specific Authority 404.051, 404.081 FS. Law Implemented 404.022, 404.051, 404.081 FS. History—New \_\_\_\_\_.

64E-5.351 Nationally Tracked Source Thresholds.

The nationally tracked source thresholds are listed in table 1 below with the Terabecquerel (TBq) values as the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only and are rounded after conversion.

Table 1

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Actinium-227	20	540	0.2	5.4
Americium-24	60	1,600	0.6	16
Americium-241/Be	60	1,600	0.6	16
Californium-252	20	540	0.2	5.4
Cobalt-60	30	810	0.3	8.1
Curium-244	50	1,400	0.5	14
Cesium-137	100	2,700	1	27
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,200	0.8	22
Plutonium-238	60	1,600	0.6	16
Plutonium-239/Be	60	1,600	0.6	16
Polonium-210	60	1,600	0.6	16
Promethium-147	40,000	1,100,000	400	11,000
Radium-226	40	1,100	0.4	11
Selenium-75	200	5,400	2	54
Strontium-90	1,000	27,000	10	270
Thorium-228	20	540	0.2	5.4
Thorium-229	20	540	0.2	5.4
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81

Specific Authority 404.051, 404.081 FS. Law Implemented 404.022, 404.051, 404.081 FS. History—New \_\_\_\_\_.

PART IV  
RADIATION SAFETY REQUIREMENTS FOR LICENSEES  
AND REGISTRANTS FOR INDUSTRIAL  
RADIOGRAPHIC OPERATIONS  
SUBPART D  
EQUIPMENT CONTROL

64E-5.430 Inspection and Maintenance.

- (1) No change.
- (2) Each licensee or registrant shall have written procedures and perform equipment inspection and maintenance as described below.
  - (a) through (b) No change.

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1) FS. History—New 9-11-01, Amended \_\_\_\_\_.

64E-5.440 Records.

- (1) No change.
- (2) Each licensee or registrant shall maintain the following records until the Department terminates the license or registration requiring the record:
  - (a) through (c) No change.
  - (d) Radiographer certification documents specified in paragraphs 64E-5.434(2)(d)(e)-(f), F.A.C., and verification of certification status;
  - (e) through (h) No change.
- (3) No change.

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1), 404.20 FS. History—New 9-11-01, Amended 9-28-06, \_\_\_\_\_.

64E-5.441 Reporting Requirements.

- (1) through (3) No change.
- (4) Any licensee conducting radiographic operations or storing radioactive material at any location not listed on the license for a period in excess of 180 days in a calendar year, shall notify the Department prior to exceeding the 180 days.

Specific Authority 404.051 FS. Law Implemented 404.022, 404.051(1), (4), 404.081(1) FS. History—New 9-11-01, Amended 9-28-06, \_\_\_\_\_.

PART XI  
RADIATION SAFETY REQUIREMENTS FOR WIRELINE  
SERVICE OPERATIONS  
AND SUBSURFACE TRACER STUDIES  
SUBPART A  
EQUIPMENT CONTROL

64E-5.11072 Energy Compensation Source.

The licensee can use an ECS that is contained within a logging tool or other tool components only if the ECS contains 100 microcuries (3.7 MBq) or less of licensed material.

(1) For well logging applications with a surface casing for protecting fresh water aquifers, use of the ECS is subject only to the requirements specified in Rules 64E-5.1104, 64E-5.1105~~7~~, and 64E-5.1106, F.A.C., above.

(2) No change.

Specific Authority 404.051, 404.061, 404.071, 404.081 FS. Law Implemented 404.022, 404.051(1), (4), (6), 404.061(2), 404.071(1), 404.081(1) FS. History—New 9-28-06, Amended \_\_\_\_\_.

64E-5.1501 Purpose and Scope Transportation of Radioactive Material.

(1) No change.

(2) Determinations and listings of A<sub>1</sub> and A<sub>2</sub> values are found in 10 C.F.R., Part 71, Appendix A, ~~which is herein incorporated by reference and is available from the department.~~

(3) The regulations in this part apply to any licensee authorized by specific or general license issued by the Department to receive, possess, use, or transfer licensed material, if the licensee delivers that material to a carrier for transport, transports the material outside the site of usage as specified in the license, or transports that material on public highways. No provision of this part authorizes possession of licensed material.

(4) Definition of terms used in this part are those listed in 49 C.F.R. and 10 C.F.R. 71.4, except that whenever a definition refers to evaluation or approval by the U.S. Department of Transportation or NRC, and such evaluation or approval is within the jurisdiction of the State of Florida as an Agreement State, the Department shall perform the evaluation or approval.

Specific Authority 404.051, 404.20 FS. Law Implemented 404.022, 404.051(1), (4), (6), (11), 404.20(1) FS. History—New 7-17-85, Amended 5-15-96, Formerly 10D-91.2001, Amended \_\_\_\_\_.

64E-5.1502 Transportation of Radioactive Material.

(1) No change.

(2) Each licensee who transports radioactive material outside of the confines of his facility or other place of use, or who offers radioactive material to a carrier for transport shall:

(a) Comply with the current applicable requirements, appropriate to the mode of transport, of 49 C.F.R. Parts 107, 171-180-173, 177, 383, and 390-397, and 10 C.F.R. Part 71.

(b) through (c) No change.

(d) The licensee shall comply with U.S. Department of Transportation and NRC regulations in the following areas:

1. Packaging, 49 C.F.R. part 173, subparts A, B, and I;

2. Marking and labeling, 49 C.F.R. part 172, subpart D, §§172.400 through 172.407, §§172.436 through 172.441 of subpart E;

3. Placarding, 49 C.F.R. part 172, subpart F, especially §§172.500 through 172.519 and 172.556, and appendices B and C;

4. Accident reporting, 49 C.F.R. part 171, §§171.15 and 171.16;

5. Shipping papers and emergency information, 49 C.F.R. part 172, subparts C and G;

6. Hazardous material employee training, 49 C.F.R. part 172, subpart H;

7. Security plans, 49 C.F.R. part 172, subpart I;

8. Hazardous material shipper/carrier registration, 49 C.F.R. part 107, subpart G;

9. Definitions, 10 C.F.R. 71.4;

10. Transportation of licensed material, 10 C.F.R. 71.5;

11. Exemptions for low level material, 10 C.F.R. 71.14(a);

12. General license, NRC-approved package, 10 C.F.R. 71.17;

13. Previously approved package, 10 C.F.R. 71.19(a) and (b);

14. General license, U.S. Department of Transportation specification container material, 10 C.F.R. 71.20;

15. General license, Use of foreign approved package, 10 C.F.R. 71.21;

16. General license, Fissile material, 10 C.F.R. 71.22;

17. External radiation standards for all packages, 10 C.F.R. 71.47;

18. Assumptions as to unknown properties, 10 C.F.R. 71.83;

19. Preliminary determinations, 10 C.F.R. 71.85;

20. Routine determinations, 10 C.F.R. 71.87;

21. Air transportation of plutonium, 10 C.F.R. 71.88;

22. Opening instructions, 10 C.F.R. 71.89;

23. Advance notification of shipment of irradiated reactor fuel and nuclear waste, 10 C.F.R. 71.97;

24. Quality assurance requirements, 10 C.F.R. 71.101(a), (b), (c), (f) and (g);

25. Quality assurance organization, 10 C.F.R. 71.103;

26. Quality assurance program, 10 C.F.R. 71.105;

27. Exemption of physicians, 10 C.F.R. 71.13;

28. Handling storage and shipping control, 10 C.F.R. 71.127;

29. Inspection tests and operating status, 10 C.F.R. 71.129;

30. Nonconforming materials parts or components, 10 C.F.R. 71.131;

31. Corrective action, 10 C.F.R. 71.13;

- 32. Quality assurances records, 10 C.F.R. 71.135;
- 33. Audits, 10 C.F.R. 71.137;
- 34. Appendix A to Part 71; and
- 35. General license plutonium beryllium special form material.

(e) The licensee shall also comply with U.S. Department of Transportation regulations pertaining to the following modes of transportation:

- 1. Rail, 49 C.F.R. part 174, subparts A through D and K;
- 2. Air, 49 C.F.R. part 175;
- 3. Vessel, 49 C.F.R. part 176, subparts A through F and M;
- and
- 4. Public Highway, 49 C.F.R. part 177 and parts 390 through 397.

(3) If U.S. Department of Transportation regulations are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of the U.S. Department of Transportation specified in subsection (2) of this section to the same extent as if the shipment or transportation were subject to U.S. Department of Transportation regulations. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Department.

Specific Authority 404.051, 404.061, 404.141, 404.20 FS. Law Implemented 404.022, 404.051(1), (4), (6), (11), 404.061(2), 404.141, 404.20(1) FS. History–New 7-17-85, Formerly 10D-91.2003, Amended 10-8-00, 9-28-06,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE:  
William A. Passetti  
NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Lisa Conti  
DATE PROPOSED RULE APPROVED BY AGENCY HEAD: October 2, 2007

**DEPARTMENT OF HEALTH**

**Division of Family Health Services**

RULE NO.: 64F-1.0015  
RULE TITLE: Materials Incorporated by Reference  
PURPOSE, EFFECT AND SUMMARY: This rule adopts and incorporates by reference federal regulations governing the Special Supplemental Food Program for Women, Infants and Children.  
SPECIFIC AUTHORITY: 383.011(2)(b), 120.54(6) FS.  
LAW IMPLEMENTED: 383.011(2)(b) FS.  
THIS RULEMAKING IS UNDERTAKEN PURSUANT TO SECTION 120.54(6), F.S. WRITTEN COMMENTS MAY BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO: Julia P. Forrester, Assistant General Counsel, Department of Health, 4052 Bald Cypress Way, Bin #A-02, Tallahassee, FL 32399-1703

SUBSTANTIALLY AFFECTED PERSONS MAY WITHIN 14 DAYS OF THE DATE OF THIS NOTICE, FILE AN OBJECTION TO THIS RULEMAKING WITH THE AGENCY. THE OBJECTION SHALL SPECIFY THE PORTIONS OF THE PROPOSED RULE TO WHICH THE PERSON OBJECTS AND THE SPECIFIC REASONS FOR THE OBJECTION.

THE FULL TEXT OF THE PROPOSED RULE IS:

64F-1.0015 Materials Incorporated by Reference.  
Title 7 Code of Federal Regulations Part 246 and Title 7 Code of Federal Regulations Parts 3015 and 3016, as published in the January 2007 edition of the Code of Federal Regulations are hereby adopted and incorporated by reference. A copy of these portions of the federal regulations can be located at <http://www.gpoaccess.gov/cfr/index.html> or can be obtained from the Department of Health, Bureau of WIC and Nutrition Services, 4052 Bald Cypress Way, Bin #A-16, Tallahassee, Florida 32399-1726.

Specific Authority 383.011(2)(b), 120.54(6) FS. Law Implemented 383.011(2)(b) FS. History–New\_\_\_\_\_.

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE NO.: 69O-137.001  
RULE TITLE: Annual and Quarterly Reporting Requirements

PURPOSE AND EFFECT: Annual and Quarterly Reporting Requirements

SUMMARY: To adopt the 2007 NAIC Quarterly and Annual Statement Instructions and NAIC’s Accounting Practices and Procedures Manual, as permitted by Section 624.424, F.S.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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), 624.424(1) FS.

LAW IMPLEMENTED: 624.424(1) 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: November 6, 2007, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail [kerry.krantz@fldfs.com](mailto:kerry.krantz@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:

69O-137.001 Annual and Quarterly Reporting Requirements.

- (1) through (3) No change.
- (4) Manuals Adopted.

(a) Annual and quarterly statements shall be prepared in accordance with the following manuals, which are hereby adopted and incorporated by reference:

1. The NAIC's Quarterly and Annual Statement Instructions, Property and Casualty, 2007 2006;
2. The NAIC's Quarterly and Annual Statement Instructions/Life, Accident and Health, 2007 2006;
3. The NAIC's Quarterly and Annual Statement Instructions/Health, 2007 2006; and
4. The NAIC's Quarterly and Annual Statement Instructions/Title, 2007 2006; and
5. The NAIC's Accounting Practices and Procedures Manual, as of March 2007 2006.

- (b) No change.
- 1. through 2. No change.

Specific Authority 624.308(1), 624.424(1) FS. Law Implemented 624.424(1) FS. History--New 3-31-92, Amended 8-24-93, 4-9-95, 4-9-97, 4-4-99, 11-30-99, 2-11-01, 4-5-01, 12-4-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-137.001, Amended 1-6-05, 9-15-05, 1-25-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Life & Health Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Al Willis, Director, Life & Health Financial Oversight, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE NO.: 69O-138.001  
 RULE TITLE: NAIC Financial Condition Examiners Handbook Adopted

PURPOSE AND EFFECT: To adopt the 2007 NAIC Financial Condition Examiners Handbook as permitted by Section 624.316, Florida Statutes.

SUMMARY: Update NAIC Handbook.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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), 624.316(1)(c) FS.

LAW IMPLEMENTED: 624.316(1)(c) 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: November 6, 2007, 9:30 a.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Kerry Krantz, Office of Insurance Regulation, E-mail [kerry.krantz@fldfs.com](mailto:kerry.krantz@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:

69O-138.001 NAIC Financial Condition Examiners Handbook Adopted.

(1)(a) The National Association of Insurance Commissioners Financial Condition Examiners Handbook (2006) is hereby adopted and incorporated by reference.

(b) The National Association of Insurance Commissioners Financial Condition Examiners Handbook 2007 is hereby adopted and incorporated by reference.

- (2) through (3) No change.

Specific Authority 624.308(1), 624.316(1)(c) FS. Law Implemented 624.316(1)(c) FS. History--New 3-30-92, Amended 4-9-97, 4-4-99, 11-30-99, 2-11-01, 12-25-01, 8-18-02, 7-27-03, Formerly 4-138.001, Amended 1-6-05, 9-15-05, 1-25-07,\_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Kerry Krantz, Life & Health Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Al Willis, Director, Life & Health Financial Oversight, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: July 6, 2007

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE NOS.:                 RULE TITLES:

69O-143.041                 Definitions

69O-143.042                 Custody Agreement; Requirements

PURPOSE, EFFECT, AND SUMMARY: To allow insurers to utilize modern systems for holding and transferring securities without physical delivery of securities certificates. SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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), 628.511(4) FS.

LAW IMPLEMENTED: 624.307(1), 625.55, 628.511 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: November 7, 2007, 1:30 p.m.

PLACE: Room 142, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULES IS: Steve Szygula, Office of Insurance Regulation, E-mail [steve.szygula@fldfs.com](mailto:steve.szygula@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 RULES IS:

69O-143.041 Definitions.

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

(1) "Agent" shall mean a national bank, state bank, ~~or~~ trust company or broker/dealer which maintains an account in its name in a clearing corporation or which is a member of the Federal Reserve System and through which a custodian participates in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or Treasury Direct System ~~the Federal Reserve book-entry system~~, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "agent" may include a corporation which is organized or existing under the laws of any foreign country and which is legally qualified under such laws to accept custody of securities.

(2) "Custodian" shall mean:

(a) ~~A~~ national bank, state bank, or trust company which shall ~~has~~ at all times during which it acts as a custodian pursuant to this chapter be no less than adequately capitalized as determined by the standards adopted by United States banking regulators and that ~~aggregate capital, surplus and undivided profits of not less than \$500,000 and which~~ is regulated by either state banking laws or is a member of the Federal Reserve System and which is legally qualified to accept custody of securities in accordance with the standards set forth below, except that with respect to securities issued by institutions organized or existing under the laws of any foreign country, or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein, "custodian" may include a bank, or trust company incorporated or organized under the laws of a country other than the United States that is regulated as such by that country's government or an agency thereof that shall at all times during which it acts as a custodian pursuant to this chapter be no less than adequately capitalized as determined by the standards adopted by international banking authorities and that is legally qualified to accept custody of securities; or similar institution which has at all times aggregate capital, surplus and undivided profits of not less than the equivalent of \$500,000 and which is legally qualified to accept custody of securities.

(b) A broker/dealer that shall be registered with and subject to jurisdiction of the Securities and Exchange Commission, maintains membership in the Securities Investor Protection Corporation, and has a tangible net worth equal to or greater than two hundred fifty million dollars (\$250,000,000).

(3) "Clearing Corporation" means a clearing corporation as defined in Section 678.1021, F.S. Clearing Corporation also includes "Treasury/Reserve Automated Debt Entry Securities System (TRADES)" and "Treasury Direct" book-entry securities systems established pursuant to 31 U.S.C. Section 3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301.

(4) "Custodied securities" means securities held by the custodian or its agent or in a clearing corporation, including the Treasury/Reserve Automated Debt Entry Securities System (TRADES) or Treasury Direct systems.

(5) "Tangible net worth" means shareholders equity, less intangible assets, as reported in the broker/dealer's most recent Annual or Transition Report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 (S.E.C. Form 10-K) filed with the Securities and Exchange Commission.

(6) "Treasury/Reserve Automated Debt Entry Securities Systems (TRADES)" and "Treasury Direct" mean the book entry securities systems established pursuant to 31 U.S.C. Section 3100 et seq., 12 U.S.C. pt. 391 and 5 U.S.C. pt. 301. The operation of TRADES and Treasury Direct are subject to 31 C.F.R. pt 357 et seq.

(7) "Security" has the same meaning as that defined in Section 8-102(a)(15) of the Uniform Commercial Code.

(8) "Securities" has the same meaning as that defined in Section 8-102(a)(15) of the Uniform Commercial Code.

Specific Authority 624.308(1), 628.511(4) FS. Law Implemented 624.307(1), 628.511 FS. History—New 2-7-85, Formerly 4-66.01, 4-66.001, 4-143.041, Amended \_\_\_\_\_.

69O-143.042 Custody Agreement; Requirements.

(1) A domestic insurance company may, by written agreement with a custodian, provide for the custody of its securities with that a custodian; The securities that are the subject of the agreement ~~which securities~~ may be held by the custodian or its agent or in a clearing corporation, ~~or in the Federal Reserve book entry system. Securities so held, whether held by the custodian or its agent or in a clearing corporation or in the Federal Reserve book entry system, are referred to herein as "custodied securities."~~ However, securities which are used to meet the deposit requirements of Section 624.411, F.S., shall only be placed in the custody of a Florida institution which has been approved by the Office of Insurance Regulation for the purpose and under custodial arrangements likewise approved by it.

(2) Any such agreement shall be in writing and shall be authorized by a resolution of the Board of Directors of the insurance company or of an authorized committee thereof. The terms of the agreement shall comply with the following:

(a) ~~Certificated~~ Securities' certificates held by the custodian shall be held ~~either~~ separate from the securities certificates of the custodian and of all of its other customers ~~or in a fungible bulk of securities as part of a Filing of Securities by Issue (FOSBI) arrangement.~~

(b) Securities held indirectly in a fungible bulk by the custodian and securities in a clearing corporation ~~or in the Federal Reserve book entry system~~ shall be separately identified on the custodian's official records as being owned by the insurance company. Said records shall identify which ~~custodied~~ securities are held by the custodian or by its agent and which securities are in a clearing corporation ~~or in the Federal Reserve book entry system~~. If the securities are in a clearing corporation ~~or in the Federal Reserve book entry system~~, said records shall also identify where the securities are and if in a clearing corporation, the name of the clearing corporation and if through an agent, the name of the agent.

(c) All custodied securities that are registered shall be registered in the name of the company or in the name of a nominee of the company or in the name of the custodian or its nominee or, if in a clearing corporation, in the name of the clearing corporation or its nominee.

(d) Custodied securities shall be held subject to the instructions of the insurance company and shall be withdrawable upon the demand of the insurance company, except that custodied securities used to meet the deposit

requirements set forth in Section 624.411, F.S., shall, to the extent required by that section, be under the control of the ~~Office Director~~ and shall not be withdrawn by the insurance company without the approval of the ~~Office Director~~.

~~(e) The custodian shall arrange for execution of transactions in custodied securities in accordance with the insurance company's instructions and shall not exercise discretionary authority to effect transactions in custodied securities except in such limited or special circumstances as the insurance company may authorize.~~

~~(f)~~ (e) The custodian shall be required to send or cause to be sent to the insurance company a confirmation of all transfers of custodied securities to or from the account of the insurance company. In addition, the custodian shall be required to furnish no less than monthly the insurance company with reports of holdings of custodied securities at such times and containing such information as may be reasonably requested by the insurance company. The custodian's trust committee's annual report of its review of the insurer's trust accounts shall also be provided to the insurance company. Reports and verifications may be transmitted in electronic or paper form.

~~(g)~~ (f) During the course of the custodian's regular business hours, any officer or employee of the insurance company, any independent accountant selected by the insurance company and any representative of an appropriate regulatory body shall be entitled to examine, on the premises of the custodian, the custodian's records relating to custodied securities, but only upon furnishing the custodian with written instructions to that effect from an appropriate officer of the insurance company.

~~(h)~~ (g) The custodian and its agents shall be required to send to the insurance company all reports which they receive from a clearing corporation ~~or the Federal Reserve book entry system~~ on their respective systems of internal accounting control and reports prepared by outside auditors on the custodians or its agent's internal accounting control of custodied securities that the insurance company may reasonably request.

~~(i)~~ (h) The custodian shall maintain records sufficient to determine and verify information relating to custodied securities that may be reported in the insurance company's Annual Statement and supporting Schedules and information required in any audit of the financial statements of the insurance company.

~~(j)~~ (i) The custodian shall provide, upon written request from the ~~Office Insurance Director~~ or from an appropriate officer of the insurance company, the appropriate affidavits, on Forms OIR-~~A1D0~~-341 (A), (B), or (C) or substantially similar forms with respect to custodied securities. Forms OIR-~~A1D0~~-341 (A), (B) and (C), entitled "Custodian Affidavit," are hereby incorporated by reference. These forms shall become effective on the effective date of these rules and may be obtained from the Office of Insurance Regulation, Larson Building, Tallahassee, Florida.

(j) A national bank, state bank or trust company shall secure and maintain insurance protection in an adequate amount covering the bank's or trust company's duties and activities as custodian for the insurer's assets, and shall state in the custody agreement that protection is in compliance with the requirements of the custodian's banking regulator. A broker/dealer shall secure and maintain insurance protection for each insurance company's custodied securities in excess of that provided by the Securities Investor Protection Corporation in an amount equal to or greater than the market value of each respective insurance company's custodied securities.

(k) The custodian shall be obligated to indemnify the insurance company for any loss of custodied securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction.

(l) In the event that there is a loss of custodied securities for which the custodian shall be obligated to indemnify the insurance company as provided in paragraph (k) above, the custodian shall promptly replace the securities or the value thereof and the value of any loss of rights or privileges resulting from said loss of securities.

(m) The agreement may provide that the custodian will not be liable for any failure to take any action required to be taken under the agreement in the event and to the extent that the taking of such action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.

(n) In the event that the custodian gains entry in a clearing corporation ~~or in the Federal Reserve book entry system~~ through an agent, there shall be an agreement between the custodian and the agent under which the agent shall be subject to the same liability for loss of custodied securities as the custodian, provided, however, that, if the agent shall be subject to regulation under the laws of a jurisdiction which is different from the jurisdiction the laws of which regulate the custodian, the Director may accept a standard of liability applicable to the agent which is different from the standard of liability applicable to the custodian.

(o) The custodian shall provide written notification to the Office if the custodial agreement with the insurer has been terminated or if 100% of the account assets in any one custody account have been withdrawn. This notification shall be remitted to the Office within three (3) business days of the receipt by the custodian of the insurer's written notice of termination or within three (3) business days of the withdrawal

of 100% of the account assets agreement must be terminable by the insurance company on not more than thirty (30) days' notice.

(3)(a) Nothing in this rule shall prevent an insurance company from depositing securities with another insurance company with which the depositing insurance company is affiliated, provided that the securities are deposited pursuant to a written agreement authorized by the board of directors of the depositing insurance company or an authorized committee thereof and that the receiving insurance company is organized under the laws of one of the states of the United States of America or of the District of Columbia. If the respective states of domicile of the depositing and receiving insurance companies are not the same, the depositing insurance company shall have given notice of the deposit to the insurance commissioner in the state of its domicile and the insurance commissioner shall not have objected to it within thirty (3) days of the receipt of the notice.

(b) The terms of any such agreement shall comply with the following:

1. The insurance company receiving the deposit shall maintain records adequate to identify and verify the securities belonging to the depositing insurance company.

2. The receiving insurance company shall allow representatives of an appropriate regulatory body to examine records relating to securities held subject to the agreement.

3. The depositing insurance company may authorize the receiving insurance company:

a. To hold the securities of the depositing insurance company in bulk, in certificates issued in the name of the receiving insurance company or its nominee, and to commingle them with securities owned by other affiliates of the receiving insurance company, and

b. To provide for the securities to be held by a custodian, including the custodian of securities of the receiving insurance company or in a clearing corporation.

Specific Authority 624.308(1), 628.511(4) FS. Law Implemented 624.307(1), 625.55, 628.511 FS. History--New 2-7-85, Formerly 4-66.02, 4-66.00, 4-143.042, Amended \_\_\_\_\_.

NAME OF PERSON ORIGINATING PROPOSED RULE: Steve Szypula, Property and Casualty Financial Oversight, Office of Insurance Regulation

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Tom Streukens, Deputy Commissioner, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW April 21, 2006

**FINANCIAL SERVICES COMMISSION**

**Office of Insurance Regulation**

RULE NO.: 69O-186.017  
RULE TITLE: Certificate of Mortgage Release  
PURPOSE, EFFECT AND SUMMARY: Rule 69O-186.017, F.A.C., is being repealed as the authorizing statute was repealed.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: 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: 701.041(9) FS.

LAW IMPLEMENTED: 701.041(9) 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: November 8, 2007, 9:30 a.m.

PLACE: Room 143, Larson Building, 200 East Gaines Street, Tallahassee, Florida

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation, E-mail bob.prentiss@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:

69O-186.017 Certificate of Mortgage Release.

Specific Authority 701.041(9) FS. Law Implemented 701.041(9) FS. History--New 3-22-97, Repealed.

NAME OF PERSON ORIGINATING PROPOSED RULE: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation, E-mail bob.prentiss@fldfs.com

NAME OF SUPERVISOR OR PERSON WHO APPROVED THE PROPOSED RULE: Bob Prentiss, Assistant General Counsel, Office of Insurance Regulation

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: September 19, 2007

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

**DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**

**Division of Standards**

RULE NOS.:	RULE TITLES:
5F-2.001	Standards
5F-2.002	Disposition of Below Standard Gasoline, Kerosene, Diesel Fuel Oil Numbers 1-D and 2-D, and Fuel Oil Numbers 1 and 2
5F-2.003	Registration and Identification
5F-2.005	Inaccurate Measuring Devices
5F-2.014	Adoption of the General Code and the Codes of Liquid-Measuring Devices, Liquefied Petroleum Gas and Anhydrous Ammonia Liquid-Measuring Devices, Hydrocarbon Gas Vapor-Measuring Devices, Vehicle-Tank Meters, and Vehicle Tanks Used as Measures of National Institute of Standards and Technology Handbook 44
5F-2.016	Guidelines for Imposing Administrative Penalties

**NOTICE OF WITHDRAWAL**

Notice is hereby given that the above rule, as noticed in Vol. 33, No. 38, September 21, 2007 issue of the Florida Administrative Weekly has been withdrawn.

**DEPARTMENT OF EDUCATION**

**State Board of Education**

RULE NO.:	RULE TITLE:
6A-1.09401	Student Performance Standards

**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. 29, July 20, 2007 issue of the Florida Administrative Weekly.

The following changes were approved by the State Board within the document "Sunshine State Standards -- Mathematics, 2007" as incorporated by reference within the rule:

Benchmark MA.8.G.2.4: Term "Cartesian" changed to "coordinate" in favor of consistent terminology.

Benchmark MA.912.A.1.8 Use the zero product property of real numbers in a variety of contexts to identify solutions to equations.