



CHIEF FINANCIAL OFFICER
JEFF ATWATER
STATE OF FLORIDA

June 29, 2012

The Honorable Mike Haridopolos
President, The Florida Senate
409, The Capitol
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Honorable Dean Cannon
Speaker, The Florida House of Representatives
420, The Capitol
402 South Monroe Street
Tallahassee, Florida 32399-1300

**RE: Department of Financial Services
2012-2013 Regulatory Plan Pursuant to Section 120.74(3), Florida Statutes**

Dear President Haridopolos and Speaker Cannon:

Section 120.74(3), Florida Statutes, directs each state agency to file by July 1, 2012, with the President of the Senate and the Speaker of the House of Representatives, a regulatory plan identifying and describing each rule the agency proposes to adopt during the next twelve months. The regulatory plan for the Department of Financial Services is attached.

This plan does not include emergency rulemaking, mandatory rulemaking that may result from future legislation, and rulemaking resulting from Chapter 120 petitions for rulemaking. In addition, the regulatory plan descriptions of the proposed rulemaking may be adjusted based on suggestions from the public during rulemaking workshops, hearings, or administrative actions.

If you should require any additional information or have any questions, please contact me.

Sincerely,

Jeff Atwater

JA/pb
Enclosures

c: JAPC

Division	Mandatory? List Statute	Proposed Rule Number	Rule Title	Meaningful description of the Rule	Description of how the rule benefits businesses/individuals; or benefits the public or state
Agent & Agency Services	No	69B-162.011	Annuity cover page	The purpose of the proposed rule is to provide the insurers issuing annuity contracts with the information they will need to provide the required cover page with each annuity issued to a Florida consumer.	In 2010, the Florida Legislature amended §626.99 (4), Florida Statutes, to require certain information to be provided in a cover page to purchasers of annuity contracts. This rule will require additional information be added to the cover page to allow the consumer to make an informed decision.
Agent & Agency Services	No	69B-186	Title insurance agents & agencies	Sets forth the duties of a title insurance agent and agency in issuing title insurance and handling escrow funds. Most of these rules were adapted from the existing rules for title insurers in 69O-186.	The statutes and rules addressing title insurance in Florida are primarily directed towards the insurers. This new rule chapter will provide guidance to title insurance agents and agencies on the proper procedures to be used when issuing title insurance and handling consumers' fiduciary funds. This will have a direct benefit on the public by allowing the industry and the department to better educate our licensees.
Agent & Agency Services	No	69B-186.001	Definitions and charges or fees (Title)	Provides clarification as to the fees that a title agency may charge and how they are to be disclosed to the public.	Currently a title insurance agency is allowed to charge an unlimited amount for providing closing services to the public. In addition, the agency could charge multiple fees to the consumer without violating current law. This rule is designed to curtail this practice and allow the consumer to make an informed decision when selecting the agency to be used in their real estate transaction.
Agent & Agency Services	No	69B-186.002	Responsibilities of a title insurance agent	Specifies the duties of a licensed title insurance agent.	The current law provides that a title agent is licensed to issue the title insurance policy. However, as a practical business matter, the title agent provides numerous services to the public, including holding the funds in escrow prior to the closing taking place. This rule provides greater protections to the public by identifying the proper service the title insurance agent is to be performing.
Agent & Agency Services	No	69B-186.003	Responsibilities of a title insurance agency	Specifies the duties of a licensed title insurance agency.	Provides specific obligations of the title insurance agency that must be performed to remain in compliance with the Florida Insurance Code.
Agent & Agency Services	No	69B-186.005	Title insurance premium; Unlawful rebates	States that the title insurance agent is responsible to provide the lowest applicable premium for the insured. Provides guidance on the proper way to rebate premiums to the consumer.	There are several premium rates available to consumers for title insurance. The title insurance agent or agency is responsible for applying the correct premium risk rate to the property to be insured. This rule also details the proper way to apply a legitimate rebate and clarifies when a rebate is prohibited.
Agent & Agency Services	No	69B-186.015	Title insurance agency identification	Requires agencies to clearly disclose their name and license number on documents and advertising.	This rule will identify properly licensed title insurance agencies by requiring the agency to disclose their license number on closing documents and in advertisements.
Agent & Agency Services	No	69B-186.022	Approved form (Title)	Specifies when the form required by §627.798, F.S. and 69O-186.002 is to be provided to the consumer by the agent and agency.	Requires the title insurance agent and agency to provide the documentation advising the consumer they are not being protected by a title insurance policy no later than the date the consumer signs the closing forms. This allows the consumer time to request an owner's title insurance policy be issued.

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Agent & Agency Services	No	69B-186.026	Issuance of title insurance commitments and title insurance policies	Sets time limits on when the consumer is to receive a title commitment and title insurance policy. Also sets the retention schedule for these records at 7 years, which is consistent with §627.7845, F.S.	Clarifies the retention schedule for title insurance commitments and policies to be retained by the title insurance agency.
Agent & Agency Services	No	69B-186.027	Retention of records (Title)	Clarifies the retention schedules for all other records maintained by the title insurance agency.	Sets the minimum time period records must be retained by the title insurance agency to be in compliance with the Florida Statutes.
Agent & Agency Services	No	69B-186.050	Escrow requirements for title insurance agencies	Specifies the requirements that are to be followed by a title insurance agency when they hold escrow funds for a consumer.	Title insurance agencies are one of the few entities in Florida that may hold escrow funds. This sets standards for the agencies to follow to assist in protecting the consumer's funds while they are held by the agency.
Agent & Agency Services	No	69B-186.051	Escrow agreements for title agencies	Identifies the details to be included in an escrow agreement between a title insurance agency and the public.	Provides the information that must be included in an escrow agreement to identify the location of the funds to the consumer. Also advises the consumer if the funds being held are part of a title insurance transaction as those funds are backed by the insurer providing the insurance coverage. Funds held outside an insurance transaction may not be backed by the insurer the agency is appointed to represent.
Agent & Agency Services	No	69B-186.055	Escrow disputes (Title agencies)	Tells the title insurance agency what is to be done when the parties to a transaction stop agreeing on the proper disbursement of funds from the escrow account.	Provides direction to the title insurance agency on how to process the funds being held in escrow when the parties no longer agree to the disbursement of those funds. This rule should prevent agencies from profiting when a disagreement among the parties occurs.
Agent & Agency Services	No	69B-186.058	Reconciliation of escrow accounts (Title agencies)	This rule clarifies the proper reconciliation of the title insurance agency's escrow account.	The Florida Statutes do require a title insurance agency to reconcile their escrow account monthly. This rule provides direction on the proper way to complete that requirement, which should protect Florida consumers by proving the agency has properly disbursed and accounted for the funds under their control.
Agent & Agency Services	No	69B-186.070	Title insurance advertising	Sets forth the proper advertising procedures for an agency to remain in compliance with the Florida Insurance Code.	This rule clarifies the proper methods of advertising the title agency's services so the agency does not violate the Florida Insurance Code or the Real Estate Settlement Procedures Act (RESPA).
Agent & Agency Services	No	69B-186.090	Title insurance statistical gathering	Provides that the title insurance agency is to provide the Office of Insurance Regulation with the information needed to conduct a proper analysis of the title insurance industry to assist in setting the proper promulgated premium rates.	This rule is designed to assist the title insurance agents and agencies in properly responding to the title data call made by the Office of Insurance Regulation. This information is critical to the successful analysis of the title insurance industry of Florida and in the proper setting of the risk rates promulgated for title insurance premiums.
Agent & Agency Services	No	69B-215.XXX	Reporting of Actions	Specifies the procedure a licensee is to use to properly report administrative action taken by another agency or another state.	This rule is designed to clarify the proper method a licensee is to use to submit the documents required by §626.536 to the department.

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Agent & Agency Services	No	69B-221.100	Bail bond premium payment	The Florida Statutes require a bail bond agent to charge the premium for a bail bond. This rule provides guidance on how to collect the premium within the provisions of the Florida Insurance Code.	The bail bond industry has consistently complained about agents discounting premiums illegally because they do not collect the full premium from an insured/defendant. This rule provides the means for a bail bond agent to properly accept a payment plan from an insurer/defendant. See rule 69B-221.100
Agent & Agency Services	No	69B-221.105	Bail bond premium payment form	This is the form that would be used by bail bond agents when they accept a premium payment plan as outlined in 69B-221.100, F.A.C.	See rule 69B-221.100
Agent & Agency Services	No	69J-8.012	Neutral Evaluator Conduct	Provide guidelines for the conduct and discipline of the Neutral Evaluator and specifies complaint handling procedures.	Will provide regulators with guidelines for addressing misconduct and will hold Neutral Evaluators accountable for their conduct ensuring the Florida consumer is treated fairly throughout the process.
Agent & Agency Services	No	69B-221.XXX	Bail bond power of attorney form	Identifies the information that is to be included on the power of attorney form for a bail bond insurer.	Florida Statute 648.43 requires bail bond insurers to submit the power of attorney form they want to use in Florida to the Department for approval. This rule will clearly identify the information that is to be included on the form to assure the company their form will be approved.
Workers' Compensation	Yes, the Division is required to adopt rules to govern the billing and reimbursement of workers' compensation medical services. 440.13(4)(b)	69L-7.###(??)	Materials incorporated by Reference	Rule 69L-7.020, Florida Workers' Compensation Health Care Provider Reimbursement Manual, rule 69L-7.100, Florida Workers' Compensation Reimbursement Manual for Ambulatory Surgical Centers (ASCs), and rule 69L-7.501, Florida Workers' Compensation Reimbursement Manual for Hospitals, each provide medical billing and reimbursement policy for the applicable type of provider. They currently incorporate different editions of the same materials, for example, rule 69L-7.020 incorporates the 2009 edition of the Current Procedural Terminology (CPT) published by the American Medical Association, while rule 69L-7.100 incorporates the 2010 edition of the CPT manual. The proposed new rule would consolidate all materials incorporated by reference that are common to all	For various reasons, the materials common to the multiple reimbursement manuals have gotten out of synch over time and does not keep up with the editions that are otherwise the standard in health care. This creates hardship for the provider in having to bill workers' compensation with a different edition, for the carrier to have to adjust different providers using different editions, and for the division in having to administer multiple editions. This condition causes confusion amongst our customers. Ideally, the referenced materials would be uniform across the multiple reimbursement manuals. This would facilitate efficient administration of health care provider reimbursement disputes and improved customer service by the division. It would also remove the burden from the provider of having to bill workers' compensation differently from other payers. This would make the billing and reimbursement of workers' compensation medical services more self-executing. It would also allow the materials to be updated more easily without risk of delay due to litigation associated with other aspects of the
Fire Marshal (BFST)	633.33 and possibly 633.03, .07 and .08., FS	69A-62.008	Incident Management	Requires Federal mandated (PD 5) National Incident Management training for firefighters	Currently there is no specific state requirement for the required training. Rule development would place such requirements that meet the federal guidelines.

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Fire Marshal (BFST)	633.351 FS	69A-37.035	Felon Language	Provides a placeholder for remedies to manage firefighters that have felonies should 633.351, FS be adopted	This rule would pull out language from other rules that are fragmented with similar language throughout. Also this establishes a more disciplined approach to managing firefighters who are felons as desired by employers and the public.
Fire Marshal (BFST)	633.445 FS	69A-?	Scholarships	Provides more detailed guidance for fund development and the issuance of scholarship monies	Further clarification is needed to effectively manage a scholarship process to best serve the most needy and deserving students.
Fire Marshal (BFST)	633.808 FS	69A-62.009	Safety of Firefighter places of employment	Provides guidance to carrying-out 633.808(2), FS	Enables Bureau to ascertain, fix, and order such reasonable standards and rules for the construction, repair, and maintenance of firefighter employee places of employment as shall render them safe.
Treasury	Yes. 110.1315	69C-10(?)	FICA Alternative Tax Plan	The Rule will be created to adopt the Plan and identify that the Department of Financial Services is Administering the Plan. During the 2012 Legislative Session, the Plan was transferred by Department of Management Services to The Department of Financial Services, effective 7/1/2012	The Rule will be created to adopt the Plan and provide a smooth transition.