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# Executive Orders

## EXECUTIVE ORDER MJF 97-29

### Bond Allocation—Town of Arcadia

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Town of Arcadia has requested an allocation from the 1997 Ceiling to be used to finance the acquisition and renovation of a chicken processing plant owned by Randall Farms, in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M. J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$8,200,000	Town of Arcadia	Randall Farms, L.L.C.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before November 17, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of August, 1997.

M. J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9709#024

## EXECUTIVE ORDER MJF 97-30

### Bond Allocation—Village of Choudrant

WHEREAS: pursuant to the Tax Reform Act of 1986 (hereafter "the Act") and Act 51 of the 1986 Louisiana Legislature, Executive Order Number MJF 96-25 (hereafter "MJF 96-25") was issued on August 27, 1996 to establish (1) a method for allocating bonds subject to private activity bond volume limits, including the method of allocating bonds subject to the private activity bond volume limits for the calendar year of 1997 (hereafter "the 1997 Ceiling"); (2) the procedure for obtaining an allocation of bonds under the 1997 Ceiling; and (3) a system of central record keeping for such allocations; and

WHEREAS: the Village of Choudrant has requested an allocation from the 1997 Ceiling to be used to upgrade and equip a feed mill owned by Randall Farms and located at 3969 Elm Street, Choudrant, Louisiana, in accordance with the provisions of Section 143 of the *Internal Revenue Code of 1986*, as amended;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The bond issue, as described in this Section, shall be and is hereby granted an allocation from the 1997 Ceiling as follows:

Amount of Allocation	Name of Issuer	Name of Project
\$575,000	Village of Choudrant	Randall Farms, L.L.C.

SECTION 2: The granted allocation shall be used only for the bond issue described in Section 1 and for the general

purpose set forth in the "Application for Allocation of a Portion of the State of Louisiana Private Activity Bond Ceiling" submitted in connection with the bond issue described in Section 1.

SECTION 3: The granted allocation shall be valid and in full force and effect, provided that such bonds are delivered to the initial purchasers thereof on or before November 17, 1997.

SECTION 4: All references in this Order to the singular shall include the plural, and all plural references shall include the singular.

SECTION 5: The undersigned certifies, under penalty of perjury, that the granted allocation was not made in consideration of any bribe, gift, or gratuity, or any direct or indirect contribution to any political campaign. The undersigned also certifies that the granted allocation meets the requirements of Section 146 of the *Internal Revenue Code of 1986*, as amended.

SECTION 6: This Order is effective upon signature and shall remain in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 19th day of August, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9709#025

#### EXECUTIVE ORDER MJF 97-31

##### Royal Street Project Advisory Board

WHEREAS: the New Orleans Court Building, which occupies the 400 block of Royal in the French Quarter, was constructed as a joint project between the City of New Orleans and State of Louisiana during the period of 1907 to 1910;

WHEREAS: in October of 1910, the Louisiana Supreme Court moved from the Cabildo to join the Orleans Court of Appeal and various state and city offices in the New Orleans Court Building, where it stayed until the 1950's;

WHEREAS: when the Louisiana Supreme Court began to outgrow its present location on Loyola Avenue, the court began studying the feasibility of returning to the New Orleans Court Building (hereafter the "Royal Street Project");

WHEREAS: the Royal Street Project is the proposed future site of the Louisiana Supreme Court, the Louisiana Fourth Circuit Court of Appeal, the Law Library of Louisiana, the Louisiana Judicial Administrator's Office, a satellite office of the Louisiana Attorney General, and a museum or tourist information center;

WHEREAS: more than \$7 million has been expended to date on planning, renovations, and construction since the

Royal Street Project received its first legislative appropriation in 1981;

WHEREAS: considering the historical significance of the building, the high cost of renovation projects, the project's fast-approaching completion date, and the complications that can normally arise in a project of this size and nature, the interests of the citizens of the State of Louisiana would be best served by the creation of an advisory board, composed of local businessmen and attorneys who have earned the public's confidence as experienced developers, to advise the Louisiana Supreme Court and Division of Administration with regard to all plans and contracts for the project; and

WHEREAS: the Speaker of the Louisiana House of Representatives and President of the Louisiana Senate, as representatives of the legislative branch, have indicated their agreement to representatives of the judicial and executive branches, that they find the creation of an advisory board serves the best interests of the citizens of this state, and they approve of the proposed objectives and membership of the advisory board for the Royal Street Project;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Royal Street Project Advisory Board (hereafter "advisory board") is created and established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the advisory board shall include, but are not limited to, the following:

A. providing advice to the Division of Administration and the Louisiana Supreme Court regarding the expenditure of all funds and all contracts, bids, proposals, and plans associated with the Royal Street Project;

B. providing consulting advice for all planning, development, and/or construction associated with the Royal Street Project; and

C. preparing the documentation for all future requests for legislative appropriations for the Royal Street Project and presenting the appropriation requests to the commissioner of Administration and the legislative committees and/or leadership of the Louisiana Legislature.

SECTION 3: The advisory board shall consist of at least five members appointed by and serving at the pleasure of the Governor, four of whom shall be well known and respected within the New Orleans business community for possessing an expertise in historical renovations and/or the development and management of significant building construction projects. The membership of the advisory board shall be composed as follows:

A. the Chief Justice of the Louisiana Supreme Court, or the designee of the Chief Justice; and

B. at least four members selected from the New Orleans business community.

SECTION 4: The chair and vice-chair of the advisory board shall be appointed by the Governor from its membership.

SECTION 5: The advisory board shall meet at the call of the chair.

SECTION 6: Support staff for the advisory board and facilities for their meeting shall be provided by the Division of Administration and/or the Louisiana Supreme Court.

SECTION 7: Advisory board members shall not receive compensation or a per diem. Nonetheless, contingent on the availability of funds, advisory board members who are not employed by the state or an elected official may receive reimbursement for actual travel expenses, in accordance with state guidelines and procedures, upon the approval of the commissioner of Administration.

SECTION 8: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate with the advisory board in implementing the provisions of the Order.

SECTION 9: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the City of Baton Rouge, on this 19th day of August, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9709#026

#### EXECUTIVE ORDER MJF 97-32

##### Coordinating Council on Domestic Violence

WHEREAS: domestic violence is a pervasive social evil that potentially can devastate its direct and indirect victims physically, emotionally, spiritually, and financially;

WHEREAS: the stability and success of the family unit is threatened by domestic violence as it victimizes the entire family, including the children, who learn through example that violence is an acceptable mode of coping with problems, dealing with stress, and asserting control over others;

WHEREAS: domestic violence has a negative impact on society in general, necessitating that millions of dollars be annually expended due to absenteeism and a loss of productivity at work and school, mental health and medical expenses, and the prosecution and/or administrative costs of criminal, quasi-criminal, and civil cases;

WHEREAS: the goal of eradicating domestic violence throughout Louisiana may only be achieved by increasing public awareness about the prevalence and harmfulness of domestic violence, implementing a firm public policy against domestic violence, and instituting an effective means of enforcement that encompasses law enforcement, social service agencies, and the courts; and

WHEREAS: to obtain this goal, the State of Louisiana must implement consistent, coordinated, and nonvictim

blaming responses to incidents of domestic violence throughout the response process, beginning with law enforcement and continuing through victim protection and assistance services and the administration of justice process; therefore, the leadership of the State of Louisiana, including members of the Louisiana Legislature, the Executive Branch, and the Louisiana Supreme Court, together with representatives from law enforcement agencies, social service agencies, and special interest organizations that deal with domestic violence, must join together to develop a comprehensive coordinated response to domestic violence within the State of Louisiana;

NOW THEREFORE I, M.J. "MIKE" FOSTER, JR., Governor of the State of Louisiana, by virtue of the authority vested by the Constitution and laws of the State of Louisiana, do hereby order and direct as follows:

SECTION 1: The Louisiana Coordinating Council on Domestic Violence (hereafter "council") is established within the Executive Department, Office of the Governor.

SECTION 2: The duties of the council shall include, but are not limited to, the following:

A. examining the current responses of public agencies, the courts, and private organizations to situations of domestic violence;

B. identifying barriers, breakdowns, or areas for improvement among those who are charged with the public duty of responding to domestic violence;

C. making recommendations for improved cooperation and coordination between public agencies and those entities which volunteer or offer assistance and services;

D. identifying various means of promoting public awareness, and educating the public about domestic violence;

E. evaluating the effectiveness of Louisiana's statutory and jurisprudential laws on domestic violence; and

F. evaluating the model code on domestic and family violence prepared by the National Council of Juvenile and Family Court Judges.

SECTION 3: The council shall submit to the Governor a detailed written report containing the council's findings and recommendations on or before December 31, 1998.

SECTION 4: The council shall consist of 20 members who shall be appointed by and serve at the pleasure of the Governor. The membership of the council shall be selected as follows:

A. the president of the Louisiana Senate, or the president's designee chosen from the membership of the Senate;

B. the speaker of the House of Representatives, or the speaker's designee chosen from the membership of the House;

C. the executive director of the Office of Women's Services, Office of the Governor, or the executive director's designee;

D. the secretary of the Department of Social Services, or the secretary's designee;

E. the secretary of the Department of Corrections, or the secretary's designee;

F. a member of the Louisiana Supreme Court;

G. two district court judges, one who presides over a criminal docket and one who presides over a family/domestic docket;

H. three members of the Louisiana Coalition Against Domestic Violence;

I. a member of the Louisiana District Attorneys Association;

J. a member of the Family Law Committee of the Louisiana State Bar Association;

K. a member of the Louisiana Association of Criminal Defense Lawyers;

L. a member of the Louisiana Council on Child Abuse;

M. a member of the Louisiana Trial Lawyers Association;

N. a member of the Louisiana Clerks of Court Association;

O. a member of the Louisiana Sheriff's Association;

P. a member of the Chiefs of Police Association; and

Q. a member of the Louisiana Commission on Law Enforcement.

SECTION 5: The chair shall be selected by the Governor from its membership.

SECTION 6: The council shall meet at regularly scheduled intervals and at the call of the chair. A majority of the membership present shall constitute a quorum.

SECTION 7: Support staff for the council shall be provided by the Department of Social Services.

SECTION 8: Council members shall not receive compensation or a per diem. Nonetheless, contingent upon the

availability of funds, members who are not an employee of the State of Louisiana or one of its political subdivisions, or an elected or appointed public official, may receive reimbursement from the Office of the Governor for actual travel expenses incurred, in accordance with state guidelines and procedures, and upon the approval of the commissioner of Administration.

SECTION 9: All departments, commissions, boards, agencies, and officers of the state, or any political subdivision thereof, are authorized and directed to cooperate in the implementation of this Order.

SECTION 10: This Order is effective upon signature of the Governor and shall continue in effect until amended, modified, terminated, or rescinded by the Governor, or terminated by operation of law.

IN WITNESS WHEREOF, I have set my hand officially and caused to be affixed the Great Seal of the State of Louisiana, at the Capitol, in the City of Baton Rouge, on this 26th of August, 1997.

M.J. "Mike" Foster, Jr.  
Governor

ATTEST BY  
THE GOVERNOR  
Fox McKeithen  
Secretary of State  
9709#027

# Emergency Rules

## DECLARATION OF EMERGENCY

### Department of Agriculture and Forestry Office of the Commissioner

#### Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer (LAC 7:XXI.1501-1523)

*Editor's Note:* All Agriculture and Forestry rules, found at LAC, Title 7, will be renumbered during the next few months, so that each Part (I through XLIII) will begin with a Chapter 1 and continue with sequential chapters (through Chapter 99), as needed. A revised *Louisiana Administrative Code*, Title 7, is scheduled for publication during Fall, 1997. As shown below, the *Louisiana Register* is promulgating all Title 7 emergency, proposed, and final rules under the new numbering system.

In accordance with the Administrative Procedure Act, specifically R.S. 49:953(B), and R.S. 3:3101, the commissioner of Agriculture and Forestry finds that these emergency rules regulating the raising, slaughtering, and sale of imported exotic deer and antelope, elk, and farm-raised white-tailed deer for commercial purposes in the state of Louisiana are necessary to prevent imminent peril to the health, safety, and welfare of the citizens of Louisiana.

Without regulations in place, diseased or contaminated animals may be brought into the state of Louisiana or slaughtered and sold as food to be consumed by Louisiana citizens. Louisiana is certified by the United States Department of Agriculture (USDA) as a tuberculosis- and brucellosis-free state. The introduction of any imported exotic deer and antelope, elk, and farm-raised white-tailed deer infected with either of these diseases or other diseases will subject Louisiana cattle and other livestock to infection. Any infection of cattle or other livestock will cause the owner of such livestock to lose the commercial value of such animals. In addition, introduction of these diseases into the state will jeopardize Louisiana's certifications from the USDA. The loss of the commercial value of infected livestock, as well as the loss of USDA certification, will cause a substantial adverse economic impact on the agricultural economy of this state. Permanent regulations are being promulgated; however, the time delay required by the Administrative Procedure Act precludes adoption of permanent regulations before the first set of emergency rules expire. It is, therefore, necessary to readopt emergency rules to avoid a hiatus in the law.

For these reasons, the commissioner has determined that these emergency rules are necessary in order to immediately regulate the raising, slaughtering, and sale of imported exotic deer, and antelope, elk, and farm-raised white-tailed deer for commercial purposes in the state of Louisiana.

These emergency rules are effective at 6 p.m. on September 3, 1997 and shall remain in effect 120 days or until the final rules become effective, whichever occurs first.

## Title 7

### AGRICULTURE AND ANIMALS

#### Part XXI. Diseases of Animals

#### Chapter 15. Alternative Livestock—Imported Exotic Deer and Imported Exotic Antelope, Elk, and Farm-Raised White-Tailed Deer

##### §1501. Statement of Authority and Purpose

The commissioner of Agriculture and Forestry heads and directs the Department of Agriculture and Forestry and exercises all functions of the state relating to the promotion, protection, and advancement of agriculture and forestry. The commissioner is authorized by law and does hereby adopt these rules and regulations for the purposes of promoting, protecting, and advancing agriculture and to implement the laws adopted by the legislature, including those in Part I of Chapter 19-A of Title 3 of the Revised Statutes, giving the commissioner the specific power to regulate farm-raised exotic animals, including imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3101.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

##### §1503. Definitions

For purposes of these rules and regulations the following words and phrases shall have the meaning given herein:

*Alternative Livestock*—any imported exotic deer and imported exotic antelope, elk, and farm-raised white-tailed deer.

*Commercial Purpose*—the keeping, breeding, raising, containing, harvesting, killing, slaughtering, buying, selling, trading, or transferring ownership of alternative livestock, any alternative livestock carcass or part thereof, with the intent to receive money, goods, services, livestock, or any other type of compensation in connection therewith.

*Commissioner*—The commissioner of Agriculture and Forestry.

*Department*—the Louisiana Department of Agriculture and Forestry.

*Elk*—any animal of the species and genus *Cervus canadensis*.

*Farm*—any area of land or water, regardless of size, used to breed, raise, or keep farm-raised alternative livestock for a commercial purpose, including but not limited to, breeding farms or propagating preserves. This definition does not include areas of land or water which are part of a zoo, game park, or wildlife exhibit where the primary purpose is the exhibition of alternative livestock or other animals.

*Farm-Raised*—any alternative livestock born, raised, or kept within a closed circumscribed fenced area for a commercial purpose. This definition does not include alternative livestock which are part of a zoo, game park, or wildlife exhibit where the primary purpose is the exhibition of the alternative livestock or other animals.

*Farm-Raised White-Tailed Deer*—any animal of species and genus *Odocoileus virginianus* which is bred, born, raised, and/or kept within a closed circumscribed fenced area for the purpose of buying, selling, or trading in commerce. Farm-raised white-tailed deer does not include any white-tailed deer which is part of any zoo, game park, or wildlife exhibit where the primary purpose of the same is the exhibition of white-tailed deer and/or other animals.

*Imported Exotic Antelope*—any animal of the family *Bovidae* which is not indigenous to North America, except animals of the tribes *Bovine* (cattle) and *Caprine* (sheep and goats).

*Imported Exotic Deer*—any animal of the family *Cervidae* which is not indigenous to North America, including but not limited to, red deer, seika deer and fallow deer.

*Person*—any individual, corporation, partnership, or other legal entity.

*Quarantine*—the requirement, resulting from an order of the department or the state veterinarian, to secure and physically isolate an animal, or animals, in a specified confined area to prevent the spread of contagious disease.

*White-Tailed Deer*—any animal of the species and genus *Odocoileus virginianus*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1505. Issuance of Farm-Raising License; Renewals**

A. Any person who keeps, breeds, raises, contains, harvests, kills, slaughters, buys, sells, trades, or transfers ownership of any type of farm-raised alternative livestock for commercial purposes shall obtain a farm-raising license from the department prior to engaging in such activity.

B. The department shall not issue any farm-raising license until the application for the farm-raising license and the information requested, including the required plan for the operation of the farm, is approved by the department and the proposed farm passes the department's inspection.

C. Any changes in any information submitted in the original application, occurring during or after the application process, shall be submitted in writing to the department. The department must approve, in writing, any change or modification, which shall be in writing, in the written farm operation plan submitted with the original application before such change or modification may go into effect.

D. A farm-raising license shall be valid for the period beginning with the date of issuance and ending the following June 30 or from July 1 of the year of renewal through the following June 30.

E. A farm-raising license may be renewed each year by the department. A licensee shall submit a written request for renewal, the renewal fee, any proposed modification, which shall be in writing, of the written farm operation plan previously submitted to and approved by the department and any proof requested by the department of compliance by the licensee with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine. If either the written request for renewal or the renewal fee is received by the department after July 31,

the farm-raising license shall be deemed expired, *ipso facto*, retroactive to June 30.

F. In the event that the department determines that a farm does not meet the requirements of or was not complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine, the farm-raising license may not be renewed by the department.

G. The licensee may contest the department's decision not to renew a farm-raising license by filing a written request for an adjudicatory hearing with the department within 15 days from receipt of the notice of nonrenewal. Such a hearing is to be held in accordance with the provisions of the Administrative Procedure Act. Any such hearing shall be held within 30 days of the request, unless continued for good cause.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1507. Fees**

##### **A. Farm-Raising License Fees**

1. The fee for a new farm-raising license shall be \$50.
2. The farm-raising license renewal fee shall be \$50.
3. The department shall waive the farm-raising license fee for any person who obtains a farm-raising license from this department, and who holds a valid game breeders license issued by the Department of Wildlife and Fisheries for the possession of any alternative livestock at the time these rules and regulations become effective, and who submits a written application within the calendar year that these rules and regulations become effective.
4. The waiver granted in §1507.A.3 applies only to a new farm-raising license and shall not apply to any renewal of a farm-raising license issued by the department under these rules and regulations.

##### **B. Harvesting Permit Fee**

1. Each individual intending to harvest or kill any farm-raised alternative livestock at any farm licensed by the department shall obtain a harvesting permit from the department, before harvesting or killing any farm-raised alternative livestock, except as provided by §1507.A.3, herein.
2. The fee for each harvesting permit shall be \$50.
3. No licensee or those persons employed by or assisting such licensee harvesting farm-raised alternative livestock to be taken directly to a state- or federally-approved slaughter facility or capturing farm-raised alternative livestock to be sold or traded for breeding or stocking purposes shall be required to obtain a harvesting permit or pay a fee.

##### **C. Farm-Raised Alternative Livestock Tag Fee**

1. Each farm-raised alternative livestock harvested or killed shall have a farm-raised tag attached to the carcass before it leaves the farm, except as provided in §1507.A.3.
2. The farm-raised alternative livestock tag shall be provided by the department at a cost of \$5 per tag.
3. No farm-raised tag shall be required for farm-raised alternative livestock which are to be taken directly to a

state- or federally-approved slaughter facility or which are sold or traded alive for breeding or stocking purposes.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1509. Farm-Raising Licensing Requirements**

A. Written Application. Each applicant for a farm-raising license shall submit a completed written application on a form supplied by the department. In addition to any other information that may be requested by the department, the applicant shall provide the following information:

1. name, physical address, mailing address, and telephone number of the applicant and whether the applicant will own or lease the land. If the land is leased, then a copy of the lease shall be provided to the department;

2. the name under which the business will operate, the physical address, mailing address, and telephone number of the business, if different than the information provided in §1509.A.1 of this provision;

3. the business structure (sole proprietorship, partnership, corporation, limited liability company, joint venture, or otherwise);

4. the name of the person or persons in charge, position, (e.g., owner, manager, etc.), residence address, and phone number;

5. the physical location and size of the farm;

6. a topographical map of the farm if 50 acres or more;

7. the species of alternative livestock to be farm-raised;

8. the approximate number of animals to be farm-raised;

9. the complete plan for the operation of the farm, including:

a. an enclosure system, including fencing the farm, indicating the location, size, nature, and extent of the fencing material and of any right-of-way related to the farm property;

b. systematic inspection of the enclosure system, including the fence, maintenance, repair, and replacement of the fence, keeping the fence and any clearance along either side of the fence clear, and verification to the department of compliance with this provision;

c. the capture of any farm-raised alternative livestock that may escape from or wild white-tailed deer that may enter the farm through a breach or opening in the enclosure system or fence;

d. removal of white-tailed deer from the farm prior to completion of the enclosure of the farm;

e. controlling farm-raised alternative livestock population;

f. identification by means of an electronic implant of all white-tailed deer born, bought, sold, traded, or which otherwise become farm-raised white-tailed deer, which shall include the systematic capture of farm-raised white-tailed deer for implantation purposes;

g. the removal and disposal of all alternative livestock in the event that the farm ceases operation for any reason or upon revocation or nonrenewal of the farm-raising

license, including a provision for written notice to the department prior to cessation of farming operation;

h. the type of farming operation records that will be kept;

10. a statement that the applicant shall abide by the requirements of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine;

11. a certified statement that all representations contained in the application, the farm operation plan, and attachments are true and correct.

B. Farm Inspection. An applicant shall have the proposed farm physically inspected and approved by the department before a farm-raising license may be issued by the department. To obtain department approval a proposed farm shall:

1. be located in a rural area of the state;

2. be securely enclosed by an enclosure system, including fencing, that meets the following specifications:

a. a minimum height, above the relevant ground, of 8 feet. Fences or enclosure systems installed prior to April 22, 1997, which have a minimum height of 7 feet, may remain at that height until replaced;

b. a minimum gauge wire of 12½;

c. fencing material of chain link, woven wire, solid panel, or welded panel or, if made with any other material, approved in writing by the department. Welded wire fences shall not be used unless they were approved by the Department of Wildlife and Fisheries and installed prior to April 22, 1997. Such welded wire fences, when replaced or partially replaced, shall be replaced by fencing required by these rules and regulations;

3. have drainage sufficient to leave a majority of the farm free from extended periods of standing water;

4. have adequate space, and if the total enclosed area of the farm is less than 50 acres, allow at least 5,000 square feet for the first elk or farm-raised white-tailed deer placed on the farm and at least 2,500 square feet for each subsequent elk or farm-raised white-tailed deer;

5. have no condition which may cause noncompliance with or substantial difficulty in complying with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

C. Any person who has completely finished fencing the proposed farm prior to April 22, 1997 shall be exempt only from the requirement to submit a plan for the removal of white-tailed deer from the farm due to, and in accordance with, the provisions of Article 3415 of the *Louisiana Civil Code*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1511. Grounds for Refusal to Issue or Renew a Farm-Raising License**

The commissioner may refuse to issue or renew a farm-raising license for any of the following circumstances:

1. the applicant cannot demonstrate, to the satisfaction of the commissioner, a competency to operate an alternative livestock farm;

2. the applicant has failed to provide all of the information required in or with the farm-raising license or renewal application, or has provided false information to the department;

3. the applicant has previously refused to permit the department to inspect the farm or to inspect farm records, or the applicant has otherwise failed to comply with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine;

4. the department does not approve the farm operation plan;

5. the proposed farm does not pass the department's inspection;

6. the applicant has previously been found in violation of either Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3101.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

### **§1513. Obligations of the Farm-Raising Licensee**

#### **A. Identification of Farm-Raised Alternative Livestock**

1. All farm-raised white-tailed deer shall be identified by means of an electronic implant implanted as follows:

a. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

b. all farm-raised white-tailed deer being brought into Louisiana shall have the electronic implant implanted before or upon arrival at the farm and prior to being released on the farm;

c. farm-raised white-tailed deer born in this state shall have an electronic implant implanted the first time the farm-raised white-tailed deer is captured alive and before the farm-raised white-tailed deer leaves the farm;

d. each electronic implant code shall be listed on the farm-raised white-tailed deer's health certificate and on the bill of sale or certificate of transfer.

2. All farm-raised alternative livestock other than farm-raised white-tailed deer shall be permanently and individually identified as follows:

a. by means of an electronic implant or by a permanent ear tattoo and ear tag;

b. the electronic implant shall be implanted into the subcutaneous tissue at the base of the left ear or in either shoulder;

c. prior to entering the state, alternative livestock, other than farm-raised white-tailed deer, shall be identified as required herein;

d. alternative livestock born in this state, other than farm-raised white-tailed deer, shall be identified, as required herein, the first time any such animal is captured alive and before any such animal leaves the farm;

e. the identification number or electronic implant code shall be listed on the health certificate and on the bill of sale or certificate of transfer.

3. Farm-raised alternative livestock, other than farm-raised white-tailed deer, that will be transported directly to a state- or federally-approved slaughter facility are exempt from this identification requirement.

4. Farm-raised alternative livestock placed on a farm prior to the effective date of these regulations, other than farm-raised white-tailed deer, are not required to be identified by a permanent ear tattoo and ear tag or electronic implant unless removed alive from the farm.

#### **B. Record Keeping**

1. Each licensee shall maintain records, for not less than 36 months, of all sales, deaths, kills, trades, purchases, or transfers of any farm-raised alternative livestock. The records shall include:

a. the total number of farm-raised alternative livestock, carcasses, or parts thereof, killed, sold, traded, purchased, or transported;

b. the name and address of the person to whom each farm-raised alternative livestock, or any carcass, or parts thereof, was sold, traded, delivered, presented, or transported to;

c. the electronic implant code or identification number of the farm-raised alternative livestock;

d. copies of any health certificates issued;

e. accurate records showing all inspections, maintenance, repairs, and replacement to the enclosure system, including the fence; and such records shall include the dates and times of each, names of the persons performing services, the location of any breaches of the enclosure system, including the fence, and nature and location of any repairs or replacements made to the fence.

f. records customarily kept in the normal course of conducting business and those records required by these rules and regulations.

2. Sellers, traders, or transferors of farm-raised alternative livestock, any carcass, or any part thereof, shall furnish the purchaser or transferee with a bill of sale or letter of transfer as verification of the farm-raised status.

3. The furnishing of any false information shall be a violation of these rules and regulations.

#### **C. Enclosure System and Fence Inspection and Maintenance**

1. Any licensee shall conduct or shall have conducted a visual ground inspection of the enclosure system, including the fence, along the entire perimeter of the fenced area of the farm no less than weekly. An inspection shall be conducted immediately after any major storm or occurrence of any other force of nature that would cause a reasonable person to be concerned about the integrity of the enclosure system, including the fence.

2. Any licensee shall maintain the enclosure system, including the fence, in good repair at all times. Good repair means that farm-raised alternative livestock are not able to leave and wild white-tailed deer are not able to enter through the enclosure system, including the fence, or otherwise.

3. Any licensee who discovers a breach or opening in the enclosure system or fence that would allow farm-raised

alternative livestock to leave from or wild white-tailed deer to enter into the enclosed area shall notify the department, orally and in writing, of the breach or opening.

4. In the event of such a breach or opening, the licensee shall immediately close the breach or opening and make all reasonable efforts to determine if farm-raised alternative livestock left from or wild white-tailed deer entered into the area enclosed by the fence.

**D. Other Obligations of the Farm Licensee**

1. A licensee shall remove white-tailed deer from the farm prior to completion of the fencing and enclosure system of the farm, unless the fencing and enclosure system was completed prior to April 22, 1997. Removal of the white-tailed deer shall be accomplished to the satisfaction of the department. The department's judgment as to whether the removal of the white-tailed deer has been satisfactorily accomplished shall be the exclusive determinative factor and shall be final.

2. A licensee shall control the population of farm-raised alternative livestock on the farm.

3. A licensee shall make all efforts that a reasonable licensee would make to capture any farm-raised alternative livestock that escapes from the fenced area of the farm and to remove wild white-tailed deer that enter the fenced area of the farm.

4. A licensee shall notify the department, in writing, at least 10 days prior to placing any alternative livestock on the farm if such alternative livestock was not listed on the original application or on any modification previously approved, in writing, by the department.

5. A licensee, upon cessation of operations or upon revocation or nonrenewal of the farm-raising license, shall remove and dispose of all farm-raised alternative livestock on the farm in accordance with the farm operation plan submitted to and approved by the department or in accordance with specific written instructions issued by the department in the event that circumstances warrant removal and disposal of the farm-raised alternative livestock in a manner different from the farm operation plan.

6. A licensee shall be responsible for ensuring that any individual who harvests or kills any farm-raised alternative livestock on the licensee's farm does so in accordance with these rules and regulations.

7. A licensee shall harvest or kill farm-raised alternative livestock in accordance with these rules and regulations.

8. A licensee shall provide that all farm-raised alternative livestock have the necessary health certificates and that the farm-raised alternative livestock meet all applicable health requirements.

9. A licensee shall allow authorized representatives of the department to inspect the farm at any time, and all books and records at any reasonable time.

10. A licensee shall comply with all provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3101.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

**§1515. Health Certificates and Health Requirements**

A. Prior to entering Louisiana, all alternative livestock, except those being transported directly to a state- or federally-approved slaughter facility, shall:

1. meet the general health requirements promulgated at LAC 7:XXI.107;

2. have an entry permit number issued by the State Veterinarian's Office no more than 15 days before entry into Louisiana, which entry number shall be included on the certificate of veterinary inspection;

3. have written proof of a negative test for brucellosis in accordance with the *Brucellosis Eradication in Cervidae Uniform Methods and Rules*, as and when published by the United States Department of Agriculture, Animal and Plant Health Inspection Service. Until such time as the *Brucellosis Eradication in Cervidae Uniform Methods and Rules* are published, all alternative livestock 6 months of age and older entering Louisiana, except those being transported directly to a state- or federally-approved slaughter facility, shall be tested negative for brucellosis within 30 days prior to entry into Louisiana, and written proof thereof shall be provided, unless the alternative livestock originate from a herd which has been officially declared a certified brucellosis-free herd by the state of origin;

4. have written proof of a negative test for tuberculosis in accordance with the *Tuberculosis Eradication in Cervidae Uniform Methods and Rules*, as published by the United States Department of Agriculture, Animal and Plant Health Inspection Service.

B. Any alternative livestock which has been exposed to brucellosis or tuberculosis shall be quarantined and tested for the diseases to which it has been exposed within 60 days of the date of the quarantine. The quarantine shall remain in effect until removed, in writing, by the State Veterinarian's Office.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 3:3101.

**HISTORICAL NOTE:** Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

**§1517. Harvesting or Killing of Farm-Raised Alternative Livestock**

A. Farm-raised white-tailed deer shall be harvested by killing only during the period of October 1 through January 31 of the following year, unless otherwise specifically authorized, in writing, by the department.

B. Except for farm-raised white-tailed deer, farm-raised alternative livestock may be harvested or killed at any time unless the commissioner provides otherwise in accordance with the provisions of §1517.C.

C. The commissioner may establish, by written order, other dates and conditions for the harvesting or killing of farm-raised alternative livestock as the commissioner deems necessary to carry out the purposes of Part I of Chapter 19-A of Title 3 of the Revised Statutes. Such orders shall be issued by the commissioner in January of each year or as soon thereafter as is practical and published in the January issue of the *Louisiana Register* or in the first available issue after any such order is issued.

D. Prior to harvesting or killing farm-raised alternative livestock, any person, except as provided by §1507.B.3, shall

first apply for and obtain a harvesting permit to do so by submitting an application on a form supplied by the department.

1. Any harvesting permit issued by the department shall be valid only for the time periods stated on the face of the permit.

2. The department may issue a harvesting permit upon written application by any individual or by any farm licensee making application on behalf of the individual and upon receipt of the harvesting permit fee.

E. Except as provided by §1507.C.3 of these regulations, any farm-raised alternative livestock harvested or killed, shall have a farm-raised tag attached to each carcass.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1519. Prohibitions**

A. No farm-raised alternative livestock shall be released into the wild without express written permission from both the department and the Department of Wildlife and Fisheries.

B. Farm-raised white-tailed deer meat shall not be bought, sold, traded, or moved in commerce in any way.

C. Farm-raised alternative livestock sold for slaughter, except farm-raised white-tailed deer, the sale of which is prohibited, shall be handled in accordance with state and federal meat inspection laws and regulations.

D. It is a violation of these regulations to sell, purchase, trade, transport, or otherwise transfer any farm-raised alternative livestock for any purpose other than immediate slaughter at a state- or federally-approved slaughter facility if such farm-raised alternative livestock originates from a herd which is under quarantine for brucellosis or tuberculosis.

E. Failure to comply with any provision of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or any quarantine is prohibited, and each act or omission or each day of a continuing violation shall constitute a separate violation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1521. Enforcement**

A. The department's authorized representatives may, at any time, enter and inspect all farms on which farm-raised alternative livestock are located for the purposes of issuing, renewing, or reviewing farm-raising licenses and to insure compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

B. Authorized representatives of the department may inspect, during any reasonable hours, any records regarding or relating to any farm-raised alternative livestock.

C. Farm-raised alternative livestock which escape from the enclosure system of the farm, if not captured by a licensee within 96 hours of the escape, may be captured by authorized representatives of the department or by any law enforcement agency by whatever means deemed necessary by that agency.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

#### **§1523. Penalties**

A. The commissioner may suspend or revoke the farm-raising license of any licensee and the harvesting permit issued to any person found guilty of violating Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine.

B. The commissioner may, in addition to suspending or revoking any farm-raising license or harvesting permit, impose upon any person charged with violating any provisions of Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, and any quarantine, a fine for up to \$100 per violation for each violation of which such person is found guilty.

C. These civil penalties may be assessed only by a ruling of the commissioner based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

D. The commissioner may seek a restraining order, injunctive relief, or other relief in a proper court of law to restrain violations of or to compel compliance with Part I of Chapter 19-A of Title 3 of the Revised Statutes, these rules and regulations, the written farm operation plan submitted to and approved by the department, or and any quarantine or to enforce any order or ruling made by him in an adjudicatory proceedings.

AUTHORITY NOTE: Promulgated in accordance with R.S. 3:3101.

HISTORICAL NOTE: Promulgated by the Department of Agriculture and Forestry, Office of the Commissioner, LR 23:

Bob Odom  
Commissioner

9709#019

### **DECLARATION OF EMERGENCY**

#### **Department of Economic Development Racing Commission**

Blanks and Envelopes  
(LAC 35:XI.9937)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule, effective August 29, 1997.

This emergency rule shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever occurs first.

The Racing Commission finds it necessary to amend this rule to further clarify its intent and to prevent future discrepancies and voided claims due to the spelling of horses' names.

**Title 35**

**HORSE RACING**

**Part XI. Claiming Rules and Engagements**

**Chapter 99. Claiming Rule**

**§9937. Blanks and Envelopes**

All claims shall be on blanks and in envelopes furnished by the association and approved by the commission. Both blanks and envelopes must be filled out completely, and the horse's name must be spelled accurately to identify the claim, otherwise the claim shall be void. The horse's name shall be spelled as it appears in the official racing program of the association, otherwise the claim shall be void.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:142 and R.S. 4:148.

HISTORICAL NOTE: Adopted by the Racing Commission in 1971, amended by the Department of Commerce, Racing Commission, LR 2:446 (December 1976), repromulgated LR 3:42 (January 1977), LR 4:286 (August 1978), amended by the Department of Economic Development, Racing Commission, LR 23:

Paul D. Burgess  
Executive Director

9709#018

**DECLARATION OF EMERGENCY**

**Department of Economic Development  
Racing Commission**

Pari-Mutuel Tickets  
(LAC 35:XV.12341)

The Racing Commission is exercising the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), and pursuant to the authority granted under R.S. 4:141 et seq., adopts the following emergency rule effective August 29, 1997; and it shall remain in effect for 120 days or until this rule takes effect through the normal promulgation process, whichever comes first.

Due to extensive national simulcasting, the potential problem of failed communication has increased. Paying track odds, instead of refunding nontransmitted wagers, will avert potential litigation. Therefore, the Racing Commission finds it necessary to amend this rule.

**Title 35**

**HORSE RACING**

**Part XV. Off-track Wagering**

**Chapter 123. General Rules**

**§12341. Pari-Mutuel Tickets**

A. - B. ...

C. When wagers are accepted by a host track, guest track, or off-track wagering facility and pari-mutuel tickets are issued therefore, such wagers are to be considered enforceable contracts, evidenced by possession of winning tickets, and such tickets shall be honored by all cashiers of the host track and the off-track wagering facility where such wagers are placed. Refunds of wagers shall be made only:

1. on a horse that is scratched; or
2. if a race is declared off; or

3. if a manual merge is rendered impossible because of an act or event beyond the control of a host track and/or the host track's off-track wagering facility, including but not limited to, a catastrophe or acts of God.

AUTHORITY NOTE: Promulgated in accordance with R.S. 4:141, R.S. 4:176 and R.S. 4:211-227.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Racing Commission, LR 14:290 (May 1988), amended by the Department of Economic Development, Racing Commission, LR 17:261 (March 1991), amended LR 23:

Paul D. Burgess  
Executive Director

9709#017

**DECLARATION OF EMERGENCY**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

Scholarship and Grant Policy Manual—Tuition  
Assistance Program (TAP) and Honors Scholarship

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act in adopting the following changes to the Scholarship and Grant Policy and Procedure Manual.

Acts 287, 1283, and 1375 of the 1997 Regular Legislative Session affect continuing and new recipients of both the Louisiana Tuition Assistance Plan (TAP) and Honors Scholarship. A delay in promulgating rules to address student eligibility would disrupt the lives of affected students and adversely impact their financial condition and that of their families. The agency has, therefore, determined that these emergency rules are necessary in order to prevent imminent peril to the welfare of the affected TAP and Honors Scholarship recipients.

This emergency rule is effective August 15, 1997, and will remain in effect 120 days.

**IV. LOUISIANA TUITION ASSISTANCE PLAN (TAP)**

AMEND PARAGRAPHS IV.A. AND IV.B. TO READ AS FOLLOWS:

**A. Program Description, History and Purpose**

The Louisiana Tuition Assistance Plan (TAP) Program, formerly referred to as the Louisiana College Tuition Plan, was first awarded in the fall of 1989, and provides tuition reimbursement for Louisiana residents who enroll in public colleges and universities to pursue an academic undergraduate degree and who meet specific academic standards and financial need criteria. The annual award amount for TAP varies, since it is the actual tuition charged by individual state institutions.

A maximum cumulative award amount is not established; however, there is a five-year limitation on the number of academic years (10 semesters or 15 quarters) a recipient may receive this entitlement. Institutions, after submitting invoices to LASFAC, are reimbursed each term for the tuition and fees awarded for TAP recipients. Effective for academic year 1998-99, the program will be terminated and students

receiving TAP will be continued as TOPS Opportunity award recipients.

**B. Legislative Authority**

R.S. 17:3026;

Act 789 of the 1989 Regular Legislative Session, effective July 1, 1989;

Act 1055 of the 1990 Regular Legislative Session, effective July 27, 1990;

Act 718 of the 1992 Regular Legislative Session, effective January 1, 1993;

Act 269 of the 1995 Regular Legislative Session, effective January 1, 1996;

Act 872 of the 1995 Regular Legislative Session, effective June 28, 1995;

Act 287 of the 1997 Regular Legislative Session, effective July 15, 1997; and

Act 1375 of the 1997 Regular Legislative Session, effective August 15, 1997, (portions affecting 1996-97 and prior high school graduates).

\*\*\*

AMEND PARAGRAPH IV.C.1.o. TO READ AS FOLLOWS:

o. not be receiving a tuition waiver or tuition award from another source including, but not limited to, the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver, the Louisiana Honors Scholarship or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the TAP award.

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AMEND PARAGRAPH IV.C.3.b. TO READ AS FOLLOWS:

b. Achieve a cumulative GPA, as evaluated at the end of each academic year (the conclusion of the spring term), of at least 2.10 after the completion of less than 48 credit hours; at least 2.30 after the completion of 48 credit hours; and at least 2.50 after the completion of 72 credit hours, calculated on a 4.00 scale. Effective with the 1998-99 academic year, students continuing under TOPS who fail to achieve the required cumulative grade point average may be reinstated upon attainment of a cumulative grade point average, as required above, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

\*\*\*

INSERT NEW PARAGRAPH IV.C.3.d. AS FOLLOWS:

d. Effective for the 1997-98 academic year, if a student is placed on academic probation by the college or university attended, the student is ineligible for further TAP payments. The student may be reinstated upon the lifting of academic probation, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

FORMER PARAGRAPHS IV.C.3.d., IV.C.3.e. and IV.C.3.f. ARE REDESIGNATED AS IV.C.3.e., IV.C.3.f. and IV.C.3.g., RESPECTIVELY.

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AMEND FORMER PARAGRAPH IV.C.3.g. AND REDESIGNATE IT AS IV.C.3.h.:

h. TAP recipients prior to Fiscal Year 1997 who were denied continuation because of failure to show financial need, may be reinstated, upon written request, if they have maintained all other requirements for continuation as listed in Section C.3. of Chapter IV.

FORMER PARAGRAPH IV.C.3.h. IS REDESIGNATED AS IV.C.3.i.:

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THE FOLLOWING FOOTNOTE HAS BEEN ADDED TO ACCOMPANY PARAGRAPH IV.E.1.:

1. Note: Effective with the 1998-99 award year, campuses of Louisiana Technical College and regionally accredited LAICU member independent colleges and universities are authorized to participate in TOPS, which will replace the TAP program.

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AMEND PARAGRAPH IV.E.3.d. TO READ AS FOLLOWS:

d. Institutions may not bill LASFAC for a TAP award if the recipient has elected to accept a tuition waiver or tuition award from another source including, but not limited to, the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver, Louisiana Honors Scholarship or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the TAP award.

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**V. LOUISIANA HONORS SCHOLARSHIP PROGRAM**

AMEND PARAGRAPHS V.A. AND V.B. TO READ AS FOLLOWS:

**A. Program Description, History and Purpose**

The Louisiana Honors Scholarship Program, first awarded in the fall of 1992, provides tuition exemption to Louisiana residents to acknowledge, honor and reward the academic achievement of Louisiana's top high school graduates; to ensure that these students have the financial resources to pursue a higher education in one of Louisiana's colleges and universities; and to provide an incentive to these students to seek their higher education in this state. Effective for academic year 1998-99, the program will be terminated and students receiving the Honors Scholarship will be continued as TOPS Performance award recipients.

**B. Legislative Authority**

R.S. 17:3042:31 through 3042:35;

Act 1085 of the 1992 Regular Legislative Session, effective July 14, 1992;

Act 225 of the 1993 Regular Legislative Session, effective June 2, 1993;

Act 86 of the Third Extraordinary Legislative Session, effective July 7, 1994;

Act 714 of the 1995 Regular Legislative Session, effective June 21, 1995;

Act 1283 of the 1997 Regular Legislative Session, effective July 15, 1997; and

Act 1375 of the 1997 Regular Legislative Session, effective August 15, 1997 (portions affecting 1996-97 and prior year high school graduates).

\*\*\*

AMEND PARAGRAPHS V.C.1.e., V.C.1.f. AND V.C.1.g. TO READ AS FOLLOWS:

e. have attained a cumulative high school grade point average of at least 3.00 on a 4.00 scale; and

f. not be receiving other aid which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

g. not be receiving a tuition waiver or tuition award from another source including, but not limited to, the Louisiana Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver or any other institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the honors award.

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AMEND PARAGRAPH V.C.3.b. TO READ AS FOLLOWS:

b. Maintain by the end of each academic year a cumulative college or Louisiana technical college Grade Point Average (GPA) of at least 3.00 on a 4.00 scale. Effective with the 1998-99 academic year, students who fail to achieve the required cumulative grade point average may be reinstated upon attainment of a 3.00 cumulative grade point average provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

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DELETE FORMER PARAGRAPH V.C.3.g. AND REDESIGNATE FORMER PARAGRAPHS V.C.3.h. AND V.C.3.i. as V.C.3.g. AND V.C.3.h., RESPECTIVELY; AND AMEND THE REDESIGNATED V.C.3.g. AND V.C.3.h. TO READ AS FOLLOWS:

g. not be receiving other aid which, together with award of the Honors Scholarship, would exceed the student's total cost of attendance as defined by the institution in accordance with federal regulations. This Paragraph shall not preclude an institution from establishing a maximum limitation on aid based upon some other criteria which would result in a limitation that is less than the student's total cost of attendance; and

h. not be receiving a tuition waiver or tuition award from the state or an institution of higher education including, but not limited to, the Louisiana Tuition Assistance Plan (TAP), the Louisiana National Guard Tuition Waiver, the Vocational Rehabilitation Tuition Waiver or any institutional award which is limited to payment of tuition provided that the total cost of the student's tuition would be covered by the Honors Scholarship.

REDESIGNATE FORMER PARAGRAPH V.C.3.j. AS V.C.3.i. AND INSERT NEW PARAGRAPH V.C.3.j. TO READ AS FOLLOWS:

j. Effective for the 1997-98 Academic Year, if a student attended, the student is ineligible for further payments. The student may be reinstated upon the lifting of academic probation, provided that the period of ineligibility did not persist for more than two years from the date of loss of eligibility.

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AMEND PARAGRAPHS V.D.1.f. AND V.C.1.g.iii. TO READ AS FOLLOWS:

f. Each year, by the deadline specified and on the forms provided by LASFAC, city and parish school boards for

public high schools, principals or headmasters for approved special schools and nonpublic BESE-approved high schools, governing boards of eligible non-Louisiana high schools, and Louisiana Department of Education representatives for home study students shall certify and submit to LASFAC the names of students graduating in the top 5 percent of each high school's academic year graduating class who have attained a cumulative high school grade point average of at least 3.00 on a 4.00 scale or the names of those students completing an approved home study program who scored in the upper 5 percent in the state on the National Merit Exam.

g. If the certifying authority (school board, principal, headmaster or State Department of Education representative) elects to notify scholars of their selection, then the following disclaimer Paragraph shall be included in any communication to the scholar:

"Although you have been named a "Louisiana Honors Scholar," you must satisfy all of the following conditions to redeem a scholarship under this program:

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iii. You must have attained a cumulative high school grade point average of at least 3.00 on a 4.00 scale,

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AMEND PARAGRAPH V.E.3.d. TO READ AS FOLLOWS:

d. LAICU institution's reimbursement is limited to the lesser of actual tuition or the tuition amount charged by the highest cost public institution admitting freshmen. Institutions will be notified each term of the current maximum amount for full-time students and maximum amount for less than full-time students in accordance with Chapter VII.C.3. of this manual. Effective with the continuation of students under TOPS in the fall 1998 term, LAICU institutions may bill for the average tuition paid for students attending public colleges and universities as determined by LASFAC.

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## VII. GENERAL SCHOLARSHIP/GRANT POLICY

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AMEND PARAGRAPH VII.D. TO READ AS FOLLOWS:

### D. Release of Scholarship Awards

Awards shall be released to students by the institution if the student is listed on a LASFAC eligibility roster or master listing and is enrolled full-time for the applicable term, except as limited by Chapters IV.C.3.d., V.C.3.j. and VIII.C.3.b. Institutions continue to be responsible for verifying that Rockefeller Scholarship and TOPS-Teacher Award recipients are enrolled in a required field of study prior to the release of award checks.

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### Glossary

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AMEND THE GLOSSARY BY DELETING THE DEFINITION OF *Gratuitous Financial Assistance or Support* IN ITS ENTIRETY.

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Jack L. Guinn

Executive Director

9709#011

## DECLARATION OF EMERGENCY

### Student Financial Assistance Commission Office of Student Financial Assistance

#### Tuition Opportunity Program for Students (TOPS)—1997 Eligibility

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act to provide eligibility information for 1997 high school graduates under the Tuition Opportunity Program for Students (TOPS), as follows:

Act 476 of the 1997 Regular Legislative Session affects the welfare of 1997 high school graduates who may be eligible for the Tuition Opportunity Program for Students (TOPS). A delay in promulgating rules to address student eligibility would disrupt the lives of affected students and adversely impact their financial condition and that of their families. The agency has, therefore, determined that these emergency rules are necessary in order to prevent imminent peril to the welfare of the affected graduates.

This emergency rule is effective August 15, 1997, and will remain in effect 120 days.

#### VIII. TUITION OPPORTUNITY PROGRAM FOR STUDENTS (TOPS)

##### A. Program Description, History and Purpose

The Tuition Opportunity Program for Students (TOPS) is a comprehensive, merit-based student aid program consisting of a series of components, with each component having its own eligibility criteria and titled award. The purpose of TOPS is to financially assist any Louisiana student who has met the criteria for an award and has enrolled in an institution in the state for the purpose of pursuing a postsecondary education. The components of TOPS are the Opportunity Award, the Performance Award, the Honors Award and the Teachers Award. Each component shall be addressed in a separate chapter of this manual.

##### B. Legislative Authority

The TOPS was created by Act 476 of the 1997 Regular Session of the Louisiana Legislature. The Act created Chapter 20-G of the Louisiana Revised Statutes of 1950, comprised of R.S. 17:3048.1 and 3048.2.

##### C. Effective Date

Although Act 476 became effective on August 15, 1997, the monetary awards authorized under TOPS may only be made for the first time beginning with the 1998-99 academic year.

##### D. Special Provisions

1. **Applicability.** With the exception of students applying for the TOPS-Teacher Award, the following provisions are only applicable to students who graduated during the period August 15, 1996, to August 15, 1997, from a high school approved by the Louisiana Board of Elementary and Secondary Education (BESE). These emergency rules do not apply to students graduating from approved high schools after these inclusive dates.

2. **Student Eligibility.** With the exception of the TOPS-Teacher Award, TOPS awards are authorized for the first time beginning in August 1998, which is the acknowledged beginning of the 1998-99 academic year. Students must establish their eligibility for TOPS, enroll in an eligible postsecondary institution and be awarded no later than the beginning of the fourth semester (or equivalent period for schools using quarters or other terms) following the date of their graduation from high school. Accordingly, only those students who graduated from approved high schools after August 15, 1996, will be eligible for TOPS. Students graduating before that date, may be eligible to apply for the TOPS-Teacher Award.

##### a. TOPS-Opportunity Award

i. Students who will not be first-time freshmen in academic year 1998-99 (meaning they have previously attended a postsecondary institution) must apply during the 1997 special application period (see Paragraph D4a, Special Application Periods and Application Deadlines) and establish continuing eligibility in 1998 by showing evidence of a college grade point average that meets the continuation requirement for this program. (See the Glossary, page G-7 for the grade requirement for continuation in this program).

ii. Students who will be first time freshmen in academic year 1998-99 must apply during the regular application period for 1998 (January 1, 1998 to June 1, 1998), and be awarded and accept funds no later than the 1999 spring term, or lose their eligibility for the program.

##### b. TOPS-Honors Award

i. Students who will not be first-time freshmen in academic year 1998-99 (meaning they have previously attended a postsecondary institution) must apply during the 1998 regular application period (January 1, 1998 to June 1, 1998) and show evidence of having achieved a cumulative grade point average of at least 3.00 on all college course work.

ii. Students who will be first-time freshmen in academic year 1998-99 (meaning they have not previously attended a postsecondary institution) must apply during the 1998 regular application period and be awarded and accept funds no later than the 1999 spring semester, or lose their eligibility for the program.

c. TOPS-Teacher Award is authorized to be awarded during the 1997-98 academic year. Unlike the other TOPS components, students who will be enrolled as college undergraduates (freshmen through college seniors) in academic year 1997-98 may apply for this award. Students applying for the 1997-98 academic year must apply during the 1997 special application period. (See Paragraph D4b, Special Application Periods and Application Deadlines). In addition to the special provisions referred to in this Chapter, applicants for this award must meet the requirements specified in Chapter IX, adopted as emergency rules on August 12, 1997. Since the 1997 special application period will close after the 1997-98 academic year has begun, students who are selected for a Teacher Award should not expect to receive funds prior to the spring semester, 1998. Beginning in academic year 1998-99, students may accept other TOPS awards in conjunction with the Teacher Award.

### 3. Establishing Eligibility

To establish eligibility for an award under TOPS, students must meet the criteria specific to the individual awards which are depicted on the chart, page G-7 of the Glossary, and the following:

- i. be a U.S. Citizen or National and be registered with the Selective Service if required to do so by law; and
- ii. be a resident of Louisiana, meaning any person who has actually resided in Louisiana continuously during the 24 months immediately preceding enrollment in an eligible postsecondary institution, and who has a domiciliary parent or guardian in Louisiana who has manifested intent to remain in this state by establishing Louisiana as legal domicile as demonstrated by compliance with all of the following:
  - (a) if registered to vote, is registered to vote in Louisiana;
  - (b) if licensed to drive a motor vehicle, is in possession of a Louisiana driver's license;
  - (c) if owning a motor vehicle located within Louisiana, is in possession of a Louisiana registration for that vehicle; and
  - (d) if earning an income, has complied with state income tax laws and regulations.
- iii. be a graduate of a public or nonpublic high school which has been approved, provisionally approved, or probationally approved by the Louisiana Board of Elementary and Secondary Education (BESE);
- iv. annually, complete and submit the Free Application for Federal Student Aid (FAFSA), and authorize the state of Louisiana to receive application results from the federal processor of the form;
- v. meet standards for admission to the desired postsecondary institution and successfully complete 16.5 units of high school course work, constituting the following core curriculum:

UNITS	COURSE
1	English I
1	English II
1	English III
1	English IV
1	Algebra I
1	Algebra II
1	Geometry, Trigonometry, Calculus, or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, or Physics
1	American History
1	World History, World Culture, Western Civilization, or World Geography

- 1 Civics and/or Economics/Free Enterprise
- 1 Fine Arts Survey (or substitute 2 units performance courses in Music, Dance and/or Theater; or 2 units of Studio Art; or one elective from among the other subjects listed in this core curriculum)
- 2 In the same Foreign Language
- ½ Computer Science, Computer Literacy or Data Processing (or substitute at least ½ unit of an elective from among the other subjects listed in this core curriculum)

vi. except for misdemeanor traffic violations, shall not have a criminal conviction.

4. Special Application Periods and Application Deadlines. Special application periods are hereby established for the TOPS-Opportunity Award and the TOPS-Teacher Award. The special application period for the TOPS-Opportunity Award is intended to permit students who will not be first-time freshmen in academic year 1998-99, to establish their eligibility for the award during the current year and, by showing evidence of having met the program's continuation requirements, receive the award during the 1998-99 academic year. Since the TOPS-Teacher Award is authorized to be funded for the current academic year, the special application period for the Teacher Award is intended to assure that all interested students who will be college undergraduates in academic year 1997-98 are afforded the opportunity to compete for these awards.

a. Students who graduated from an approved high school on or after August 15, 1996 and through June 1997, and who enroll in a postsecondary institution during the 1997-98 academic year, must apply for the TOPS-Opportunity Award by completing and mailing the Free Application for Federal Student Aid (FAFSA), School Year 1997-98, or the Renewal FAFSA for the same year, whichever may be applicable to the student, by December 15, 1997, to be received at the address on the FAFSA's mailing envelope by December 31, 1997. Students who have previously submitted the FAFSA for 1997-98 shall be considered and should not resubmit this form.

b. Students who will be college undergraduates during the 1997-98 academic year and who are pursuing a program which leads to regular certification as a teacher may apply for the TOPS-Teacher Award by completing and mailing the Free Application for Federal Student Aid (FAFSA), School Year 1997-98, or the Renewal FAFSA for the same year, whichever may be applicable to the student, by November 1, 1997, to be received at the address on the FAFSA's mailing envelope by November 15, 1997. Students who have previously submitted the FAFSA for 1997-98 shall be considered and should not resubmit this form.

Jack L. Guinn  
Executive Director

9709#012

**DECLARATION OF EMERGENCY**

**Student Financial Assistance Commission  
Office of Student Financial Assistance**

**Tuition Opportunity Program for  
Students (TOPS)—Teachers Award**

In accordance with the Administrative Procedure Act, R.S. 49:953(B), the Louisiana Student Financial Assistance Commission (LASFAC) is exercising the emergency provisions of the Administrative Procedure Act to adopt rules for the Tuition Opportunity Program for Students (TOPS)—Teachers Award.

Act 476 of the 1997 Regular Legislative Session creates the Tuition Opportunity Program for Students (TOPS)—Teachers Award and affects the welfare of students who may be eligible for the program. A delay in promulgating rules to address student eligibility would disrupt the lives of affected students and adversely impact their financial condition and that of their families. The agency has, therefore, determined that these emergency rules are necessary in order to prevent imminent peril to the welfare of the affected students.

The rule is effective August 15, 1997, and will remain in effect for 120 days or until adoption of the final rule, whichever occurs first.

**TOPS—TEACHERS AWARD**

**A. Program Description, History and Purpose.** The Tuition Opportunity Program for Students (TOPS)—Teachers Award was created to attract academically talented high school graduates into the elementary and secondary level teaching profession and to encourage these individuals to practice their profession in Louisiana. The program provides competitively awarded educational loans to residents of Louisiana who indicate their willingness to teach at the elementary or secondary level in Louisiana. When the recipient teaches at an approved institution in Louisiana, the loans are forgiven in the ratio of one year of loan forgiveness for each year of teaching, or two years of loan forgiveness for each year of teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state. The loans are made in the amount of \$6,000 per award year for math and chemistry majors and \$4,000 per year for all other approved majors.

**B. Legislative Authority.** The TOPS—Teachers Award was created by Act 476, of the 1997 Regular Session of the Louisiana Legislature. This bill amended and reenacted R.S. 17:3042.1(A)(3) and (4), (B), (C), and (D) and 3042.2(A) and (B), reenacted R.S. 17:3042.1(A)(5) and (6) and 3042.8 and renamed Chapter 20-B of Title 17 of the Louisiana Revised Statutes of 1950.

**C. Student Applicants**

**1. Initial Eligibility.** To establish initial eligibility, the student must meet all of the following criteria:

- a. be a U.S. citizen or National, and registered with the Selective Service, if required; and
- b. be a resident of Louisiana, as defined for recipients of the Tuition Assistance Plan on page G-5 of the Scholarship and Grant Policy and Procedure Manual; and

c. submit the completed Free Application for Federal Student Aid (FAFSA); and

d. have graduated or will graduate from a public or nonpublic high school that has been approved, provisionally-approved, or probationally-approved by the Louisiana Board of Elementary and Secondary Education (BESE); and

e. have graduated with a cumulative high school grade point average of at least 3.25 calculated on a 4.00 scale for all courses completed in grades 9 through 12; and

f. have attained a composite score on American College Test (ACT) or the Scholastic Aptitude Test (SAT) which is, or is equivalent to at least 23 on the 1990 version of the American College Test; and

g. have successfully completed 16.5 units of high school course work constituting a core curriculum as follows:

UNITS	COURSE
1	English I
1	English II
1	English III
1	English IV
1	Algebra I
1	Algebra II
1	Geometry, Trigonometry, Calculus, or Comparable Advanced Math
1	Biology I
1	Chemistry I
1	Earth Science, Environmental Science, Physical Science, Biology II, Chemistry II, or Physics
1	American History
1	World History, World Culture, Western Civilization, or World Geography
1	Civics and/or Economics/Free Enterprise
1	Fine Arts Survey (or substitute 2 units performance courses in Music, Dance and/or Theater; or 2 units of Studio Art; or one elective from among the other subjects listed in this core curriculum)
2	In the same Foreign Language
1/2	Computer Science, Computer Literacy or Data Processing (or substitute at least one-half unit of an elective from among the other subjects listed in this core curriculum)

h. if by the end of June in the year of application, will have completed 24 or more hours of graded college credit, have at least a 3.25 cumulative college grade point average based on a 4.00 scale; and

i. enroll as an undergraduate student during the fall term at an eligible college or university; and

j. complete and submit such additional materials as may be required by LASFAC; and

k. be in compliance with the terms of other federal and state aid programs which the applicant may be in receipt of and which are administered by LASFAC; and

l. not have a criminal conviction, except for misdemeanor traffic violations; and

m. agree that proceeds, if received, will be used for educational expenses; and

n. enroll full time in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in math or chemistry. LASFAC may require confirmation from the dean of the College of Education or head of the Department of Education at the college or university attended, or from officials of the Louisiana Department of Education; and

o. complete a promissory note approved by the attorney general.

2. Initial Selection Criteria. To be selected for award:

a. applicants meeting the criteria in Section C.1 are assigned a merit score determined by formula. Merit score formulas are defined in the Glossary, page G-5 of the Scholarship and Grant Policy and Procedure Manual;

b. applicants' merit scores are ranked in descending order, with the applicant with the highest merit score ranked first;

c. the number of applicants selected for award is dependent upon the amount of award funds available;

d. prior to the receipt of award funds, applicants must have completed a Teacher Award Program Master Promissory Note.

3. Renewal Eligibility. Annual continuing eligibility is based upon the availability of funds and meeting all of the following requirements:

a. have received less than four years or eight semesters of funding; and

b. not be on academic probation as determined by the college or university attended; and

c. maintain a cumulative college Grade Point Average (GPA) of at least 3.00 calculated on a 4.00 scale at the end of each academic year; and

d. continue to enroll each subsequent semester or quarter as a full-time undergraduate student, unless granted an exception for cause, in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level; or

e. enter a program approved by the State Board of Elementary and Secondary Education which leads to a degree in education or to regular certification as a teacher as soon as sufficient credits have been earned to do so; and

f. complete and submit such materials as may be required by the LASFAC, including a promissory note; and

g. annually apply for federal student aid; and

h. have no criminal convictions, except for misdemeanor traffic violations; and

i. be in compliance with the terms of all other federal and state aid programs which the student may be in receipt of and which are administered by LASFAC.

4. Academic Suspension of Awards and Reinstatement.

A student who is placed on academic probation by the college or university attended and/or who fails to achieve the required grade point average is not eligible to receive renewal funding under the provisions of Sections 3.b or c above. The student may be returned to eligible status if:

a. the period of suspension did not persist for more than two years from the date of loss of eligibility; and

b. LASFAC is in receipt of:

i. student request for reinstatement; and

ii. institutional verification that the student:

(a) has been removed from academic probation by the college or university attended and is in good academic standing; and

(b) has regained a cumulative college grade point average of 3.00 based on a 4.00 scale; and

(c) is continuing to pursue initial teacher certification; and

iii. sufficient funding to award the reinstated student after funding all continuing recipients who have not been suspended from funding.

5. Annual Award Amounts

a. Students enrolled in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in a major other than math or chemistry will receive awards of \$4,000 per year, in two equal disbursements of \$2,000 each.

b. Students enrolled in a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level in math or chemistry will receive awards of \$6,000 per year, in two equal disbursements of \$3,000 each.

c. Students may not receive other aid which, together with award of the Teacher Award, would exceed the students' total cost of attendance as determined by the institution in accordance with regulations implementing federal Title IV student aid.

6. Discharge of Obligation. The loan obligation may be discharged by teaching fulfillment, monetary repayment or cancellation.

a. Teaching Fulfillment. Fulfillment is accomplished by:

i. within two years of the initial teacher certification, perform service as a full-time classroom teacher in a Board of Elementary and Secondary Education (BESE)-approved, provisionally-approved, or probationally-approved elementary or secondary school.

ii. each period of teaching of one-half year or more will fulfill an equivalent period of funding (one semester). However, if teaching in an elementary or secondary school which is located in an economically disadvantaged region of the state, as defined by BESE, one year of teaching will fulfill two years of funding.

iii. the first semester of full-time teaching will fulfill the earliest dated disbursement not previously paid under Subsection b, the second semester the next earliest dated disbursement, and continuing until all disbursements have been fulfilled.

iv. teaching to meet fulfillment requirements shall be completed within six years of completion of the initial teacher certification.

b. Monetary Repayment. Recipients who elect not to discharge the obligation by Teaching Fulfillment and who are not eligible for discharge by cancellation must repay the loan principal plus accrued interest.

i. Interest will accrue on the outstanding principal at the rate of 8 percent per year.

ii. Interest on each disbursement will accrue from the date of said disbursement until lump sum repayment or until capitalized when the recipient enters repayment status.

iii. Repayment Status. The recipient enters repayment status the first of the month following:

(a) determination by LASFAC that the recipient cannot complete fulfillment by teaching;

(b) notification of LASFAC by the recipient that monetary repayment is desired;

(c) six months after LASFAC determines that the recipient is no longer pursuing a degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary school level.

iv. Annual repayment amount will be the greater of:

(a) the amount necessary to repay the capitalized amount within 10 years; or

(b) \$1,200 per year or the unpaid balance.

v. Recipients in repayment status may have their payments deferred for the following reasons:

(a) Parental Leave

(i) Definition. The student/recipient must be pregnant or caring for a newborn or newly-adopted child.

(ii) Certification Requirements. Certification by a written statement from a doctor of medicine who is legally authorized to practice or an authorized official of the adoption agency.

(iii) Acceptable Documentation. Includes dates of required leave of absence, the number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must request by letter, with the required certification and documentation, within 60 days after the occurrence of the qualifying event.

(v) Maximum Length of Deferment. Up to one academic year.

(b) Rehabilitation Program

(i) Definition. The recipient must be receiving rehabilitation in a program administered by a licensed rehabilitation center under a written individualized plan with specific dates of beginning and ending services.

(ii) Certification Requirements. Certification by a rehabilitation counselor or doctor of medicine.

(iii) Acceptable Documentation. Includes dates of the required leave of absence, the semester(s) or number of days involved, the length of the recovery period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must file a written request, with the required certification and documentation, within 60 days after occurrence of the qualifying treatment.

(v) Maximum Length of Deferment. Up to two academic years.

(c) Temporary Disability of Recipient, Child, Parent, or Spouse

(i) Definition. Temporary total disability of recipient or recipient's child, parent or spouse of whom recipient is primary care giver,

(ii) Certification Requirements. Certification by a qualified physician.

(iii) Acceptable Documentation. Includes dates of the required leave, the length of the recovery or disability period, the beginning and ending dates of the doctor's care, and the required treatment.

(iv) Filing Requirements. The recipient must file a written request with the required certification and documentation no earlier than 30 days but within 60 days after the occurrence of disability.

(v) Maximum Length of Deferment. A deferment under this Subsection for temporary disability of the maker shall not exceed 36 months. A deferment under this Subsection for temporary disability of any other person shall not exceed 12 months.

(d) Military Service, Peace Corps, National Service Corps, VISTA

(i) Definition. The recipient is called on active duty status with the United States Armed Forces or is performing emergency state service with the National Guard or is serving in the Peace Corps, National Service Corps or VISTA.

(ii) Certification Requirements. Certified by a written statement from the commanding officer or regional supervisor or certified military orders.

(iii) Acceptable Documentation. Includes dates of required leave of absence, the semester(s) or number of days involved, the length of duty (beginning and ending dates).

(iv) Filing Requirements. The student/recipient must file a written request with the required certification and documentation, within 60 days after receipt of military orders or letter of appointment.

(v) Maximum Length of Deferment. Up to the length of the required service period.

(e) Recipient is engaging in a full-time course of study at an institution of higher education at the baccalaureate level or higher. A deferment under this Subsection shall not exceed 36 months; or

(f) Recipient is:

(i) seeking and unable to find full-time employment for a single period not to exceed 12 months; or

(ii) seeking and unable to find full-time employment at a qualifying Louisiana school for a period of time not to exceed 27 months; or

(g) Teaching full time as per Subsection a above.

vi. During the period of time a recipient is in deferment status, a recipient is not required to make repayments and interest does not accrue.

vii. The period of time for completion of repayment will be extended by a period of time equal to the length of time the recipient is in deferment status.

c. Cancellation. Upon submission of applicable proof, teacher loans may be canceled for the following:

i. death of the recipient;

ii. complete and permanent disability of the recipient which precludes the recipient from gainful employment.

#### D. High Schools

1. Only graduates of Louisiana BESE-approved, probationally-approved, and probationally-approved public or nonpublic high schools are authorized to participate in the Teacher Award.

2. Participating high schools must complete and return the certification listing of applicants to LASFAC by the deadline specified.

#### E. College and Universities

1. Those institutions offering degree programs or courses of study leading to a degree in education or an alternative program leading to certification as a teacher at the elementary or secondary level that are:

a. Louisiana public colleges and universities, or

b. regionally accredited independent colleges and universities that are members of the Louisiana Association of Independent Colleges and Universities (LAICU).

2. College and university responsibilities include:

a. certification of student status. Upon request by LASFAC, the institution will verify the following:

i. admission, and if appropriate, full-time enrollment; and

ii. eligibility for, or enrollment in, a course of study leading to initial teacher certification;

iii. enrollment in math or chemistry as major while pursuing teacher certification.

b. Disbursement of Funds. Upon receipt of award checks the institution will:

i. determine that the recipient is enrolled full time, in an approved degree program or course of study leading to a degree in education or alternative program leading to regular certification as a teacher at the elementary or secondary level;

ii. if designated as math or chemistry recipient, verify enrollment in course of study leading to certification as a math or chemistry teacher;

iii. release the award check to the recipient as instructed by LASFAC.

c. Reporting of Academic Data. At the conclusion of each academic year, the institution will complete and return to LASFAC, the College Academic Grade Report, including:

i. academic year and cumulative hours earned;

ii. cumulative grade point average;

iii. major;

iv. upon graduation, degree date and degree program.

F. Louisiana Department of Education. The responsibilities of the Louisiana Department of Education include verification of:

1. eligibility of teacher education programs;
2. award of teacher certification.

\* \* \*

Amend the Glossary of the Scholarship/grant Policy and Procedure Manual by definition of Merit Ranking Formula to read as follows:

Merit Ranking Formula. A formula incorporating selected merit factors which is used to rank eligible applicants in the priority by which competitive scholarships are to be awarded. The following formulas for the merit ranking of scholarship applicants provide for the equating of scores for high school graduating seniors and college students:

Formula I. Utilized for applicants with less than 24 hours of graded college credit.

$$\frac{\text{HSGPA}}{4.00} \times 60 + \frac{\text{ACT}}{36} \times 40 = \text{MERIT SCORE}$$

Formula II. Utilized for applicants with 24 or more hours of graded college credit.

$$\frac{\text{COLLEGE GPA}}{4.00} \times 95 + \frac{\text{COLLEGE LEVEL}}{4} \times 5 = \text{MERIT SCORE}$$

Formula III. Utilized for applicants for the TOPS—Teacher Award

For those applicants majoring in math or chemistry, an additional 10 points is added to the merit score determined by Formula I or II, resulting in an adjusted merit score.

Jack L. Guinn

Executive Director

9709#013

## DECLARATION OF EMERGENCY

Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing

### Eligibility of Aliens

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule in the Medical Assistance Program as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is adopted in accordance with the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the rule, whichever occurs first. Adoption of this rule on an emergency basis is necessary to avoid sanctions or penalties from the federal government arising from failure to adopt appropriate regulations related to the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193).

The Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) significantly changed Medicaid eligibility for individuals who are not citizens of the United States. Medicaid must be provided to eligible citizens or

nationals, but certain noncitizens may be eligible to receive only treatment for an emergency medical condition. This emergency rule adopts the mandatory provisions of P.L. 104-193 and states the options chosen by the state. This emergency rule addresses only the citizenship requirement: every applicant for Medicaid under any classification addressed in this emergency rule must meet all requirements for eligibility. Previous regulations for Medicaid eligibility of lawful permanent residents and aliens Permanently Residing in the United States Under Color of Law (PRUCOL) no longer apply and are replaced by this emergency rule. A previous emergency rule effective January 1, 1997, redefined and replaced all definitions and categories of alien groups (*Louisiana Register*, Volume 23, Number 1, page 24). The following emergency rule will continue the provisions of the corresponding emergency rule in force.

All noncitizens are classified as qualified aliens or nonqualified aliens (which includes illegal aliens). Nonqualified aliens are eligible only for emergency services. Some specifically defined qualified aliens are eligible for regular Medicaid benefits. Those qualified aliens who are not eligible for regular Medicaid benefits are eligible only for emergency services.

In general, aliens who are refugees, asylees, or whose deportation is being withheld are eligible for consideration of Medicaid eligibility until five years after the date of entry into the United States, regardless of when they enter the country, and veterans and those on active duty in the armed services and their families.

Mandatory qualified alien groups eligible for regular Medicaid benefits are:

1. aliens receiving Medicaid on August 22, 1996 (until January 1, 1997);
2. aliens receiving SSI (until SSA notifies Medicaid that SSI benefits have stopped);
3. qualified aliens who were in the United States prior to August 22, 1996, who are members of these groups, whether or not receiving Medicaid on that date and meet any of these criteria:
  - a. lawful permanent residents to whom 40 qualifying quarters of Social Security can be credited;
  - b. refugees until five years after the date of the alien's entry into the United States;
  - c. asylees until five years after the grant of asylum;
  - d. aliens who have had deportation withheld under Section 243(h) of the INA until five years after the grant of withholding; and
  - e. honorably discharged veterans and aliens on active duty in the United States armed forces, and the spouse or dependent child(ren) of such individuals;
4. qualified aliens entering the United States on or after August 22, 1996, who are members of the groups below:
  - a. refugees for five years from date of entry;
  - b. asylees for five years from date of entry;
  - c. aliens whose deportation has been withheld under Section 423(h) of the INA for five years from grant of withholding;
  - d. veterans and aliens on active duty in the United States' armed forces, and the spouse or dependent child(ren) of such individuals;

5. American Indians born in Canada who have at least 50 percent Indian blood who enter and reside in the United States.

The state has determined that the following optional groups of qualified aliens are not eligible for regular Medicaid services under this emergency rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward.

2. aliens who were in the United States prior to August 22, 1996, who are included in the definition of *qualified alien*, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

#### Definitions

*Illegal Aliens* either were never legally admitted to the United States for any period of time, or were admitted for a limited period of time and did not leave the United States when their period of time expired. Illegal aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship.

*Ineligible Aliens* are aliens lawfully admitted to the United States but only for a temporary or specified period of time as legal nonimmigrants. Ineligible aliens are eligible only for emergency services if they meet all eligibility criteria other than citizenship. The following categories of individuals are ineligible aliens:

1. foreign government representatives on official business and their families and servants;
2. visitors for business or pleasure, including exchange visitors;
3. aliens in travel status while traveling directly through the U.S.;
4. crewmen on shore leave;
5. treaty traders and investors and their families;
6. foreign students;
7. international organization representation and personnel and their families and servants;
8. temporary workers including agricultural contract workers; and
9. members of foreign press, radio, film, or other information media and their families.

*Qualified Aliens* are eligible for regular Medicaid if they also meet additional criteria described above for mandatory Medicaid eligibility, or are eligible only for emergency services if they do not. An alien must meet all eligibility requirements for Medicaid other than citizenship to receive either regular Medicaid eligibility or emergency services. Qualified aliens are aliens who are:

1. lawful permanent residents;
  2. refugees;
  3. asylees;
  4. aliens who have had deportation withheld under Section 243(h) of the Immigration and Nationality Act (INA);
  5. aliens granted parole for at least one year by the INS;
- or

6. aliens granted conditional entry under immigration law in effect before April 1, 1980.

*Emergency Medical Services* are not related to either an organ transplant procedure or routine prenatal or post-partum care. The alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions, or serious dysfunction of any bodily organ or part.

Effective May 1, 1997, an emergency rule was published redefining the above provisions of categories of eligible aliens (*Louisiana Register* Volume 23, Number 4). Therefore, this current emergency rule continues the provisions of the May 1997 emergency in force.

#### **Emergency Rule**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the provisions of Section 401 of the Personal Responsibility and Work Opportunity Act of 1996 (P.L. 104-193) regarding Medicaid eligibility for noncitizens. The following optional groups of qualified aliens are not eligible for regular Medicaid services under this emergency rule, but may be eligible for emergency services if they meet all eligibility criteria other than citizenship:

1. aliens receiving Medicaid benefits on August 22, 1996, but not receiving SSI, are not eligible January 1, 1997 and afterward;

2. aliens who were in the United States prior to August 22, 1996, who are included in the definition of qualified alien, but not included in the mandatory group of qualified aliens living in the United States before August 22, 1996 are not eligible for Medicaid.

Bobby P. Jindal  
Secretary

9709#064

### **DECLARATION OF EMERGENCY**

**Department of Health and Hospitals  
Office of the Secretary  
Bureau of Health Services Financing**

#### **Nursing Homes—Emergency Preparedness Plan**

The Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following emergency rule as authorized by R.S. 46:153 and pursuant to Title XIX of the Social Security Act. This emergency rule is in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and shall be in effect for the maximum period allowed under the Administrative Procedure Act or until adoption of the final rule, whichever occurs first.

The department maintains minimum licensing requirements for the operation of all nursing homes in the state (*Louisiana Register*, Volume 13, Number 4). The purpose of the nursing

home licensing law and requirements is to provide for the development, establishment, and enforcement of standards of care for individuals in nursing homes and for the construction, maintenance, and operation of nursing homes which will promote safe and adequate treatment of nursing home residents. The department has now determined that it is necessary to amend the minimum licensure standards to require nursing homes to maintain a written emergency preparedness plan that describes the procedures to be followed in the event of an emergency such as a hurricane or flood. The emergency preparedness plan shall include the following procedures for:

(1) the evacuation of residents to a safe place either within the nursing home or to another location;

(2) the delivery of essential care and services whether residents are housed off-site or when additional residents are brought into a nursing home during an emergency;

(3) the provisions for the management of staff, including distribution and assignment of responsibilities and functions either within the nursing home or at another location;

(4) a plan for coordinating transportation services required for evacuating residents to another location; and

(5) assurance that the resident's family or sponsor is notified if the resident is evacuated to another location.

The plan shall be developed in coordination with the local/parish Office of Emergency Preparedness utilizing community-wide resources. These provisions were established and published in a subsequent emergency rule. (*Louisiana Register*, Volume 23, Number 6).

#### **Emergency Rule**

Effective October 7, 1997, the Department of Health and Hospitals, Office of the Secretary, Bureau of Health Services Financing adopts the following regulations to require all licensed nursing homes to have a written emergency preparedness plan designed to manage the consequences of a natural disaster or other emergency that disrupts the home's ability to provide care and treatment or threatens the lives or safety of the residents. The nursing home's emergency preparedness plan must conform to the Office of Emergency Preparedness' Model Plan.

#### **Emergency Preparedness Plan**

A. As a minimum, written emergency preparedness plan shall address the following:

1. the evacuation of residents to a safe place either within the nursing home or to another location;

2. the delivery of essential care and services to when either residents are evacuated off-site or additional residents are evacuated to the nursing home during an emergency;

3. the provisions for the management of staff, including distribution and assignment of responsibilities and functions, either within the nursing home or at another location;

4. a plan for coordinating transportation services required for evacuating residents to another location; and

5. a method to assure that the resident's family or sponsor is notified if the resident is evacuated to another location.

B. The nursing home's plan shall be implemented at least annually, either in response to an emergency or in a planned drill. The nursing home's performance during

implementations of the plan shall be evaluated, documented, and the plan changed where indicated.

C. The nursing home's plan shall be reviewed and approved by the local/parish office of emergency preparedness, utilizing community-wide resources.

D. The plan shall be available to representatives of the Office of State Fire Marshal as well as DHH personnel.

Bobby P. Jindal  
Secretary

9709#063

## DECLARATION OF EMERGENCY

### Department of Insurance Office of the Commissioner

#### Regulation 63—Prohibition on the Use of Medical Information and Genetic Test Results

In accordance with the provisions of R.S. 49:953(B) of the Administrative Procedure Act, the Department of Insurance has adopted an emergency regulation in order that it might be implemented without delay and allow the statutory provisions of Act 1418 of the 1997 Regular Session of the Louisiana Legislature to take effect, without causing imminent peril to the health and safety of the residents of the state who could otherwise be denied access to health insurance coverage.

Emergency rulemaking is necessary to establish the statutory prohibitions on the use of medical information, including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents. This emergency regulation is effective September 8, 1997, and shall remain in effect for the maximum period of time allowed by state law.

#### Emergency Rule

##### Section 1. Purpose

The purpose of this regulation is to establish the statutory prohibitions on the use of medical information including pregnancy tests, genetic tests and related genetic test information by health insurers, third-party administrators, and insurance agents.

##### Section 2. Authority

This regulation is issued pursuant to the authority vested in the commissioner of Insurance under the Administrative Procedure Act and R.S. 22:3, 22:10, 22:2014, 22:2002(7), 22:214(22) and (23), 22:213.6, and 22:213.7 of the *Insurance Code*.

##### Section 3. Definitions

*Collection*—obtaining a DNA sample or samples for the purpose of determining inherited or individual characteristics that can be utilized to predict the development of medical conditions in the future. *Collection* shall not mean diagnostic or medical treatment information about an existing medical condition or the prior medical condition of a person applying for or being covered by a health benefit plan.

*Compulsory Disclosure*—any disclosure of genetic information mandated or required by federal or state law in

connection with a judicial, legislative, or administrative proceeding.

*DNA*—deoxyribonucleic acid including mitochondrial DNA, complementary DNA, as well as any DNA derived from ribonucleic acid (RNA). *DNA* shall not mean any medical procedure or test utilized in the practice of medicine for the purpose of diagnosing or treating a medical illness or health related condition.

*Disclose*—to convey or to provide access to genetic information to a person other than the individual.

*Family*—includes an individual's blood relatives and any legal relatives, including a spouse or adopted child, who may have a material interest in the genetic information of the individual. For purposes of providing individual or group health care coverage, the term *family* shall not be used to prevent the collection of reasonable medical information about individuals applying for health insurance coverage to perform medical underwriting based on existing or past medical conditions of those persons being insured.

*Family History/Pedigree*—the medical history of blood relatives of an individual that is used to predict the possibility of developing a medical condition in the future. The term shall not include the medical history of an insured or applicant for coverage under a health benefit plan.

*Genetic Analysis*—the process of characterizing genetic information from a human tissue sample and does not include the performance of medical tests, including but not limited to blood tests, in the diagnosis or treatment of a medical condition.

*Genetic Characteristic*—any gene or chromosome, or alteration thereof, that is scientifically or medically believed to cause a disease, disorder, or syndrome, or to be associated with a statistically significant increased risk of development of a disease, disorder or syndrome.

*Genetic Information*—all information about genes, gene products, inherited characteristics, or family history/pedigree that is expressed in common language. *Genetic information* does not include the medical history of an individual insured or applicant for health care coverage.

*Genetic Test*—any test for determining the presence or absence of genetic characteristics in an individual, including tests of nucleic acids, such as DNA, RNA, and mitochondrial DNA, chromosomes, or proteins in order to diagnose or identify a genetic characteristic. The determination of a genetic characteristic shall not include any diagnosis of the presence of disease, disability, or other existing medical condition.

*Health Benefit Plan*—any health insurance policy, plan, or health maintenance organization subscriber agreement issued for delivery in this state under a valid certificate of authority and does not include life, disability income, or long-term care insurance.

*Individual*—the source of a human tissue sample from which a DNA sample is extracted or genetic information is characterized.

*Individual Identifier*—a name, address, social security number, health insurance identification number, or similar information by which the identity of an individual can be determined with reasonable accuracy, either directly or by reference to other available information. Such term does not

include characters, numbers, or codes assigned to an individual or a DNA sample that cannot singly be used to identify an individual.

*Insurer*—any hospital, health, or medical expense insurance policy, hospital or medical service contract, employee welfare benefit plan, health and accident insurance policy, or any other insurance contract of this type, including a group insurance plan, or any policy of group, family group, blanket, or franchise health and accident insurance, a self-insurance plan, health maintenance organization, and preferred provider organization, including insurance agents and third-party administrators, which delivers or issues for delivery in this state an insurance policy or plan. The term *insurer* does not include any individual or entity that does not hold a valid certificate of authority to issue, for delivery in this state, an insurance policy or plan. A certificate of authority to issue an insurance policy or plan for delivery shall not include a license or certificate to act as a preferred provider organization, insurance agent, or third-party administrator.

*Person*—all persons other than the individual or authorized agent acting on behalf of the individual, who is the source of a tissue sample and shall include a family, corporation, partnership, association, joint venture, government, governmental subdivision or agency, and any other legal or commercial entity. The term shall not include any licensed insurance agent acting on behalf of the individual to complete and submit health insurance application documents required to apply for coverage under a health policy or plan.

*Research*—scientific investigation that includes systematic development and testing of hypotheses for the purpose of increasing knowledge.

*Storage*—retention of a DNA sample or of genetic information for an extended period of time after the initial testing process. The term does not include medical history information about insureds or persons applying for coverage under a health benefit plan.

#### **Section 4. Applicability and Scope**

Except as otherwise specifically provided, the requirements of this regulation apply to all issuers of health care policies or contracts of insurance, or health maintenance organization subscriber agreements issued for delivery in the state of Louisiana. The requirements of this regulation shall not impinge upon the normal practice of medicine or reasonable medical evaluation of an individual's medical history for the purpose of providing or maintaining health insurance coverage. The requirements of this regulation address the use of medical information, including use of genetic tests, and genetic information for the purpose of issuing, renewing, or establishing premiums for health coverage. The provisions of this regulation do not apply to any actions of an insurer or third parties dealing with an insurer taken in the ordinary course of business in connection with the sale, issuance or administration of a life, disability income, or long-term care insurance policy.

#### **Section 5. Prohibitions on the Use of Pregnancy Test Results**

Any insurer shall be authorized to request medical information that verifies the pregnancy of an insured or individual applying for coverage under a health benefit plan.

The results of any prenatal test, other than the determination of pregnancy, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage under the policy or plan, or restrict the sale of the policy or plan in force;
2. cancel or refuse to renew the coverage under the policy or plan in force;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan in force;
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan in force;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan in force;
6. otherwise discriminate against an insured individual or insured family member in the provision of insurance.

#### **Section 6. Requirements for Release of Genetic Test and Related Medical Information**

A. A general authorization for the release of medical records or medical information shall not be construed as an authorization for disclosure of genetic information. No insurer shall seek to obtain genetic information from an insured or applicant or from a DNA sample, without first obtaining written informed consent from the individual or authorized representative. To be valid, an authorization to disclose the results of a genetic test shall:

1. be in writing, signed by the individual and dated on the date of such signature;
2. identify the person permitted to make the disclosure;
3. describe the specific genetic information to be disclosed;
4. identify the person to whom the information is to be disclosed;
5. describe with specificity the purpose for which the disclosure is being made;
6. state the date upon which the authorization will expire, which in no event shall be more than 60 days after the date of the authorization;
7. include a statement that the authorization is subject to revocation at any time before the disclosure is actually made or the individual is made aware of the details of the genetic information;
8. include a statement that the authorization shall be invalid if used for any purpose other than the described purpose for which the disclosure is made.

B. A copy of the authorization shall be provided to the individual. An individual may revoke or amend the authorization in whole or in part, at any time. In complying with the provisions of this Section, the record holder is responsible for assuring only authorized information is released to insurers with respect to medical records that contain genetic information. The requirements of this Section shall not act to impede or otherwise impinge upon the ability of the patient's attending physician to provide appropriate and medically necessary treatment or diagnosis of a medical condition.

#### **Section 7. Prohibitions on the Use of Medical Information and Genetic Test Results**

A. Any insurer shall be authorized to make reasonable requests for medical history information regarding an insured

or individual applying for coverage under a health benefit plan. A reasonable request shall in no instance include a requirement to identify every medical practitioner an individual has ever utilized during his/her lifetime and release of any medical records that may exist. To be considered reasonable, requests must be limited to specific treatment information regarding existing conditions under treatment or conditions that have been treated within the past five years. The use of a medical information questionnaire in conjunction with applying for health coverage shall be allowed provided information is limited to the medical conditions of those persons being offered or considered for coverage under the plan.

B. No insurer shall require an applicant for coverage under a policy or plan, or an individual or family member who is presently covered under a policy or plan, to be the subject of a genetic test, release genetic test information, or to be subjected to questions relating to the medical conditions of persons not being insured under such policy or plan.

C. All insurers shall, in the application or enrollment information required to be provided by the insurer to each applicant concerning a policy or plan, include a written statement disclosing the rights of the applicant. Such statements shall be printed in 10-point type or greater with a heading in all capital letters that states: YOUR RIGHTS REGARDING THE RELEASE AND USE OF GENETIC INFORMATION. Disclosure statements must be approved by the Department of Insurance as complying with the requirements of R.S.22:213.7 prior to utilization.

D. The results of any genetic test, including genetic test information, shall not be used as the basis to:

1. terminate, restrict, limit, or otherwise apply conditions to the coverage of an individual or family member under the policy or plan, or restrict the sale of the policy or plan to an individual or family member;
2. cancel or refuse to renew the coverage of an individual or family member under the policy or plan;
3. deny coverage or exclude an individual or family member from coverage under the policy or plan.
4. impose a rider that excludes coverage for certain benefits or services under the policy or plan;
5. establish differentials in premium rates or cost sharing for coverage under the policy or plan;
6. otherwise discriminate against an individual or family member in the provision of insurance.

#### **Section 8. General Provisions**

A. The requirements of this Section shall not apply to the genetic information obtained:

1. by a state, parish, municipal, or federal law enforcement agency for the purposes of establishing the identity of a person in the course of a criminal investigation or prosecution;
2. to determine paternity;
3. to determine the identity of deceased individuals;
4. for anonymous research where the identity of the subject will not be released;

5. pursuant to newborn screening requirements established by state or federal law;

6. as authorized by federal law for the identification of persons;

7. by the Department of Social Services or by a court having juvenile jurisdiction as set forth in *Children's Code* Article 302 for the purposes of child protection investigations or neglect proceedings.

B. An applicant/insured's genetic information is the property of the applicant/insured. No person shall retain genetic information without first obtaining authorization from the applicant/insured or a duly authorized representative, unless retention is:

1. for the purposes of a criminal or death investigation or criminal or juvenile proceeding;
2. to determine paternity.

C. The standards of accrediting bodies, professional associations, and federal agencies shall not be considered in determining negligence or willful disclosure of genetic test results, or genetic information. For purposes of R.S. 22:213.7, any person who acts without proper authorization to collect a DNA sample for analysis, or willfully discloses genetic information without obtaining permission from the individual or patient as required under this regulation, shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the unauthorized collection, storage, analysis, or disclosure, or \$50,000, whichever is greater;
2. treble damages, in any case where such a violation resulted in profit or monetary gain;
3. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action to enforce any liability under R.S. 22:213.7.

D. Any person who, through a request, the use of persuasion, under threat, or under a promise of a reward, willfully induces another to collect, store or analyze a DNA sample in violation; or willfully collects, stores, or analyzes a DNA sample; or willfully discloses genetic information in violation of R.S. 22:213.7 shall be liable to the individual for each such violation in an amount equal to:

1. any actual damages sustained as a result of the collection, analysis, or disclosure, or \$100,000, whichever is greater;
2. the costs of the action together with reasonable attorney fees as determined by the court, in the case of a successful action under R.S. 22:213.7.

E. The discrimination against an insured in the issuance, payment of benefits, withholding of coverage, cancellation, or nonrenewal of a policy, contract, plan or program based upon the results of a pregnancy or genetic test or receipt of genetic information shall be treated as an unfair or deceptive act or practice in the business of insurance under R.S. 22:1214.

James H. "Jim" Brown  
Commissioner of Insurance

9709#037

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Gaming Control Board

#### Hearings and Appeals (LAC 42:III.108 and 114)

In accordance with the provisions of R.S. 49:953, the Gaming Control Board hereby determines that adoption of emergency rules relative to procedures for administrative hearings and appeals to the board is necessary and that for the following reasons failure to adopt rules on an emergency basis will result in imminent peril to the public health, safety and welfare.

Act 7 of the First Extraordinary Session of 1996, effective May 1, 1996, created the Gaming Control Board with all regulatory authority, control and jurisdiction, including investigation, licensing and enforcement, and all power incidental or necessary to such regulatory authority, control and jurisdiction over all aspects of gaming activities and operations as authorized pursuant to the provisions of the Louisiana Riverboat Economic Development and Gaming Control Act, the Louisiana Economic Development and Gaming Corporation Act, and the Video Draw Poker Devices Control Law.

Numerous licensing actions and enforcement actions are required to be initiated by the board and it is necessary that rules be adopted providing for administrative hearings to ensure due process is afforded applicants, licensees and permittees.

R.S. 27:25 was amended during the 1997 Regular Session specifically with regard to time periods for hearing officers rendering decisions, for appeals to the board and time periods for decisions of the board.

For the foregoing reasons, the Gaming Control Board has determined adoption of emergency rules is necessary and hereby adopts these emergency rules, amending LAC 42:III.108 and adding LAC 42:III.114, effective August 11, 1997, in accordance with R.S. 49:953(B), and effective for 120 days or until the final rule is promulgated, whichever occurs first.

#### Title 42

#### LOUISIANA GAMING

#### Part III. Gaming Control Board

#### Chapter 1. General Provisions

#### §108. Board Hearings

A. Any person against whom an administrative action is proposed, and any person against whom an enforcement action is taken, may request a hearing by filing a written request with the board. The request shall be filed within 10 days of the date of receipt of the certified mailing or personal service of the notice of proposed action or within 10 days of the date the enforcement action is taken. All hearings shall be conducted in accordance with this Section.

\* \* \*

E. The record shall be considered received by the hearing officer for the purposes of R.S. 27:25 (B)(3) only upon receipt of the transcript of the hearing, all briefs either requested or allowed by the hearing officer, and all evidence which the

hearing officer orders be made part of the record after the hearing.

F. All briefs submitted to the hearing officer or to the board shall be on 8½" x 11" paper and shall not exceed 15 pages unless approved by the hearing officer or chairman. No less than 10-point and 12-character-per-inch typeface shall be used. A margin of at least 1 inch at the top and bottom of each page shall be maintained. Footnotes may be single spaced but shall not be used to circumvent the spirit of this rule.

G.1. All motions, briefs, requests for discovery and any other pleading filed with the board shall be served on the adverse party on the same day, either by mailing or delivering a copy thereof to the adverse party at his last known address or to his counsel of record.

2. Where service is made by mail or delivery, the party or counsel making the service shall file in the record a certificate of the manner in which service was made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Safety and Corrections, Gaming Control Board, LR 23:77 (January 1997), amended LR 23:

#### §114. Appeals to the Board

Appeals to the board shall be decided on the record. Briefs shall be submitted only if allowed by the board at the written request of the party. The appeal may be assigned and scheduled for oral argument on request of the parties at the discretion of the board. In the event briefs are filed and/or the appeal scheduled for oral argument, the time period required for the board to render a decision shall be 60 days after the receipt of all briefs or the date of the oral argument, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 27:1 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Gaming Control Board, LR 23:

Hillary J. Crain  
Chairman

9709#006

## DECLARATION OF EMERGENCY

### Department of Public Safety and Corrections Office of State Police

Out-of-State Inspection  
Stations (LAC 55.III.808)

In accordance with R.S. 47:463(A)(2), the Department of Public Safety and Corrections, Office of State Police is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the implementation of the 1997 Regular Session amendments to R.S. 32:1301 and R.S. 32:1305 authorizing the establishment of motor vehicle inspection stations by any business owning more than 40 motor vehicles registered pursuant to the International Registration Plan in Louisiana and operating at least one

vehicle repair and maintenance shop. The 1997 amendment authorizes the establishment of such inspection stations within or without the state of Louisiana. This emergency rule is to become effective September 10, 1997 and shall remain in effect for 120 days.

The Department of Public Safety has determined that failure to adopt these rules as emergency rules would present a threat to the public welfare and to the public safety of the state of Louisiana and its citizens. If these emergency rules are not adopted, fleet operators who currently register their motor vehicles in Louisiana could change the registrations of their fleet vehicles to another state in which they have garage facilities, and thus the revenue Louisiana generates from these registrations would be lost. Additionally, these motor vehicles may be registered in a state which does not have inspection requirements, with the result that safety of Louisiana motorists could be threatened by the operation of motor vehicles which are not inspected pursuant to Louisiana law.

As a result of the above finding, the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, hereby adopts the following emergency rule:

#### **Title 55**

#### **PUBLIC SAFETY**

#### **Part III. Motor Vehicles**

#### **Chapter 8. Vehicle Inspection**

#### **Subchapter D. Appointment as an Inspection Station**

#### **§808. Out-of-State Inspection Stations**

A. All inspections of motor vehicles registered in Louisiana pursuant to the International Registration Plan, if conducted outside the state of Louisiana, shall be conducted during the months of October, November, and December.

B. All inspection reports shall be received by the Safety Enforcement Section no later than January 31 of the year following the date the motor vehicle was inspected at the out-of-state inspection station. The reports shall be mailed to the Office of State Police, Safety Enforcement Section at Post Office Box 66614, Baton Rouge, Louisiana 70896; or hand delivered at the Safety Enforcement Section headquarters at 265 S. Foster Drive, Baton Rouge, Louisiana 70806.

C. Prior to issuing a certificate of appointment authorizing an out-of-state inspection station, the applicant shall provide the full name, telephone number (including area code), complete mailing and physical addresses of two contact persons. One contact person shall be located inside the state of Louisiana, and one contact person shall be located at the site of the out-of-state inspection station.

D. All mechanic inspectors shall be trained in Louisiana by a safety enforcement officer.

E. All inspection certificates shall be mailed directly to the mailing address of the contact person located at the out-of-state inspection station.

F. It shall be the responsibility of the contact person located at the out-of-state inspection station, upon receipt of the inspections certificates, to notify the Safety Enforcement Section of the receipt of the inspection certificates. The contact person shall verify the audit numbers of the certificates received and include a statement of this verification in the notice to the Safety Enforcement Section

required in this Subsection. The notification required by this Subsection shall be in writing, but may be sent by facsimile to the Safety Enforcement Section headquarters in Baton Rouge, LA. If the notice required by this Subsection is sent by facsimile, the person shall contact headquarters to verify the telephone number for receiving facsimiles prior to sending the facsimile.

G. The inspection log books shall be sent to the applicant's Louisiana contact, who shall have the responsibility of forwarding the log books to the out-of-state inspection station.

H. All lost or stolen inspection stickers shall be reported to the Safety Enforcement Section and to a law enforcement agency having criminal jurisdiction over the location of the out-of-state inspection station. The notice required by this Subsection shall be in writing and shall be sent to the Safety Enforcement Section headquarters in Baton Rouge, LA. The Safety Enforcement Section headquarters shall also be provided, by the out-of-state contact person, with a copy of the police report completed by a commissioned member of the agency contacted regarding the loss or theft of the inspection stickers.

I. Each out-of-state inspection station shall only purchase the number of stickers needed to inspect the number of commercial motor vehicles registered in Louisiana that use that location. The inspection stickers are sold in books of 25. Each out-of-state inspection station may purchase an additional 10 percent of its projected allotment to account for fluctuations in fleet numbers. The allotment for each out-of-state inspection station shall be determined by the Safety Enforcement Section based on information provided by the applicant. Any requests for additional stickers shall be in writing and shall include an explanation as to why additional stickers are needed. Inspection stickers issued to one out-of-state inspection station shall not be transferred or assigned to another inspection station without prior written approval by the Safety Enforcement Section. The request for such approval shall be in writing and shall state the reasons for requesting such transfer or reassignment of stickers. If such transfer or reassignment is approved, all inspection stations involved in such transfer or reassignment of stickers shall maintain detailed records so as to provide a clear audit trail for the stickers.

J. Each out-of-state inspection station shall place inspection reports in numerical order prior to submitting the reports to the Safety Enforcement Section headquarters in Baton Rouge, LA. All inspection stickers shall be accounted for, and any missing inspection stickers shall be documented by the lost or stolen report required in this Section. Any inspection sticker remaining unused at the end of the calendar year shall be destroyed or returned to the Safety Enforcement Section. In either case, a record of the disposition of the remaining stickers shall be submitted to the Safety Enforcement Section.

K. All out-of-state inspection stations are subject to unannounced inspection of their facilities by safety enforcement officers between 8 a.m. central time and 4:30 p.m. central time. All out-of-state inspection station employees shall cooperate fully with the Safety Enforcement Section personnel conducting the inspection. All out-of-state

inspection stations are subject to inspections at other times if the station is in operation at the time of the safety enforcement inspection. All records relating to motor vehicle inspections located at the out-of-state inspection station shall be made available immediately upon request by personnel of the Safety Enforcement Section. All such records are subject to seizure in connection with such investigation, unless the safety enforcement officer in charge of the inspection determines that accurate and acceptable copies can be obtained. The applicant shall have the burden of providing such copies.

L. All personnel assigned to the Safety Enforcement Section are authorized to conduct, or assist in the conduct of, any investigation of an out-of-state inspection station. The deputy secretary of the Department of Public Safety and Corrections, Public Safety Services may assign personnel from other offices, divisions, or sections of the department to conduct, or assist in the conduct of, any investigation, and any such personnel shall have the same authority as personnel of the Safety Enforcement Section. Safety enforcement officers may conduct an investigation of any complaint concerning the condition of any motor vehicle inspected by an out-of-state inspection station. Any complaint arising from a motor vehicle condition report, an accident report from any law enforcement agency located inside or outside Louisiana, or written complaint from a member of the public may be investigated by personnel of the Safety Enforcement Section.

M. All out-of-state inspection stations shall adhere to all Louisiana laws governing the Motor Vehicle Inspection Program, as well as all rules and regulations in the most current *Motor Vehicle Inspection Manual*. It is the responsibility of the permittee to maintain a current manual at any inspection station and to make all inspectors aware of the contents of the manual.

N. The operator, as well as each appointed out-of-state inspection station, shall comply with all orders issued by the Safety Enforcement Section or its personnel or any other employee of the department acting under the direction of the deputy secretary of the department, as provided in this Section.

O. Any violation of any rule regarding motor vehicle inspections, any statute regarding motor vehicle inspections, or any order issued by, or on behalf of, the Safety Enforcement Section may serve as grounds to initiate an administrative proceeding to impose a sanction. The sanctions which may be imposed as a result of an administrative proceeding include the suspension, revocation, or cancellation of any or all certificates of appointment authorizing the operation of an inspection station or stations, or the imposition of a fine or other penalty, as is appropriate in each case.

P. The Safety Enforcement Section may impose conditions, restrictions, or limitations on any permit without regard to whether any violation has occurred.

Q. The Safety Enforcement Section, any employee of the Safety Enforcement Section, or any employee of the department assigned by the deputy secretary to assist the Safety Enforcement Section, may issue written orders to any inspection station or permittee in connection with the enforcement of the motor vehicle inspection statutes or rules.

Any order issued in connection with an onsite inspection is effective immediately, whether or not the order is in writing. The permittee may seek a hearing to review any order, but any order issued in connection with an onsite inspection is not automatically stayed by the submission of a hearing request.

R. The operator, as well as any employee of the operator participating in any violation of these rules, the state statute regarding motor vehicle inspections, or any order by or on behalf of the Safety Enforcement Section, are subject to the administrative penalties of this Section.

S. Any business entity domiciled in Louisiana, or any foreign business entity authorized to do business in Louisiana, already permitted to operate a fleet inspection station or whose commercial vehicles are registered in Louisiana and who wishes to operate an out-of-state inspection station shall make a written request to the Office of State Police, Safety Enforcement Section, Box 66614, Baton Rouge, LA 70896.

T. All applications for a certificate of appointment to operate an out-of-state inspection station and for a mechanic inspector at such out-of-state inspection station shall be subject to an investigation of the background of the applicant. The background investigation shall consist of a review of the same requirements as are contained in §807 for appointment of inspection stations and approval of mechanic inspectors, except that a mechanic inspector need only possess the appropriate class driver's license for the type of vehicle he inspects, issued from the state in which he resides or works. The Safety Enforcement Section shall maintain a list of all applicants for certificates of appointments to operate inspection stations and all applicants seeking to be mechanic inspectors at an inspection station. The listing shall indicate those persons and entities which have been approved and those persons and entities which have not been approved.

U.1. The operator shall be responsible for the reimbursement of the actual costs incurred by the department in administering the out-of-state inspection program. The costs shall include the expenses incurred for travel, meals, lodging, and other related expenses incurred in connection with the application for a certificate of appointment, the initial inspection in connection with commencement of operation of the out-of-state inspection station, and any subsequent inspection or investigation of the out-of-state inspection station to insure all requirements of state statutes, the rules regarding motor vehicle inspections, any order issued by or on behalf of the Safety Enforcement Section are met.

2. The travel expenses incurred in connection with any out-of-state travel shall comply with the travel policies established by the Division of Administration in the Governor's Office. The manner in which travel to the site of an out-of-state inspection station is accomplished shall be at the sole discretion of the department, subject to the policies of the Division of Administration.

V. The provisions of §807 govern all aspects of regulation of out-of-state inspection stations including applications for appointment or approval, training, inspection requirements, and reporting requirements, except as expressly provided in this Section and except in the instance of conflict between the provisions of §807 and §808, in which case the provisions of §808 shall apply.

W. Only those inspection stations which qualify as fleet stations are eligible for appointment as out-of-state inspection stations, except that the fleet must consist of at least 40 motor vehicles registered in Louisiana pursuant to the International Registration Plan.

X. Any request for an administrative hearing shall be made, in writing, to the Safety Enforcement Section headquarters at Post Office Box 66614, Baton Rouge, LA, 70896 within 30 days of the date of the issuance of the notice of administrative action on a violation, the date of issuance of an order issued by or on behalf of the Safety Enforcement Section, or the date of issuance of any other action of the Safety Enforcement Section.

Y. Unless specified otherwise, in writing, and except as provided above, a request for an administrative hearing shall stay the enforcement of any action or order of the Safety Enforcement Section.

Z. Any person seeking a declaratory order or ruling regarding the application or interpretation of any statute or rule, as it may apply to motor vehicle inspections or regarding the validity of any rule as it may apply to motor vehicle inspections, shall make such request in writing. Any request for a declaratory order or ruling shall be mailed to the Safety Enforcement Section at Post Office Box 66614, Baton Rouge, LA 70896. Such request shall be typed, printed, or written legibly and shall include the full name, mailing address, physical address, and daytime telephone number of the person making the request. Such request shall include citations to legal authorities the person believes to be relevant to the issue or which the person wishes to be considered in connection with such declaratory order or ruling. If the matter over which the person seeking the declaratory order or ruling involves a person(s) other than the one making the request, then the person requesting the order or ruling shall notify the involved person(s) by certified mail, return receipt requested, prior to submitting the request to Safety Enforcement. The failure to comply with these requirements shall be grounds to refuse to render an order or ruling.

AUTHORITY NOTE: Promulgated in accordance with R.S. 32:1301 et seq.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Office of State Police, Safety Enforcement Section, LR 23:

Thomas H. Normile  
Undersecretary

9709#072

**DECLARATION OF EMERGENCY**

**Department of Public Safety and Corrections  
Office of State Police**

**Weights and Standards Mobile Police  
Force (LAC 55:I.2101 and 2103)**

In accordance with R.S. 47:463(A)(2), the Department of Public Safety and Corrections, Office of State Police is exercising the provisions of the Administrative Procedure Act to adopt an emergency rule pertaining to the civil enforcement

of the weights and standards law by the State Police Weights and Standards Mobile Police Force. This emergency rule is effective August 22, 1997 and shall remain in effect for 120 days.

The Weights and Standards Mobile Police Force was transferred from the Department of Transportation and Development to the Department of Public Safety, Office of State Police in the 1997 Regular Session of the Legislature. This transfer became effective August 15, 1997. However, no provisions were made for the civil enforcement of each area of the law which this police force is required to regulate. The inability of the Weights and Standards Mobile Police Force to issue civil citations would severely curtail enforcement, resulting in their inability to effectively control the size, weight, and load limits of vehicles in transportation.

Any unnecessary delay in the promulgation of these rules would thus have an adverse impact on the physical conditions of the highways of this state.

As a result of the above finding, the Department of Public Safety and Corrections, Office of State Police hereby adopts the following emergency rule, effective August 22, 1997, implementing R.S. 36:408 and other recently amended statutes:

**Title 55**

**PUBLIC SAFETY**

**Part I. State Police**

**Chapter 21. Weights and Standards**

**§2101. Weights and Standards Mobile Police Force**

The Weights and Standards Mobile Police Force, a section of the Office of State Police, shall enforce the provisions of R.S. 32:380 through 389; R.S. 47:718 and the provisions of Chapter 4 of Subtitle II of Title 47 relating to trucks, trailers, and semitrailers; Part V of Chapter 7 of Subtitle of Title 47 of the Louisiana Revised Statutes of 1950; and the department's regulations adopted pursuant thereto.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 23:

**§2103. Civil Penalties**

Any person who is determined by the Department of Public Safety and Corrections, through its Weights and Standards Mobile Police Force, after reasonable notice and opportunity for a hearing held in accordance with the Administrative Procedure Act, to have committed an act that is a violation of the statutes listed in §2101 of this Chapter or regulations adopted in this Chapter, is subject to a civil penalty, including but not limited to, a monetary penalty, a warning, suspension or revocation of his or her operator's license and/or license plate, or seizure of the vehicle if the vehicle is registered out of state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 36:408.

HISTORICAL NOTE: Promulgated by the Department of Public Safety and Corrections, Public Safety Services, Office of State Police, LR 23:

Thomas H. Normile  
Undersecretary

9709#003

# DECLARATION OF EMERGENCY

## Department of Transportation and Development Office of the Secretary Crescent City Connection Division

### Greater New Orleans Mississippi River Bridge Number 2 Transit Lanes (LAC 70:I.515)

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:953(B), hereby adopts an emergency rule applicable to the transit lanes on the Crescent City Connection Bridge Number 2.

This emergency rule is effective September 20, 1997, and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

The secretary of the Department of Transportation and Development has determined that emergency rulemaking is necessary in order to immediately implement R.S. 48:1101.2, which mandates and provides for vehicular traffic over the transit lanes of the Crescent City Connection Bridge Number 2 (the Greater New Orleans Mississippi River Bridge Number 2). The failure to adopt by emergency rule regulations governing the operation of the transit lanes would result in imminent peril to the public safety. Also, the enactment of R.S. 48:1101.2 has created an administrative burden that can only be eliminated through the adoption of an emergency rule to govern traffic flow and permit fees to encourage carpooling. Finally, this emergency action will improve traffic flow during peak periods by allowing use of the transit lanes by vehicular traffic.

The department will propose, through a notice of intent published in a subsequent issue of the *Louisiana Register*, to adopt §515 through the normal administrative rulemaking process in accordance with R.S. 49:950 et seq.

#### Title 70

### TRANSPORTATION AND DEVELOPMENT

#### Part I. Office of the General Counsel

#### Chapter 5. Tolls

#### §515. Crescent City Connection—Transit Lanes

A. Intent. It is the intent of this rule to efficiently maximize the use of the vehicular traffic lanes of the Crescent City Connection for the increased mobility of individuals and goods across the Mississippi River at New Orleans, to encourage and promote mass transit and transportation such as the use of carpools and other High Occupancy Vehicle (HOV) use, while minimizing transportation related fuel consumption and air pollution, and to provide for one-way reversible traffic flow on the transit lanes of the Crescent City Connection Bridge Number 2, and the establishment of the occupancy and permit fee requirements for vehicles operating on the transit lanes.

#### B. Hours of Operation

1. The transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles in accordance with the control signals posted by the Crescent

City Connection Division through the Crescent City Connection Police.

2. Generally, the transit lanes of the Crescent City Connection Bridge Number 2 will be open for use by eligible vehicles with the traffic proceeding to the Eastbank in the morning and with the traffic proceeding to the Westbank in the afternoon.

3. However, the directional traffic flow of the transit lanes may be reconfigured by the Crescent City Connection Division in its sole discretion at such times and in such directions in order to protect the public safety during emergencies and to accommodate the public interest during special events.

C. Ineligible Vehicles. The objective of the transit lanes is to provide a free flowing facility for mass transit and other high occupancy vehicles. Accordingly, the following vehicles are prohibited from using the transit lanes during the hours of operation even though they may satisfy the vehicle occupancy requirements:

1. vehicles with less than two axles or four wheels;
2. trucks with more than two axles or having a gross weight capacity of one ton or more;
3. vehicles towing trailers;
4. parades;
5. funeral processions;
6. pedestrians;
7. bicycles; and
8. nonmotorized vehicles.

D. Eligible Vehicles. The following vehicles are eligible to use the transit lanes during the hours of operation:

1. all public mass transit vehicles, including Regional Transit Authority buses and Jefferson Transit System buses;
2. school buses;
3. commercial passenger vehicles manufactured to carry seven or more passengers and prequalified to use the transit lanes (HOV-7); and
4. other motor vehicles carrying more than a specified number of persons and properly displaying a valid permit emblem issued by the Crescent City Connection Division (HOV-2).

E. Vehicle Occupancy Requirements. The minimum occupancy requirement for vehicles designated as HOV-2 shall be two or more persons during all hours of operation. The minimum occupancy requirement for vehicles designated as HOV-7 shall continue to be seven or more persons during all hours of operation.

#### F. Qualifications and Permits

1. Eligible vehicles meeting the vehicle occupancy requirements must be prequalified or prepermitted to use the transit lanes as follows:

a. Public Mass Transit Vehicles. All public mass transit vehicles shall continue to be prequalified to access the transit lanes toll-free during the hours of operation.

b. School Buses. All school buses shall continue to be authorized to access the transit lanes toll-free during the hours of operation upon compliance with the school buses exemption provided for under LAC 70:I.509.E.

c. HOV-7+. Eligible vehicles meeting the minimum occupancy requirement of seven or more persons must obtain

a permit emblem from the Crescent City Connection Division by registering and providing proof of:

- i. current vehicle registration with the state of Louisiana or other jurisdiction;
- ii. current and valid driver's license; and
- iii. current and fully-paid liability insurance coverage.

d. HOV-2+. Eligible vehicles meeting the minimum occupancy requirement of two or more persons must purchase an annual permit emblem from the Crescent City Connection Division for \$100. The permit emblem will allow eligible vehicles meeting the minimum occupancy requirement unlimited access over the transit lanes during the hours of operation for a period of 12 months. The permit emblem is freely transferrable to accommodate carpooling, ridesharing and multiple vehicles. However, lost, stolen, or mutilated permit emblems will not be replaced or refunded by the Crescent City Connection Division.

2. The permit emblems for HOV-7 and HOV-2 vehicles must be conspicuously displayed in accordance with the instructions of the Crescent City Connection Division at all times while operating on the transit lanes.

G. Enforcement. During all hours of operation, the Crescent Connection Police shall supervise and actively control access to the transit lanes, and enforce vehicle eligibility, minimum occupancy requirements and permit emblem display.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq. and R.S. 48:1101.2.

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 23:

Frank M. Denton  
Secretary

9709#044

## DECLARATION OF EMERGENCY

### Department of Transportation and Development Office of the Secretary Crescent City Connection Division

#### Sunshine Bridge Toll—Student Exemptions (LAC 70:I.517)

The Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, in accordance with the Administrative Procedure Act, R.S. 49:953(B), hereby adopts an emergency rule applicable to free passage for students on the Sunshine Bridge.

This emergency rule is effective September 20, 1997, and shall remain in effect for the 120 day maximum period allowed or until adoption of a final rule, whichever occurs first.

The secretary of the Department of Transportation and Development has determined that emergency rulemaking is necessary in order to immediately implement R.S. 17:157(C),

which mandates and provides for the right of free passage over the Sunshine Bridge for all elementary and secondary students and all other students who are operating a vehicle in their passage to and from school between the hours of 6:30 a.m. and 9:30 p.m. The failure to adopt, by emergency rule, regulations governing the right of free passage for students would result in imminent peril to the public safety. Also, the enactment of R.S. 17:157(C) has created an administrative burden that can only be eliminated through the adoption of an emergency rule to govern the right of free passage during expanded hours. Finally, this emergency action will improve traffic flow by allowing for student free passage.

The department will propose, through a notice of intent published in a subsequent issue of the *Louisiana Register*, to adopt §517 through the normal administrative rulemaking process in accordance with R.S. 49:950 et seq.

## Title 70

### TRANSPORTATION AND DEVELOPMENT

#### Part I. Office of the General Counsel

#### Chapter 5. Tolls

##### §517. Sunshine Bridge—Toll Exemptions—Students

A. General. In addition to free passage of students in clearly marked school buses, any motorized vehicle carrying an elementary and secondary student in their passage to and from school between the hours of 6:30 a.m. and 9:30 p.m. and any motorized vehicle operated by any other student in his or her passage to and from school between the hours of 6:30 a.m. and 9:30 p.m., shall have free passage over the Sunshine Bridge.

##### B. Registration

1. Students who are majors, or in the case of a minor student, the legal parent or guardian, shall register with the Sunshine Bridge for each student for each school year, and shall certify as to the following:

- a. the address of the student's domicile;
- b. the name and address of the school attended by the student;
- c. the student regularly traverses the Sunshine Bridge in his or her passage to and from school;
- d. the geographic location of the school in relation to the student's domicile requires travel across the Sunshine Bridge.

2. The appropriate school official, the registrar of the college or university attended by the student, or the principal, headmaster, or administrator of the school attended by the student, shall certify on the registration form as to the enrollment of the student at the school and the length of the school year.

##### C. Vehicle Passes

1. Upon approval of a registration, the Sunshine Bridge shall issue vehicle passes for use by the student.

2. The vehicle passes shall be for the benefit of the student, in his or her passage to and from school between the hours of 6:30 a.m. and 9:30 p.m., and are not transferable.

3. The vehicle passes shall not be used for any other purpose than crossing the Sunshine Bridge for required attendance at school.

- 4. Lost, stolen, or damaged passes will not be replaced.
- D. Loss of Privilege. Any prohibited use of student vehicle passes will result in the loss of the privilege to obtain and use passes and/or actions provided by law.
- E. School Buses—Requirements for Exemption
  - 1. Free passage across the Sunshine Bridge shall be granted to all clearly marked school buses at any time, upon the bus driver's delivery of a free passage coupon at the bridge toll plaza.
  - 2. Free passage coupons for school buses shall be obtained by signed registration of the official school system's transportation coordinator to the Sunshine Bridge. The school system's transportation coordinator is responsible for distributing the free passage coupons to eligible school bus drivers for their school system.
  - 3. Official school systems, for purposes of §517, are parish public school systems, private schools operating in the state of Louisiana, and parochial schools operating in the state of Louisiana.
  - 4. Bus drivers who privately own their clearly marked school buses are eligible for individual registration with the Sunshine Bridge for free passage coupons. These bus drivers must attach an original letter from the school system they serve to their signed registration. The letter must certify that their bus serves the school system.

AUTHORITY NOTE: Promulgated in accordance with R.S. 48:25 et seq. and R.S. 17:157(C).

HISTORICAL NOTE: Promulgated by the Department of Transportation and Development, Office of the Secretary, Crescent City Connection Division, LR 23:

Frank M. Denton  
Secretary

9709#010

**DECLARATION OF EMERGENCY**

**Department of the Treasury  
Board of Trustees of the State  
Employees Group Benefits Program**

Plan Document—Sleep Disorders

Pursuant to the authority granted by R.S. 42:871(C) and 874(A)(2), vesting the Board of Trustees with the sole responsibility for administration of the State Employees Group Benefits Program and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees hereby invokes the emergency rule provisions of R.S. 49:953(B) to adopt amendments to the Plan Document of Benefits.

This emergency rule is effective August 14, 1997, and shall remain effective for a maximum of 120 days or until promulgation of the final rule, whichever occurs first.

The board finds that it is necessary to amend provisions of the Plan Document to limit benefits for the treatment of sleep disorders. Failure to adopt these amendments on an emergency basis will adversely affect the availability of services necessary to maintain the health and welfare of the covered employees and their dependents which are crucial to

the delivery of vital services to the citizens of the state. Accordingly, the Plan Document of Benefits for the State Employees Group Benefits Program is hereby amended in the following particulars: amend Article 3, Section VIII, Subsection OO, to read as follows:

**VIII. Exceptions and Exclusions for All Medical Benefits**  
No benefits are provided under this contract for:

\* \* \*

OO. Testing for sleep disorders, except when such tests are performed at a facility accredited by the American Sleep Disorders Association and interpreted by a physician certified by the American Sleep Disorders Association; benefits otherwise payable are provided for nonsurgical treatment of sleep disorders, but no benefits are provided under any circumstances for sleep studies conducted in a patient's home, nor for surgical treatment of sleep disorders, including LAUP, except following demonstrated failure of nonsurgical treatment and only upon specific case-by-case approval by the Program;

James R. Plaisance  
Executive Director

9709#007

**DECLARATION OF EMERGENCY**

**Department of the Treasury  
Board of Trustees of the State  
Employees' Retirement System**

Emergency Refunds (LAC 58:I.1301 and 1305)

Pursuant to the authority granted by R.S. 11:515, vesting the Board of Trustees with the responsibility for administration of the Louisiana State Employees' Retirement System (LASERS) and granting the power to adopt and promulgate rules with respect thereto, the Board of Trustees and the executive director hereby invoke the emergency rule provisions of R.S. 49:953(B), amending the rules regarding procedures for the emergency refund of employee contributions.

The board finds it necessary to amend these rules to effect an orderly transition to new refund procedures. Failure to adopt these emergency rules could impair the ability to timely refund persons in need of an emergency refund of contributions. The emergency rules take effect immediately and shall remain in effect 120 days or until adopted through the normal promulgation process, whichever occurs first.

**Title 58**

**RETIREMENT**

**Part I. Louisiana State Employees'  
Retirement System (LASERS)**

**Chapter 13. Emergency Refunds**

**§1301. Conditions Giving Rise to an Emergency Refund**

A. A refund of accumulated employee contributions may be made in less than 30 calendar days after the date of separation from state service in the following situations:

- 1. the refund results from the death of the member; or

2. the member has significant expenses for medical care for himself, spouse, or child; or

3. an emergency situation of the member, which shall consist of the foreclosure on a member's domicile, repossession of the member's vehicle, or eviction of the member from his or her apartment.

B. The member shall provide a written request detailing the emergency situation, and the executive director shall approve or disapprove the request based on this written request.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and R.S. 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 21:373 (May 1996), amended LR 23:

**§1305. Responsibility for Overpayment of a Refund**

If the amount that is refunded is greater than the amount actually due the individual, the agency paying the contributions shall be responsible for recouping any overpayment from the individual who was overpaid.

AUTHORITY NOTE: Promulgated in accordance with R.S. 11:515 and 11:537(B).

HISTORICAL NOTE: Promulgated by the Department of the Treasury, Board of Trustees of the State Employees' Retirement System, LR 22:373 (May 1996), amended LR 23:

James O. Wood  
Executive Director

9709#004

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Commercial Red Snapper Season**

In accordance with the emergency provisions of R.S. 49:953(B), the Administrative Procedure Act; R.S. 49:967, which allows the Wildlife and Fisheries Commission to use emergency procedures to set finfish seasons; and R.S. 56:326.3, which provides that the Wildlife and Fisheries Commission may set seasons for saltwater finfish, the Wildlife and Fisheries Commission hereby sets the following seasons for commercial harvest of red snapper in Louisiana state waters:

The season for the commercial fishery for red snapper in Louisiana state waters will open at 12:01 a.m., September 5, 1997.
The commercial fishery for red snapper in Louisiana waters will close at 12 noon September 15, 1997.
The commercial season for red snapper harvest in Louisiana state waters will also reopen at 12 noon on October 1, 1997 and close at 12 noon on October 15, 1997 and thereafter open at 12 noon on the 1st of each month and close at 12 noon on the 15th of each month for each month of 1997, until the remainder of the 1997 commercial quota is harvested.

The commission grants authority to the secretary of the Department of Wildlife and Fisheries to change the closing dates for the commercial red snapper season in Louisiana state waters when he is informed that the commercial red snapper quota for the Gulf of Mexico has been filled or projected to be filled, such closure order shall close the season until the date set for the opening of the 1998 commercial red snapper season in federal waters.

Nothing herein shall preclude the legal harvest of red snapper by legally licensed recreational fishermen.

Effective with any closure, no person shall commercially harvest, transport, purchase, barter, trade, sell or attempt to purchase, barter, trade or sell red snapper. Effective with the closure, no person shall possess red snapper in excess of a daily bag limit; provided however, that fish which were legally taken prior to the closure may be purchased, possessed, transported, and sold by a licensed wholesale/retail dealer if appropriate records in accordance with R.S. 56:306.4 are properly maintained, and those other than wholesale/retail dealers may purchase such fish in excess of the daily bag limit from wholesale/retail dealers for their own use or for sale by a restaurant as prepared fish provided all records required by law are maintained.

Daniel J. Babin  
Chairman

9709#031

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Deer Importation Prohibition**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under authority of LSA Const. Art. IX §7; LSA 56:6(10), (13) and (15), 56:20, and 56:171 et seq., the Wildlife and Fisheries Commission (LWFC) hereby adopts the following emergency rule:

The importation of white-tailed deer (*Odocoileus virginianus*) into the State of Louisiana is prohibited.

This rule is effective September 4, 1997 and shall remain in effect for 120 days.

The reasons for the promulgation of this declaration of emergency are as follows:

The Louisiana Constitution vests the LWFC with the exclusive "control and supervision of the wildlife of the state." With the passage of Act 461 of the 1995 Legislature, effective August 15, 1995, the Louisiana Department of Agriculture and Forestry (LDAF) was given certain authority to regulate farm-raised white-tailed deer (*Odocoileus virginianus*). Since that time, the Louisiana Department of Wildlife and Fisheries (LDWF) has attempted to cooperate with the LDAF in the formulation of its deer farming rules.

However, the LDAF draft rules have consistently failed to address the LDWF's concerns about impacts on wild deer. On

May 5, 1997, a LDAF emergency rule was promulgated and distributed to Louisiana deer farmers and game breeders, which purported to authorize them to enclose wild deer on the property within deer-proof fences, thereby converting this publicly owned wildlife resource to private property. This provision of the rule is without statutory authority. At present, LWFC statutes and rules at LSA R.S. 56:116.1(B)(6) and LAC 76:V.107.C expressly prohibit the possession of live, wild, white-tailed deer. The LDWF does not permit the commingling of wild white-tailed deer and farm-raised white-tailed deer. The LDWF has concerns that some deer farmers and breeders, possibly acting in reliance on the May 5 LDAF emergency rule, are attempting to import deer for release into enclosures which may also contain wild deer. Since the May 5 emergency rule, there have been two other drafts of the LDAF rules, all of which purport to:

1. allow releasing of pen-reared deer in large enclosures containing wild deer;
2. give some deer farmers property rights over wild deer confined in enclosures;
3. establish special hunting seasons and licenses beyond those established by the Wildlife and Fisheries Commission; and
4. deny LDWF enforcement agents unaccompanied access to deer farmer records.

The LDWF has not concurred with these provisions and has questioned, and continues to question, the legal authority of the LDAF to establish such rules.

The result of this conflict has been an uncertain and confusing regulatory climate. Some individuals, possibly taking advantage of this uncertain climate, have begun to import white-tailed deer for release into enclosures for hunting, breeding, or other purposes. Indications are that importation of white-tailed deer may be increasing. In one instance, and without consulting the LDWF, individuals from Louisiana have proposed to capture wild deer from New York and bring them to Louisiana for release.

Unregulated importation of white-tailed deer into Louisiana poses several threats to the wild deer resources, as well as to human health. Currently, there is no way to independently distinguish wild deer from farm-raised deer in an enclosure or transport vehicle. Therefore, the effective enforcement of laws to protect Louisiana's wild deer is jeopardized. Neither adequate reporting nor record keeping regulations are in place, and the LDAF has not proposed regulations which require that all deer within an enclosure be implanted with microchips as required by law (LSA R.S. 3:3106). There is an increased threat of exposure of wild deer to disease from imported deer. Bovine tuberculosis is found in captive and wild white-tailed deer in some states. Although there are USDA testing requirements for tuberculosis, the current regulatory situation in Louisiana hampers the effective enforcement of testing regulations and results in a regulatory climate whereby circumvention of the testing requirements

can occur. There will be an increased threat to the genetic integrity of the wild deer should large numbers of imported deer be released or escape into the wild. There is currently a great deal of interest among deer breeders in replacing our native white-tailed deer with northern varieties which tend to be larger, but are not as resistant to endemic disease and are not genetically adapted for Louisiana. Under the current regulatory situation there is an increased threat of the covert release of imported deer into the wild for genetic manipulation. Such activities would also increase the potential for disease transmission to wild deer. The uncertain regulatory climate, which has resulted in increased and unregulated deer imports, also poses a potential threat to human health. Imported deer may carry diseases such as tuberculosis or carry the vectors of disease, such as Lyme disease-infected ticks. The deer that were proposed to be imported from New York were from an area with a very high incidence of Lyme disease. In contrast, while Lyme disease occurs in Louisiana, the incidence is currently very low. Lyme disease, as well as other diseases carried by deer or their parasites, can be contracted by humans and is a threat to public health.

In the past, importation of deer into Louisiana was not a significant problem. The public was aware that the LDWF and LWFC regulated the activity, and there was no doubt that LWFC regulations applied to all white-tailed deer activities. Deer that were imported into Louisiana were placed in relatively small deer-proof enclosures and did not come into contact with wild deer. All breeders were licensed by the LDWF, and the LDWF had access to all records and documents. However, the regulatory climate has gone from one where regulatory authority was clearly defined to one that is now uncertain in the eyes of the public. The nature of private deer breeding activities is now generally small scale operations of exhibitors and hobbyists; however the activity being contemplated by LDAF includes large scale breeding and hunting operations.

It is the LDWF's belief that, to many in the public, the current status of regulations concerning captive white-tailed deer is confusing and uncertain. Some may take advantage of this situation to engage in activities that endanger the wild white-tailed deer resources of Louisiana and the public health. Others, without illicit intentions, may act in reliance on the May 5 LDAF emergency rule or subsequent draft rules and discover that they have violated provisions of Title 56 and are subject to prosecution.

For the above reasons, the Wildlife and Fisheries Commission believes that an immediate ban on the importation of white-tailed deer into the state of Louisiana is necessary and that such a ban should remain in effect until such time as the above issues are resolved.

Daniel J. Babin  
Chairman

9709#032

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Deer Season (Either Sex)—1997-98**

*(Editor's Note: A portion of the following Emergency Rule, published on page 939 of the August 20, 1997 Louisiana Register, is being republished to correct a typographical error in hunting dates listed for Franklin Parish.)*

**Either Sex Hunting**

"Either sex" hunting in the following areas shall be open:

Parish	Portion Opened	Weapon Type Allowed (Archery, Muzzleloader, Modern Firearm)	Season Dates
Franklin	Entire Parish	All weapon types	Nov 22-23 Nov 28-Nov 30

\* \* \*

Daniel J. Babin  
Chairman

9709#015

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Fur Harvest Season—1997-98**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and R.S. 49:967(D), the Wildlife and Fisheries Commission is using emergency procedures to set the 1997-98 fur harvest season statewide from November 20, 1997 through March 20, 1998.

Authority to extend or shorten the adopted season by the secretary is hereby authorized by the Wildlife and Fisheries Commission.

Daniel J. Babin  
Chairman

9709#029

**DECLARATION OF EMERGENCY**

**Department of Wildlife and Fisheries  
Wildlife and Fisheries Commission**

**Waterfowl Seasons—1997-98**

In accordance with the emergency provisions of R.S. 49:953(B) of the Administrative Procedure Act, and under the authority of R.S. 56:115, the secretary of the

Department of Wildlife and Fisheries and the Wildlife and Fisheries Commission hereby adopts the following emergency rule:

The hunting seasons for ducks, coots, and geese during the 1997-98 hunting season shall be as follows:

**DUCKS AND COOTS**

- West Zone: November 8 - November 30  
December 13 - January 18
- East Zone: November 15 - December 14  
December 20 - January 18
- Catahoula Lake Zone: November 15 - December 14  
December 20 - January 18
- Youth Waterfowl Day: January 24 in all zones

**DAILY BAG LIMITS:** The daily bag limit on ducks is six and may include no more than four mallards (no more than two of which may be females), three mottled ducks, one black duck, two wood ducks, three pintails, one canvasback, and two redheads. Daily bag limit on coots is 15.

**MERGANSERS:** The daily bag limit for mergansers is five, only one of which may be a hooded merganser. Merganser limits are in addition to the daily bag limit for ducks.

**POSSESSION LIMIT:** The possession limit on ducks, coots, and mergansers is twice the daily bag limit.

**GEESE: LIGHT GEESE (SNOW AND BLUE)**

- Statewide Season: November 8 - February 22

**DAILY BAG LIMIT (snow and blue) - 10;**  
**POSSESSION LIMIT (snow and blue) - 30**

**WHITE-FRONTED (SPECKLE BELLIES)**

- November 8 - November 30  
December 13 - January 28

**DAILY BAG LIMIT (speckle bellies) - two;**  
**POSSESSION LIMIT (speckle bellies) - four.**

During the Canada Goose Season (January 20-January 28), the daily bag limit for Canada and white-fronted geese is two, of which not more than one can be a Canada goose. Possession limit is twice the daily bag limit.

**CANADA GEESE**

**Closed in the area described below**

- January 20 - January 28

During the Canada Goose Season (January 20-January 28) the daily bag limit for Canada and white-fronted geese is two, of which not more than one can be a Canada goose. Possession limit is twice the daily bag limit.

The Canada Goose Season will be open statewide, except for a portion of southwest Louisiana. The closed area is described as follows:

Beginning at the Texas state line, proceeding east along Highway 82 to the Calcasieu Ship Channel, then north along the Calcasieu Ship Channel to its junction with the Intracoastal Canal, then east along the Intracoastal Canal to its juncture with LA Highway 82, then south along LA Highway 82 to its juncture with Parish Road 3147, then south and east along Parish Road 3147 to Freshwater Bayou Canal, then south to the Gulf of Mexico, then west along the shoreline of the Gulf of Mexico to the Texas state line, then north to the point of beginning at LA Highway 82.

Open waters of Lake Mermentau and the Mermentau River from the Highway 14 bridge southward will also be closed to Canada Goose hunting.

A special permit shall be required to participate in the Canada Goose Season. A permit is required of everyone, regardless of age, and a nonrefundable \$5 administrative fee will be charged. This permit may be obtained from any district office.

Return of harvest information requested on permit is mandatory. Failure to submit this information to the department by February 15, 1998 will result in the hunter not being allowed to participate in the Canada Goose Season the following year.

Shooting Hours: One-half hour before sunrise to sunset.

A Declaration of Emergency is necessary because the U.S. Fish and Wildlife Service establishes the framework for all migratory species. In order for Louisiana to provide hunting opportunities to the 200,000 sportsmen, selection of season dates, bag limits, and shooting hours must be established and presented to the U.S. Fish and Wildlife Service immediately.

The aforementioned season dates, bag limits and shooting hours will become effective November 1, 1997 and extend through sunset on March 10, 1998.

Daniel J. Babin  
Chairman

9709#030

# Rules

## RULE

### Department of Economic Development Board of Certified Public Accountants

#### Comprehensive Rule Revisions (LAC 46:XIX.Chapters 1-31)

In accordance with the applicable provisions of the Administrative Procedure Act, R.S. 49:950 et seq., and of R.S. 37:75, the Board of Certified Public Accountants amends LAC 46:XIX. The amendments are the result of a year of review and study by the board's rules committee. The amendments update the rules in response to changes in the profession of public accounting and the related standards of practice, clarify or improve the grammar of the text, and promulgate as rules certain policies and procedures that have evolved over the years following the last rule revisions which were promulgated in 1991.

#### Title 46

### PROFESSIONAL AND OCCUPATIONAL STANDARDS

#### Part XIX. Certified Public Accountants

#### Chapter 1. General Provisions

##### §101. Definitions

A. The definitions included in the Act are used herein with the following additions which apply to LAC 46:XIX, unless otherwise indicated in following Chapters:

*Accountants' Report*—a report:

a. rendering any opinion or statement, or denying an opinion, that financial statements or elements thereof are presented, prepared or compiled in accordance with generally accepted accounting principles or any other comprehensive basis of accounting; and/or

b. referring to an audit, examination, review or lack thereof.

*The Act*—Act 510 of the 1979 Regular Session of the Louisiana Legislature or as it may hereafter be amended.

*Board*—the State Board of Certified Public Accountants of Louisiana.

*Client or Enterprise*—any person or entity, whether organized for profit or not, for which a licensee performs professional services.

*CPA Examination*—the examination required for a certificate as a Certified Public Accountant (CPA).

*Firm*—a proprietorship, partnership, professional corporation, limited liability company, limited liability partnership, or any other organization or entity which may be authorized by law to engage in the practice of public accountancy.

*Generally Accepted Accounting Principles (GAAP)*—those standards promulgated by the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB) and their predecessor or successor

entities and similar pronouncements issued by other entities having similar generally recognized authority.

*Licensee*—a person licensed to practice public accounting by the board.

*Member*—a member of a limited liability company.

*Peer Review or Quality Review*—a study, appraisal, or review of one or more aspects of the professional work of a CPA or firm of CPAs in the practice of public accountancy by a licensed CPA or firm of licensed CPAs, who are not affiliated with the CPA or CPA firm being reviewed.

*Rule*—each board statement, guide, or requirement for conduct or action, exclusive of those regulating only the internal management of the board and those purporting to adopt, increase, or decrease any fees imposed on the affairs, actions, or persons regulated by the board, which has general applicability and the effect of implementing or interpreting substantive law or policy, or which prescribes the procedure or practice requirements of the board. The term includes, but is not limited to, any provision for fines, prices or penalties, the attainment or loss of preferential status, and the criteria or qualifications for licensure or certification by the board. The term includes the amendment or repeal of an existing rule but does not include declaratory rulings or orders or any fees.

B. Masculine terms shall include the feminine and, when the context requires, shall include firms.

C. Where the context requires, singular shall include the plural or plural shall include the singular.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, amended LR 6:1 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1112 (September 1997).

##### §103. Special Definitions; Public Accountancy; Exceptions

A. - B.2. ...

a. The accompanying balance sheet of XYZ Company as of December 31, 19XX and the related statements of income, retained earnings, and cash flows for the year then ended have been compiled by me (us).

b. - c. ...

i. Management has elected to omit substantially all of the disclosures (and the statement of cash flows) required by generally accepted accounting principles. If the omitted disclosures were included in the financial statements, they might influence the user's conclusions about the company's financial position, results of operations, and cash flows. Accordingly, these financial statements are not designed for those who are not informed about such matters.

3. - 4. ...

C. Practice in Louisiana

*Practice in Louisiana*—performing or offering to perform those services set forth in R.S. 37:72(A) in Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:72.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants January 1974, amended LR 6:1 (January 1980), LR 10:76 (February 1984), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1112 (September 1997).

#### **§105. Domicile**

- A. ...
- B. Delete.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:73.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:1 (January 1980), amended LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

### **Chapter 3. Operating Procedures**

#### **§301. Officers**

The officers shall be chairman, secretary, and treasurer. The duties of the respective officers shall be the usual duties assigned to the respective office. The newly elected officers shall assume the duties of their respective offices on the first day of the month following the election of the officers.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

#### **§303. Fiscal Year**

The fiscal year of the board shall end on June 30 of each year. The annual meeting shall be held as soon as practical after the close of the fiscal year, at which meeting the board shall elect its officers who shall serve until the next annual meeting or until their successors assume their duties.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

#### **§305. Meetings**

A. Any meeting may be called by the chairman or by joint call of at least two of its members, to be held at the principal office of the board, or at such other place as may be fixed by the board. Regularly scheduled board meetings are usually held on the last working days of January, April, July and October.

- B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), LR 9:207 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1113 (September 1997).

#### **§307. Duties of the Secretary**

A. The duties of the secretary include, but are not limited to the following.

1. It shall be the duty of the secretary to determine when the prerequisites and procedures required by the Act and by the board for taking the CPA examination have been satisfactorily completed by an applicant.

2. The secretary shall determine when, in his opinion, the prerequisites and procedures required by the Act and by the board shall have been satisfactorily completed in respect to issuance of certificates and/or licenses and he shall submit at each meeting of the board, for its approval or disapproval, current tabulations thereof, listing the names of the persons concerned.

3. The secretary shall list in the minutes of the board all persons approved for the issuance of certificates and/or licenses and all persons whose certificates and/or licenses are revoked, suspended, or reinstated.

4. It shall be the responsibility of the secretary to see that an official register of all certified public accountants who have received certificates from the board is maintained.

5. It shall be the responsibility of the secretary that an annual listing of all certified public accountants licensed to practice is maintained.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

#### **§309. Duties of the Treasurer**

The duties of the treasurer include, but are not limited to:

1. responsibility for the maintenance of the accounts of the board and the preparation of a financial report once a year, as of June 30; and

2. submittal of an annual budget to the board for its approval.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 4:358 (October 1978), amended LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

### **Chapter 5. Rules of Professional Conduct**

#### **§500. General**

##### **A. Preamble**

1. The services usually and customarily performed by those in the public practice of accountancy involve a high degree of skill, education, trust, and experience which are professional in scope and nature. The use of professional designations carries an implication of possession of the competence associated with a profession. The public, in general, and the business community, in particular, rely on this professional competence by placing confidence in reports and other services of accountants. The public's reliance, in turn, imposes obligations on persons utilizing professional designation, both to their clients and to the public in general. These obligations include maintaining independence of thought and action; continuously improving professional skills; observing, where applicable, generally accepted accounting principles and generally accepted auditing standards; promoting sound and informative financial

reporting; holding the affairs of clients in confidence; upholding the standards of the public accountancy profession; and maintaining high standards of personal and professional conduct in all matters affecting fitness to practice public accountancy.

2. The board has an underlying duty to the public to insure that these obligations are met in order to achieve and maintain a vigorous profession capable of attracting the bright, young minds essential for adequately serving the public interest.

3. These Rules of Professional Conduct are intended to have application to all kinds of professional services performed for the public in the practice of public accountancy, including but not limited to services relating to auditing; accounting; review and compilation services; tax services; management advisory and consulting services; and financial planning, and intended to apply as well to all certificate or license holders, whether or not engaged in the practice of public accounting, except where the wording of one of these Rules of Professional Conduct clearly indicates that the applicability is more limited.

4. In the interpretation and enforcement of these rules, the board may consider relevant interpretations, rulings, and opinions issued by the boards of other jurisdictions and appropriate committees of professional organizations, but will not be bound thereby.

B. Definitions. The following terms have meanings which are specific to §501.A.

*Audit-Sensitive Activities*—those activities normally an element of or subject to significant internal accounting controls.

For example, the following positions, which are not intended to be all-inclusive, would normally be considered audit-sensitive, even though not positions of significant influence: a cashier, internal auditor, accounting supervisor, purchasing agent, or inventory warehouse supervisor.

*Close Relatives*—nondependent children, stepchildren, brothers, sisters, grandparents, parents, parents-in-law, and their respective spouses.

*Grandfathered Loans*—those loans which were made under normal lending procedures, terms, and requirements by a financial institution before January 1, 1992, and before independence was required with respect to the financial institution. Such loans must not be renegotiated after independence became required and must be kept current as to all terms. Such loans shall be limited to:

- a. loans obtained by the licensee which are not material in relation to the net worth of the borrower; or
- b. home mortgages; or
- c. any other fully secured loan, except one secured solely by a guarantee of the licensee.

*Licensee*—

- a. the term includes:
  - i. the licensee's firm;
  - ii. the firm's proprietors, partners, shareholders or members;
  - iii. employees or contractors participating in the engagement, except those who perform only routine clerical functions;
  - iv. employees or contractors with a managerial position located in an office participating in a significant portion of the engagement; and

v. entities whose operating, financial, or accounting policies can be controlled by one or more of the persons described in §500.B.4.a.ii. - iv, or by two or more such persons if they choose to act together;

b. the term also includes employees and contractors of the licensee or his firm who provide services to clients and are associated with the client in any capacity described in §501.A.1.b, if the individuals are located in an office participating in a significant portion of the engagement;

c. the term does not include such an individual solely because he was formerly associated with the client in any capacity described in §501.A.1.b, if such individual has disassociated from the client and does not participate in the engagement for the client covering any period of his association with the client;

d. in addition, the term may include the following relatives of the licensee or of the individuals described above: spouses, dependents, descendants, *close relatives*, persons living in a household with the licensee, or a former proprietor, partner, shareholder or member of the licensee's firm. Independence may be affected depending on the nature of the relationships, the employment or *audit-sensitive activities* of the individuals, or on whether the individuals have significant influence over the engagement or the enterprise, as applicable to the circumstances.

*Period of Professional Engagement*—the period during which professional services are provided, with such period starting when the licensee begins to perform professional services requiring independence and ending with the notification of the termination of that professional relationship by the licensee or by the client.

*Permitted Personal Loans*—

- a. automobile loans and leases collateralized by the automobile;
- b. loans of the surrender value of an insurance policy;
- c. borrowing fully collateralized by cash deposits at the same institution;
- d. credit cards and cash advances on checking accounts with an aggregate unpaid balance of \$5,000 or less, provided that these are obtained from a financial institution under its normal lending procedures, terms, and requirements and are at all times kept current as to all terms.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:71 and R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1113 (September 1997).

## §501. Independence, Integrity and Objectivity

### A. Independence

1. A licensee shall not issue an accountants' report on the financial statements of an enterprise in such a manner as to imply that he is acting as an independent public accountant with respect thereto, nor shall he perform any other service in which independence is required under professional standards, unless he is independent with respect to such enterprise. Independence shall be considered to be impaired if, for example:

- a. during the period of his professional engagement or at the time of issuing an accountants' report, the licensee:
  - i. - iii. ...

iv. had any loan to or from the enterprise or any officer, director, or principal stockholder thereof other than permitted personal loans and grandfathered loans;

b. during the period covered by the financial statements, during the period of the professional engagement, or at the time of issuing an accountants' report, the licensee:

i. - ii. ...

2. The foregoing examples are not intended to be all inclusive.

#### B. Integrity and Objectivity

1. A licensee in the performance of professional services shall neither knowingly misrepresent facts nor subordinate his judgment to that of others. He shall be objective and shall not place his own financial interests nor the financial interests of a third party ahead of the legitimate financial interests of the client or the public in any context in which the client or the public can reasonably expect objectivity from one using the CPA title.

2. If the licensee uses the CPA title in any way to obtain or maintain a client relationship, the board will presume the reasonable expectation of objectivity.

C. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1114 (September 1997).

### §503. Competence and Professional Standards

#### A. Definition

*Professional Standards*—include but are not limited to those standards defined by Statements on Auditing Standards (SAS); Statements on Standards for Accounting and Review Services (SSARS); Statements on Standards for Consulting Services (SSCS); Statements on Standards for Attestation Engagements (SSAE); and Standards for Performing and Reporting on Peer Reviews or Quality Reviews issued by the American Institute of Certified Public Accountants; and Governmental Auditing Standards issued by the Comptroller General of the United States.

B. Competence. A licensee shall not undertake any engagement for performance of professional services which he cannot reasonably expect to complete with due professional competence, including compliance, where applicable, with generally accepted accounting principles, and §503.C.

C. Professional Standards. A licensee shall not act or imply that he is acting as a CPA by permitting association of his name or firm's name, issuing an accountants' report, or expressing an opinion, in connection with financial statements, elements thereof, or the written assertions and representations of a client, or by the performance of professional services, unless he has complied with applicable professional standards. This rule does not apply in any instance in which such compliance would otherwise be prohibited by the Act or by rule of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1115 (September 1997).

### §505. Responsibilities to Clients

A.1.a. - b. ...

c. prohibit disclosures in the course of a peer review or quality review of a licensee's professional services; or

d. ...

2. ...

B.1. - 3. ...

4. a copy of the licensee's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client;

5. examples of records described in this Section include but are not limited to computer generated books of original entry, general ledgers, subsidiary ledgers, adjusting, closing and reclassification entries, journal entries and depreciation schedules, or their equivalents.

C. The nonpayment of professional fees and/or out-of-pocket expenses shall not be a basis for failure to furnish the records referred to in §505.B.3, 4 and/or 5. A licensee shall be permitted to collect in advance of issuance a reasonable fee for time and expenses of issuing or reproducing documents referred to in §505.B.1, 2, 4 and 5.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended LR 4:358 (October 1978), LR 6:2 (January 1980), LR 11:757 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1067 (November 1991), LR 23:1115 (September 1997).

### §507. Other Responsibilities and Practices

A. Discreditable Acts. A CPA shall not commit any act that reflects adversely on his fitness to engage in the practice of public accountancy. A discreditable act includes but is not limited to items listed in R.S. 37:84 and the following:

1. dishonesty, fraud or gross negligence in the practice of public accountancy;

2. suspension or revocation of, or a voluntary consent decree concerning, the right to practice before any state or federal agency for a cause which, in the opinion of the board, warrants its action;

3. knowingly participating in the preparation of a false or misleading financial statement or tax return;

4. fiscal dishonesty or breach of fiduciary responsibility of any type;

5. failure to comply with a final order of any state or federal court;

6. repeated failure to respond to a client's inquiry within a reasonable time without good cause;

7. false communication to the board; or

8. causing a breach in the security of the CPA examination.

B. ...

### C. Advertising

1. Licensees shall have a right to advertise. However, a licensee shall not use or participate in the use of any public communication, written or verbal, having reference to professional services performed by the licensee, which contains a false, fraudulent, misleading, deceptive or unfair statement or claim, nor any form of communication having reference to the professional services of the licensee which is accomplished or accompanied by coercion, duress, compulsion, intimidation, threats, overreaching, or vexatious, or harassing conduct. A false, fraudulent, misleading, deceptive, or unfair statement or claim includes but is not limited to a statement or claim which:

a. - b. ...

c. contains any testimonial or laudatory statement, or other statement or implication that the licensee's professional services are of exceptional quality; or

d. - k. ...

2.a. - g. ...

### D. Written Advertisements, Solicitations and Other Public Communications

1. ...

a. a licensee shall not mail or deliver any advertisement, solicitation or other public communication if such advertisement, solicitation or other public communication would violate §507.C.

2. ...

E. Form of Practice. A licensee may practice public accountancy only in a proprietorship, a partnership, a limited liability partnership, a limited liability company, a professional corporation organized in accordance with the Louisiana Professional Accounting Corporations Law or similar law of another state, or any other organization or entity which may be authorized by law.

### F. Firm Name

1. The name under which a licensee practices public accounting must indicate clearly whether he is an individual practicing in his own name or a named member of a firm. If the name includes the designation "and Company" or "and Associates" or "Group" or abbreviations thereof, there must be at least two licensees involved in the practice, who may be either partners, shareholders, members or employees of the firm. However, names of one or more past partners, shareholders, or members may be included in the firm name of a successor firm.

2. A partner, member or shareholder surviving the death or withdrawal of all other partners, members or shareholders may continue to practice under the partnership or corporate name for up to two years after becoming a sole practitioner, sole member or sole shareholder.

3. No licensee shall allow a person who is not a licensee and who is not in partnership with him or in his employ on a salary, to practice in his name. If a firm is incorporated, words so indicating must appear in or with the firm name each time it is used.

G. Communications. A CPA shall, when requested, respond to communications from the board in the manner requested by the board within 30 days of the mailing of such communications by certified mail, or by such other delivery

methods available to the board, to the last address received by the board from the CPA.

H. Applicability. All of the Rules of Professional Conduct in this Chapter shall apply to and be observed by licensees. Notwithstanding anything herein to the contrary, they shall also apply to and be observed by CPAs not in public practice, where applicable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 3:308 (July 1977), amended 4:358 (October 1978), LR 6:2 (January 1980), LR 9:207 (April 1983), LR 10:278 (April 1984), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1115 (September 1997).

## Chapter 7. Continuing Professional Education (CPE)

### §701. Basic Requirements

A. Each licensee shall participate in at least 120 hours of continuing professional education every three years. The hours of a licensee to whom §701.B.2 applies shall be reduced pro rata for the compliance period containing his effective date.

#### B. Effective Date

1. As to any licensee who was licensed as of January 1, 1980, the effective date of these requirements was January 1, 1980.

2. As to any licensee who obtains an initial license, the effective date of these requirements shall be January 1 of the year after his initial license was issued.

#### C. Compliance Period

1. The first compliance period for continuing professional education was the three-year period ended December 31, 1982, and subsequent compliance periods shall end on December 31 each third year thereafter.

2.a. - b. ...

D. - E. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), LR 15:614 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1116 (September 1997).

### §703. Standards for Programs

A. - B.1. ...

2. Instructors, lecturers or speakers should be qualified with respect to program content and teaching method used.

3. - 5. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:4 (January 1980), LR 15:614 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1116 (September 1997).

### §705. Programs which Qualify

A. The overriding consideration in determining whether a specific program qualifies as acceptable continuing education is that it be a formal program of learning which contributes directly to the growth in the professional knowledge and

professional competence of an individual licensed to practice as a certified public accountant. Formal programs of learning are those programs that are designed and primarily intended as educational activities, and comply with all CPE standards. Magazines are not designed as educational programs nor do they comply with CPE standards. Accordingly, examinations on magazine articles will not qualify for credit.

B. Accredited University or College Courses as Defined in §1300. Credit and noncredit courses earn continuing education credit as set forth in §709.

C. Formal correspondence or other individual study programs which require registration and provide evidence of satisfactory completion will qualify as set forth in §709.B.

D. - F. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended LR 15:614 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1116 (September 1997).

### §707. Subjects which Qualify

A. The following general subject matters are acceptable so long as they contribute to the growth in professional knowledge and professional competence of the individual licensee:

1. - 6. ...

7. Personal Development. Personal Development is the field of study which includes self-management and management of others both inside and outside of the business environment. It includes issues of quality of life, interpersonal relationships, self-assessment, personal improvement, public relations, communications and writing skills. (See §709.G.1 for limitation.)

8. Professional Ethics. Professional Ethics includes the study of the codes of professional ethics applicable to all CPA registrants and their effect on business decisions. (See §709.G.2.)

B. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute significantly to his growth in professional knowledge and competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the licensee.

C.1. - 2. ...

3. Courses which have product or service sales as their underlying content shall not qualify for CPE credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended LR 15:615 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1117 (September 1997).

### §709. Credit Hours Granted

A.1. ...

2. Continuing education credit will be given for whole hours only, with a minimum of 50 minutes constituting one hour.

As an example, 100 minutes of continuous instruction would count for two hours; however, more than 50 minutes but less than 100 minutes of continuous instruction would only count for one hour. For continuous conferences, conventions and other programs when individual segments are less than 50 minutes, the sum of the segments will be considered equal to one total program.

3. Credit courses at accredited universities or colleges shall earn 15 hours of continuing education for each semester hour of credit. A quarter hour credit shall equal 10 hours.

4. Continuing education credit allowable for noncredit short courses at accredited universities or colleges will be determined by the board.

B. Individual Study Program. The amount of credit to be allowed for correspondence and formal individual study programs (including taped study programs) is to be recommended by the program sponsor. These programs shall be pretested by the developer to determine the average completion time. Credit will be allowed in the period in which the course is completed.

1. Noninteractive self-study programs shall receive CPE credit equal to one-half the average completion time.

2. Interactive self-study programs shall receive CPE credit equal to the average completion time provided the course sponsor is registered as an interactive self-study course sponsor with either the AICPA, NASBA, or a State Society of CPAs, and the sponsor confirms that the course is an interactive self-study course.

a. An interactive self-study program is one which simulates a classroom learning process by providing ongoing responses and evaluation to the learner regarding his or her learning progress. These programs guide the learner through the learning process by:

i. requiring frequent student response to questions that test for understanding of the material presented;

ii. providing evaluative responses and comments to incorrectly answered questions; and

iii. providing reinforcement responses and comments to correctly answered questions.

b. Ongoing responses, comments, and evaluations communicate the appropriateness of a learner's response to a prompt or question. Such responses, comments, and evaluations must be frequent and provide guidance or direction for continued learning throughout the program by clarifying or explaining assessment of inappropriate responses, providing reinforcement for appropriate responses, and directing the learner to move ahead or review relevant material. It is the response of the learner that primarily guides the learning process in an interactive self-study program. Not all technology based self-study programs constitute interactive programs. Technology based self-study programs must meet the criteria set forth in the definition of interactive self-study programs, as must other self-study programs developed using different modes of delivery.

3. CPE program developers shall keep appropriate records of how the average completion time of self-study programs was determined.

4. The entire continuing education requirement may be accomplished by programs designated as "self-study" programs.

5. The board will not approve any program that does not offer sufficient evidence that the work has actually been accomplished.

C. Service as Lecturer or Speaker

1. Credit for one hour of continuing professional education will be granted for each hour completed as a lecturer or speaker to the extent it contributes directly to the individual's growth in professional knowledge and competence and provided the program would qualify for credit under these rules. No credit will be granted for repetitious presentations of a group program.

2. In addition, a lecturer or speaker may claim up to two hours of credit for advance preparation for each teaching hour awarded in §709.C.1, provided the time is actually devoted to preparation.

3. ...

D. - E. ...

F. CPE Credit for Reviewers. Credit will be granted for actual time expended reviewing reports for the board's positive enforcement programs up to a maximum of 16 credit hours per year as approved by the board's practice monitoring administrator provided the reviewer completes and returns the assigned checklist(s).

G. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:5 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 17:1068 (November 1991), LR 23:1117 (September 1997).

**§711. Maintenance of Records and Control**

A. Participants in formal CPE programs shall retain the documentation of their participation in CPE programs for a period of five years after the end of the calendar year in which the program is completed. Participants in formal CPE programs shall also retain advance materials, which should include the requirements set forth in §703.B.1, and other promotional material which reflects the content of a course and the name of the instructor(s) in the event the participant is requested by the board to substantiate the course content.

B. Acceptable evidence of completion includes, but is not limited to, the following:

1. for group programs, a certificate of attendance or other verification supplied by the sponsor which includes:

- a. sponsorship organization;
- b. location of course;
- c. title and/or description of content;
- d. dates attended; and
- e. the qualifying hours recommended by the course sponsor;

2. for self-study programs, a certificate supplied by the sponsor after satisfactory completion of a workbook, an examination, or an interactive course that confirms the name of the sponsor, the title and/or description of the course contents, the date of completion and the qualifying hours recommended by the course sponsor;

3. for a university or college course that is successfully completed for credit, an official transcript reflecting the grade earned;

4. for instruction credit, evidence obtained from the sponsor of having been the seminar lecturer or speaker at a program in addition to the items required by §711.B.1; and

5. for published articles, books, or CPE programs, evidence of publication.

C. Sponsors shall furnish a record of attendance or completion to participants which shall reflect the CPE credit hours earned.

D. Practitioners, partners, members, or shareholders and employees of a firm of certified public accountants will not be required to maintain the above records personally if the firm has a policy of maintaining such records for its members and professional employees and does maintain the records required herein for the required time and reports such information to each person at least once each year.

E. Each sponsoring organization shall maintain records of programs sponsored which shall show:

1. that the programs were developed and presented in accordance with the standards set forth in §703. If a program is developed by one organization and sponsored by another, the sponsoring organization shall not be responsible for program development standards and related record maintenance if:

a. it has reviewed the program and has no reason to believe that program development standards have not been met; and

b. it has on record certification by the developing organization that the program development standards have been met and that the developing organization will maintain the required records relative thereto;

2. date of each program presentation;

3. location of each course presentation;

4. name and qualifications of each seminar instructor, lecturer, and speaker conducting a program for the sponsor;

5. outline of the course or documentation which is the equivalent of an outline;

6. number of CPE contact hours recommended for each course;

7. an accurate record of attendance of participants which shall reflect the CPE credit hours earned by each participant; and

8. a summary of the program evaluations by the participants.

F. The CPE program sponsor shall maintain records and information required by §711.E.1-8 for a period of five years after the end of the calendar year in which the CPE course was completed.

G. Records required under this rule shall be maintained for five years and shall be made available to the board or its designee(s) for inspection at the board's request.

H. Failure of a CPE program sponsor to comply with the CPE standards shall be cause for the board to deny credit for courses offered by the CPE sponsor until such time as the CPE sponsor can demonstrate to the board that the compliance standards are being met.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:75.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:5 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:615 (August 1989), LR 23:1118 (September 1997).

## **Chapter 9. Compensation and Expenses of Board Members**

### **§901. Monthly Compensation**

A. The officers of the board shall received compensation of \$150 per month and other members shall receive \$100 per month. This compensation shall be for time expended by such members in conducting and/or monitoring examinations, attending board meetings and hearings, issuing of certificates and licenses, conducting investigations, and discharging other duties and powers of the board.

B. A new appointee to the board shall be seated at the first board meeting he attends following his qualification as required by R.S. 37:74. A new appointee's compensation shall commence the month he is seated.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:76.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Board of Certified Public Accountants, LR 6:6 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997).

## **Chapter 11. Certificate; License; Prohibited Acts**

### **§1101. Necessity for Certificate, License; Prohibited Acts**

No partnership, corporation, limited liability partnership, limited liability corporation, or any other organization or entity which may be authorized by law to engage in the practice of public accountancy, whether domiciled within or without the state of Louisiana, shall practice the profession of public accounting in Louisiana unless all partners, members, or shareholders thereof who practice public accounting in Louisiana are holders of licenses issued by the board and properly renewed.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:77.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997).

## **Chapter 13. Examination**

### **§1300. Definitions**

*Accredited University or College*—a university or college accredited by any one of the six regional accreditation associations: the Southern Association of Colleges and Schools; Middle States Association of Colleges and Schools; New England Association of Schools and Colleges; North Central Association of Colleges and Secondary Schools; Northwest Association of Schools and Colleges; and Western Association of Schools and Colleges.

*CPA Examination*—the examination required for a certificate as a Certified Public Accountant (CPA).

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:75.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1119 (September 1997).

### **§1301. General Requirements**

A.1. Examinations are ordinarily held in May and November of each year. Candidates for these examinations shall file complete application forms. A complete application is one that is properly filled out, including payment of the required examination fee and, if an initial application, accompanied by all required official transcripts.

2. Applications for the May examination must be received in the office of the board's agent no later than 5 p.m., March 1. Applications for the November examination must be received in the office of the board's agent no later than 5 p.m., September 1. If the last day for filing falls on a Saturday, Sunday or state of Louisiana holiday, the due date will be extended to include the next state of Louisiana working day.

3. First time or transfer-of-grades candidates who have not taken their accounting courses in Louisiana must include a copy of the course description(s) of all accounting courses not clearly identified by titles listed in §1303.A.

B. The examination shall consist of:

1. the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants; or

2. if applicable, the International Uniform CPA Qualification Examination (IQEX) prepared and graded by the American Institute of Certified Public Accountants.

C. ...

D. All examinations shall be in writing and must be completed in the time allotted by the board. To comply with the requirements of the American with Disabilities Act (ADA) the board may authorize modification to this Subsection.

E. A candidate must sit for all the sections for which he is scheduled in order to receive his grades and to be able to sit for the next examination.

F. In order to pass the examination a candidate must receive a grade of at least 75 in each section.

G. The following rule shall apply for conditional credit:

1. if a grade of 50 or more is made in each section, a candidate who passes at least two sections at a single examination shall receive credit for the sections passed, conditioned upon his passing the remaining section or sections as set forth in §1303.G.2;

2.a. a candidate who has received credit for passing at least two sections of the examination, as set forth in §1303.G.1, shall be required to remove the condition in any of the next four consecutive examinations but shall receive no credit for passing a section or sections at any examination in which he makes a grade of less than 50 in any other section;

b. beginning with the May 1998 examination and thereafter, a candidate who receives credit for passing at least two sections of the examination, as set forth in §1301.G.1, shall be required to remove the condition in any of the next six consecutive examinations but shall receive no credit for passing a section or sections at any examination in which he makes a grade of less than 50 in any other section.

H. Any candidate who makes a grade below 40 (39 or lower) in any section will not be allowed to take the next consecutive examination. This rule does not apply to conditioned candidates.

I. Grades shall be accepted from other states when a candidate for transfer of grades has met all the requirements of Louisiana candidates except that he sat for the examination in another state. He shall submit a completed initial application with an official transcript and a statement from an officer of the state board from which he is transferring as to dates of passing the examination and grades made. A conditioned candidate shall pay for each section for which he sits and shall pay a transfer fee at the time he requests the transfer. If a candidate has passed all sections in another state, he shall be required to pay a transfer fee, in addition to other requirements.

J. Each candidate shall be notified by mail, on the date specified by the American Institute of Certified Public Accountants, of the grades earned by him in each section of the examination. No information concerning grades will be released until such date.

K. ...

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 37:78.

**HISTORICAL NOTE:** Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1068 (November 1991), LR 23:1119 (September 1997).

**§1303. Educational Requirements**

A. To be eligible for examination and certification by and under auspices of the board, after December 31, 1996, an applicant shall possess a baccalaureate degree, duly conferred by an accredited university or college recognized and approved by the board, and shall have, in the course of attaining such degree, or in addition thereto, received credit for not less than 150 hours of postsecondary, graduate, or postgraduate education at and by an accredited college or university approved by the board. The applicant shall present evidence which shall consist of one or more official transcripts certifying that the applicant has attained the foregoing degree and educational hours, and said transcripts shall evidence award of credit for satisfactory completion of the following courses and credit hours, according to whether such courses and credits are taken as an undergraduate course and semester hour or a graduate course and semester hour.

	Undergraduate Semester Hours	Graduate Semester Hours
<b>Accounting Courses:</b>		
Intermediate	6	3
Cost	3	3
Income Tax	3	3
Auditing	3	3

Accounting Electives:	9	9
3 semester hours from one of the following: Advanced Financial Accounting, Not-for-Profit Accounting/Auditing, Theory		
6 semester hours in accounting above the basic and beyond the elementary level		
<b>Total Accounting Courses</b>	<b><u>24</u></b>	<b><u>21</u></b>
Business Courses (other than Accounting Courses):	24	24
Including at least 3 semester hours in Commercial Law, as it affects accountancy for CPA examination candidates		
<b>Total Business Courses</b>	<b><u>24</u></b>	<b><u>24</u></b>

1. The board will accept for business course credit semester hours earned in courses offered through the institution's College of Business and reported on official transcripts in the following areas:

- a. commercial law;
- b. economics;
- c. management;
- d. marketing;
- e. business communications;
- f. statistics;
- g. finance;
- h. data processing;
- i. mathematics (as it pertains to business);
- j. technical writing (covering subjects as opinions, tax planning reports, and management advisory service reports and management letters);
- k. computer science (other than courses such as COBOL or FORTRAN);

1. CPA examination review courses if the curriculum is developed and taught in a classroom environment by a faculty member under contract at the accredited college or university which is offering the course for credit.

2. Up to six semester hours in industry-specific business courses may be used to satisfy the business courses requirement described in §1303.A.1.

3. Up to six semester hours for internship may be applied to the 150-hour requirement, but may not be used to meet the accounting or business courses requirement.

4. Standard conversion (four quarter hours equals three semester hours) will be applied whenever a school is not on the semester basis.

5. Remedial courses may be applied to the 150-hour requirement, but may not be used to satisfy the accounting or business courses requirement.

6. Credit hours for repeated courses for which credit has been previously earned may not be applied to the 150-hour requirement.

B. An applicant who has taken an examination approved by the board prior to December 31, 1996 shall not be required to receive credit for 150 hours until his eligibility expires in

accordance with this Subsection. Such applicants remain eligible to take any examination administered by the board prior to December 31, 1999, and shall thereafter be eligible, subject to applicable rules and regulations of the board, to take sections of the examination in order to pass all sections of the examination. Candidates who have earned conditional credit(s) which expire after December 31, 1999 shall remain eligible until the expiration of the conditional credit(s). After expiration of their conditional credit(s) they shall be required to show completion of 150 semester hours before reapplying to take any other CPA examination in Louisiana.

C. In the event that the applicant's degree does not reflect the credit hours in the courses prescribed by §1303.A, the board may, on good cause shown by the applicant, allow the substitution of other courses that, in the board's judgment, are substantially equivalent to any of such prescribed courses or to the credit hours prescribed therein. Documentation of good cause for any such requested substitution shall be submitted by the applicant to the board upon affidavit sworn to and subscribed by the applicant and an officer of the university, college or other educational institution where the course to be substituted was taken. Such affidavit shall set forth a course description of the course sought to be substituted and a comparison of the content of such course to that of the course for which substitution is requested.

D. If the applicant's degree does not reflect the credit hours in the courses prescribed by §1303.A, an applicant may become eligible for examination and certification by and under the auspices of the board by having otherwise taken and completed the courses required by this rule and received credit for satisfactory completion thereof awarded by an accredited university, college, vocational or extension school recognized and approved by the board.

E. With respect to the course requirements specified by §1303.A, the board does not recognize credit received for courses granted on the basis of advanced placement examinations (such as CLEP, ACT or similar examinations). Except for correspondence courses at an accredited university approved by the board, the course credits specifically listed in §1303.A shall have been awarded pursuant to satisfactory completion of a course requiring personal attendance at classes in such course.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:6 (January 1980), amended LR 11:757 (August 1985), LR 13:13 (January 1987), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 15:616 (August 1989), LR 17:1070 (November 1991), LR 23:1120 (September 1997).

### §1305. Penalties

A. - C. ...

D. Any person who communicates to another person any of the contents of a CPA examination which is classified as a nondisclosed examination shall be subject to disciplinary action by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:7 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1121 (September 1997).

## Chapter 15. Certification

### §1503. By Reciprocity

#### A. Definition

*In Good Standing*—the applicant is in compliance with the rules and regulations of the appropriate licensing board, including payment of the annual registration fee, and any penalties and other costs attached thereto. In the case of board-imposed disciplinary or administrative sanctions, the applicant must have complied with all of the provisions of the appropriate licensing board order.

B. An applicant who has been certified as a public accountant by any state, as defined by R.S. 37:71(F), shall be eligible for certification by the board, provided that:

1. the applicant possesses a baccalaureate degree and satisfies the educational requirements of §1303;

2. the applicant has successfully passed the Uniform Certified Public Accountant Examination prepared and graded by the American Institute of Certified Public Accountants;

3. the scores achieved by the applicant on all examinations are certified to the board by the state which issued the applicant's original certification;

4. at the time of the application and consideration thereof by the board, the applicant possesses and confirms to the board current certification *in good standing* issued by any state which grants reciprocity certification to public accountants certified by the board. If the applicant has been certified in more than one state, the original, initial certification need not be current; however, it may not have been suspended for cause other than nonpayment of fees;

C. An applicant otherwise eligible for reciprocity certification under §1503.B, save for possession of a baccalaureate degree, or the credit for not less than 150 hours of university or college education, shall nonetheless be eligible for reciprocity certification by the board, provided that the applicant's original, initial certification as a public accountant by any state was issued on or before September 1, 1975, or the applicant has been in active, continuous practice as a certified public accountant for not less than four years during the 10 years immediately preceding the date on which the applicant's application for reciprocity certification is received by the board.

D. Notwithstanding the foregoing requirements for certification, an applicant for reciprocity certification who, at the time of the application and consideration by the board, possesses current certification in good standing issued by any state whose certification requirements have been determined by the board to be substantially equivalent to those set forth in §§1301, 1303, and 1501, and which grants and has agreed to reciprocity certification in a manner consistent with the provisions of this Subsection, shall be deemed, upon receipt of written confirmation from the appropriate state licensing board that the applicant's certification is current and in good standing, to have satisfied the requirements for certification by the board.

E.1. Applicants for reciprocal certificates shall not be required to reside or have a place for the regular transaction of business in Louisiana, but shall be required to take the CPA oath.

2. Complete applications for reciprocal certificates must be received in the board's office 30 days prior to a regular board meeting (§305).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78 and R.S. 37:77.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:7 (January 1980), amended LR 9:208 (April 1983), LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 23:1121 (September 1997).

## **Chapter 17. Qualifications for Licensing**

### **§1702. By Reciprocity**

Notwithstanding the foregoing requirements of §1701, an applicant for initial licensing who has qualified for reciprocity certification under §1503.D, and who possesses a current license to practice public accounting in good standing by virtue of certification or license issued by any state which grants and has agreed to reciprocity licensing in a manner consistent with the provisions of this Section, and whose experience requirements have been determined by the board to be substantially equivalent to those set forth in §§1703, 1705, and 1707, shall be deemed, upon receipt of written confirmation from the appropriate state licensing board that the applicant's license to practice is current and in good standing, to have satisfied the requirements for licensing by the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77 and R.S. 37:75.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997).

### **§1703. Qualifying Accounting Experience; Nature of Practice**

A.1.a. - b. ...

2. by employment for a period equivalent in the opinion of the board to employment under §1703.A.1 in the accounting field in industry, business, government, or college teaching, or any combination of such types of employment, provided that such experience is obtained under proper supervision and is of sufficient depth and quality, as defined by §1705;

a. except for specific, prior approved, high-level governmental auditing positions, qualifying experience obtained through employment in industry, business, government or college teaching must be for a minimum of four years; or

3. ...

B. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77, and R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 4:223 (June 1978), amended LR 6:7 (January 1980), LR 9:208 (April 1983), amended by the Department of

Economic Development, Board of Certified Public Accountants, LR 15:617 (August 1989), LR 23:1122 (September 1997).

### **§1705. Equivalent Experience**

A.1. ...

a. supervision in the application of generally accepted accounting principles by a licensed CPA holding a managerial level one or more positions above the applicant's level;

b. employment by a firm or organization having its financial statements audited or reviewed on a periodic basis by independent CPAs during the term of the applicant's employment. The applicant must have been responsible for providing information, explaining systems and procedures, and/or preparing schedules and analyses;

c. ...

d. employment as a full-time teacher of subjects primarily in the accounting discipline, with the rank of assistant professor or above (or comparable positions), for an accredited college or university as defined in §1300;

e. ...

2.a. - d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77, and R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 4:223 (June 1978), amended LR 6:7 (January 1980), LR 9:208 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 23:1122 (September 1997).

### **§1707. Advanced Degree Experience Equivalency**

A master's degree, or a more advanced degree, with a concentration in accounting shall be considered equivalent to one year of experience obtained on the staff of a CPA or firm of CPAs. As used herein, concentration in accounting shall mean at least 15 credit hours in accounting courses (e.g., auditing, theory, practice, managerial, tax) the contents of which are at a higher level and are in addition to the courses used to satisfy the requirements to sit for the examination (§1303.A), with at least three of the required 15 credit hours in theory and practice and at least three credit hours in auditing.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:79, R.S. 37:77, and R.S. 37:75.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 4:223 (June 1978), amended LR 6:7 (January 1980), LR 9:208 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997).

## **Chapter 19. Application for CPA Examination, Certification, Licensing; Procedures**

### **§1903. Initial Application**

A. First time or transfer candidates must complete an initial application form. An official transcript from each institution at which original credit toward the educational requirements was earned must accompany the initial application form. Official evidence of baccalaureate degree conferral must be included, regardless of any other degrees the candidate has earned.

B. Candidates who have completed courses in fulfillment of the educational requirement in institutions outside

Louisiana are required to submit course descriptions of all accounting and business courses not clearly identified by titles as listed in §1303.

C. Candidates who have completed educational requirements at institutions outside the U.S. must have their credentials evaluated by the Foreign Academic Credentials Service.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1122 (September 1997).

#### **§1909. Unable to Sit for Examination**

If, after filing his application, a candidate is unable to sit for the CPA examination, he must so notify the agent of the board not later than seven working days prior to the first day of the examination; otherwise, the fee shall be forfeited. A service charge will be assessed on all refunds of examination fees.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:78, R.S. 37:79, R.S. 37:80 and R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1069 (November 1991), LR 23:1123 (September 1997).

### **Chapter 20. Temporary Permits**

#### **§2001. Scope of Chapter**

The rules of this Chapter govern the qualifications for and issuance of temporary permits authorizing the practice of public accountancy in the state of Louisiana for a specified period, pursuant to the authority vested in the board by R.S. 37:75(B)(13).

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989), amended LR 23:1123 (September 1997).

#### **§2003. Scope of Authority**

A. Subject to satisfaction of the qualifications and procedures prescribed by this Chapter, a temporary permit may be issued by the board to a person who or a firm which is neither a resident of Louisiana or licensed by the board, but who is certified and licensed as a CPA by another state, to authorize the permittee's incidental, temporary practice of public accounting in Louisiana.

B. A temporary permit is valid and effective only for the period of time specified therein and may be issued under this Chapter as follows:

1. A temporary permit covering a period of one year and renewable annually may be issued to a person or firm certified and licensed or registered in another state whose laws and rules regarding qualification for certification, licensing, and firm registration, and whose laws and rules with respect to conduct and practice have been determined by the board to be substantially equivalent to those of Louisiana and provided such other state has agreed to grant similar privileges to persons or firms who are licensed CPAs of Louisiana.

2. For persons or firms certified and licensed or registered in states or jurisdictions whose laws and rules have

not been determined by the board to be substantially equivalent to those of Louisiana, a temporary permit issued shall be limited in term to a period of 90 days and to the performance of a single, specified engagement, and may not be renewed.

3. For the purpose of quality or peer reviews, a temporary permit covering a period of one year and renewable annually may be issued by the board to a person who or firm which is neither a resident of Louisiana nor licensed by the board, but who is certified and licensed as a CPA by another state, authorizing the practice of public accountancy in Louisiana limited solely to the performance of quality reviews or peer reviews.

C. The board's issuance of a temporary permit under this Chapter shall not be construed to provide any right or entitlement whatsoever to certification, licensing or registration under Louisiana law, or to the renewal of this permit after its expiration.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989), amended LR 17:1070 (November 1991), LR 23:1123 (September 1997).

#### **§2005. Qualifications, Disqualifications for Temporary Permit**

A.1. - 2. ...

3. submit a completed application to the board, through its executive director, not less than 30 days prior to any activity within Louisiana to which the permit shall be applicable; and

4. pay the fee applicable to application for and issuance of temporary permits, as provided by Chapter 21 of these rules; provided, however, that the payment of a single fee shall satisfy the application fee requirement for two or more partners, shareholders, members or employees of the same firm applying for a temporary permit.

B. - C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989), amended LR 23:1123 (September 1997).

#### **§2007. Application Procedure**

A. - B.2. ...

3. with respect to permits applied for under §2003.B.2., specify the nature of the professional engagement to be performed in Louisiana and for which the temporary permit is sought, the inclusive dates during which and the place or places at which such engagement will be performed, and the name and address of the person, firm or entity for whom or on whose behalf such engagement will be performed;

4. - 5. ...

C. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989), amended LR 23:1123 (September 1997).

## §2009. Issuance of Permit

If the qualifications, requirements and procedures prescribed by this Chapter are met to the satisfaction of the board, the board shall issue to the applicant a temporary license to practice public accounting in the state of Louisiana specifying the time period and other restrictions which apply to such permit. A temporary permit shall be valid and effective only if signed by the secretary, treasurer, or executive director of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:75(B)(13).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 15:618 (August 1989), amended LR 23:1124 (September 1997).

## Chapter 21. Fees and Service Charges for CPA Examination, Certification, Licensing

### §2101. Assessment of Fees

A. Examination, certification, licensing and other fees shall be assessed by the board in conformity with R.S. 37:80(E).

Service Charge for refund of examination fee (§1909)	\$ 50
Original certification	\$ 50
Original license	\$ 50*
Reinstatement of license	\$ 50
Replacement CPA certificate	\$ 50**
Temporary permits	\$100

\* Candidates having passed the examination and meeting all other requirements for licensure must submit a complete application on forms prescribed by the board and accompanied by all required supporting documentation within 30 days after the official release date of examination grades to avoid payment of additional fees. Applications that are incomplete or late are subject to the original license fee.

\*\* A replacement certificate shall be issued at the holder's request upon payment of fee and compliance with the following requirements.

1. In the event of a certificate which has been lost, the loss must be advertised in an appropriate newspaper for at least five times in 30 days and the request for replacement must be accompanied by a sworn statement that the certificate is lost and that the loss has been advertised in accordance with this rule.

2. In the event of a certificate which has been mutilated, the mutilated certificate must be returned to the board and if it is mutilated beyond the point of being able to be identified, the request must also be accompanied by a sworn statement that the returned document is, in fact, the certificate.

3. If the request for replacement is to have a change in the name in which the certificate is issued, the original certificate must be returned to the board and the request must be accompanied by the appropriate documentation of the name change.

### B. Returned Check (formerly Subsection D)

A fee not to exceed \$25 will be assessed against each person who pays any obligation to the board with a returned check. Failure to pay the assessed fee within the notified period of time shall cause the application to be returned.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:80.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated and amended LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), LR 13:13 (January 1987), LR 15:619 (August 1989), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997).

## Chapter 23. Issuance of Certificate, License §2303. License

When a certified public accountant has met all the requirements for licensing, the board shall issue him a license to practice as a licensed certified public accountant. All such licenses shall be valid only when signed by the treasurer of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:81.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1124 (September 1997).

## Chapter 25. Renewals of Certification, Licensing §2501. Annual Renewals, Reinstatement, Fees

A. - F. ...

G. In addition to the delinquent and reinstatement penalties, a fine may be assessed against those certified public accountants who have received three suspensions within the previous six years.

H. Practicing certified public accountants who have not timely renewed their certificates and licenses are in violation of R.S. 37:77 and therefore subject to the provisions of R.S. 37:84.B.

I. Failure to Timely Remit or Respond

1. No certificate and/or license of any certified public accountant who has failed to timely remit full payment of any fees, fines, penalties, expenses, or reimbursement of costs incurred by the board, which the certified public accountant owes the board or has been ordered to pay to the board, shall be annually renewed, or reinstated.

2. The board may refuse to renew, or to reinstate, any certificate and/or license any certified public accountant who has failed to comply with §507.G.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82 and R.S. 84.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), LR 11:758 (August 1985), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997).

## §2503. Annual Notice of Form of Practice

A.1. ...

2. Every certified public accountant who is licensed by the board and who is not practicing public accounting in his own name or who is not a partner, member or shareholder in a firm's registration must complete an Annual Notice of Form of Practice and CPA Firm Registration form.

B.1. ...

2. Each firm of certified public accountants with one or more Louisiana licensees as partners, members or

shareholders which does not have an office located in Louisiana shall designate a licensee to register that firm in Louisiana. The designated licensee shall file those forms, lists, and documents required of a firm maintaining offices in Louisiana as set forth in §2503.C.

C. Each resident licensee shall file annually at the time he applies for renewal of his license a list of all resident and nonresident partners, members or shareholders associated with him in the practice of public accounting and the location and resident partner, member, shareholder, or manager of each office or branch office maintained in Louisiana. One annual listing by the senior or resident partner, member or shareholder of each firm will satisfy this requirement for all partners, members or shareholders of the firm, providing that each partner, member or shareholder gives adequate reference to this listing.

1. In the event that a firm with one or more offices in Louisiana has no partner, member or shareholder who is a resident licensee, the firm must designate a licensee partner, member or shareholder to be responsible for the filing set forth above.

2. ...

D. ...

E. An original letterhead must be attached to the statement referred to in §2503.A and C. Only licensed employees or licensed associates may be shown on stationery but such names shall be separated from that of the individual practitioner or those of the partners, members or voting shareholders by an appropriate line. Deceased or retired partners, members or shareholders shall be appropriately identified.

F. An annual filing fee to be set by the board, based on the total number of partners, members and/or shareholders in the firm who are not licensed to practice in Louisiana but not to exceed \$15 per partner, member or shareholder with a maximum of \$2,500 per firm, shall be paid by each firm that files in accordance with the provisions of §2503.C.

G. A filing fee, calculated in the same manner as the most recent annual filing fee provided in §2503.F and prorated for the number of complete months remaining in the year, shall be paid by each firm that files in accordance with the provisions of §2503.D and that did not pay an annual filing fee for the immediately preceding filing period.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1070 (November 1991), LR 23:1124 (September 1997).

#### **§2504. Practice Monitoring Programs**

A. - C. ...

D. Any firm which shall have been subjected to a professional Peer Review or Quality Review approved by and acceptable to the board and conducted pursuant to standards not less stringent than Peer Review and Quality Review standards applied by the American Institute of Certified

Public Accountants shall be exempted from the provisions of §2504.A, B and C provided that the following requirements are satisfied. A firm which is a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms shall have furnished a copy of a Peer Review report to the board. Or, a firm which is not a member of the Securities and Exchange Commission Practice Section or the Private Companies Practice Section of the American Institute of Certified Public Accountants Division for CPA Firms has an approved provider certify to the board, the accountant's or firm's participation in a Peer Review or Quality Review program and the dates of the accountant's or firm's most recent quality review should the firm seek exemption on the basis of a Peer Review or Quality Review.

E. - G. ...

H.1. Oversight. The board shall appoint a Peer Review Oversight Committee (PROC) whose function shall be the oversight and monitoring of sponsoring organizations for compliance and implementation of the minimum standards for performing and reporting on quality or peer reviews. The PROC shall consist of three members, none of whom are current members of the State Board of Certified Public Accountants of Louisiana. These members shall be currently licensed by the board.

2. Responsibilities. At least one member of the PROC will attend all meetings of the Society of Louisiana Certified Public Accountants Peer Review Committee (PRC), or any successor thereof.

3. Compensation. Compensation of PROC members shall be set by the board.

4. Duties of the PROC

a. The PROC will observe the plenary sessions of the PRC which include the assignment of reviews to committee members and the summary meeting where the conclusions of the review committee members are discussed;

b. ...

c. may observe the deliberations of the PRC and report their observations to the board; and

d. ...

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1071 (November 1991), LR 23:1125 (September 1997).

#### **§2505. Change in Address or Practice Status**

All certified public accountants or licensed certified public accountants shall promptly notify the board in writing within 30 days of any change in mailing address, practice status, or in the case of an individual, change of employment.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:8 (January 1980), amended LR 9:209 (April 1983), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1125 (September 1997).

## **Chapter 27. Renewals of Licensing—Reports on Continuing Professional Education**

### **§2701. Submit with Application**

Each licensee shall submit with his application for license renewal, on forms supplied by the board, a report of programs of continuing professional education completed during the applicable period and other information relative to fulfilling the continuing education requirements.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 17:1071 (November 1991), LR 23:1126 (September 1997).

### **§2703. In Lieu of Report**

Repealed.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:82.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), repealed by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

## **Chapter 29. Causes of Nonissuance, Suspension, Revocation or Restriction; Reinstatement**

### **§2901. Charges in Writing; Investigative Files**

A. Charges against holders of CPA certificates and/or licenses shall be made in writing, signed by the persons preferring the charges and addressed or delivered to the board. The board's investigative staff may establish or open an investigative file upon receipt of such charges.

B. Investigative files may be established or opened by any member of the board who has been designated as investigating officer, in accordance with §2903, for the purpose of investigating any potential violations of Chapter 5, Rules of Professional Conduct or the rules, regulations or statutes which the board is authorized to enforce, whether as a result of charges made in accordance with §2901.A or otherwise initiated by the investigating officer.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:84.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

### **§2903. Investigating Officer**

All charges shall be referred to the members of the board or other persons designated as investigating officers, who are appointed by the chairman of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:84.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended LR 12:88 (February 1986), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

### **§2909. Hearing**

A. The board may at a hearing:

A.1.a. - b. ...

2. suspend any certificate and/or license. When a certificate and/or license is suspended, such suspension shall not be for a period of more than three years; during the time of suspension, the holder shall not be considered a CPA;

3. officially censure or reprimand the holder of any certificate and/or license;

4. invoke additional penalties and/or requirements to be complied with or refrained from, including but not limited to educational requirements, peer review, and/or restrictions on practice, for a designated period, or before reinstatement of a certificate or license. The failure by a person to abide by the additional penalties and/or requirements invoked by the board is a violation of the rules of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:84.

HISTORICAL NOTE: Adopted by the Department of Commerce, Board of Certified Public Accountants, January 1974, promulgated LR 6:9 (January 1980), amended by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

### **§2911. Other**

Any of the above provisions notwithstanding, the board may suspend or revoke a certificate and/or license without a hearing for the following causes:

1. conviction of a felony or entry of a plea of guilty or nolo contendere to a felony charge under the laws of the United States or of any state; or

2. conviction of any crime or entry of a plea of guilty or nolo contendere to any criminal charge an element of which is fraud or which arises out of such individual's practice of public accounting; or

3. the refusal of the licensing authority of another state to issue or renew a license, permit or certificate to practice public accounting in that state; or the revocation or suspension of, or other restriction imposed on, a license, permit or certificate issued by such licensing authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 37:84.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

## **Chapter 31. Petitions for Rulemaking**

### **§3101. Scope of Chapter**

The rules of this Chapter prescribe the procedures by which interested persons may petition the State Board of Certified Public Accountants of Louisiana to exercise its rulemaking authority under the Louisiana Public Accountancy Law by the adoption, amendment or repeal of administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

### **§3103. Definitions—as Used in this Chapter**

*Interested Person*—a person who or which:

1. holds or has applied for any certification, license or permit issued by the board; or

2. is subject to the regulatory jurisdiction of the board;  
or

3. is or may be affected by the practice of public accounting in the state of Louisiana.

*Person*—an individual natural person, partnership, corporation, company, association, governmental subdivision or other public or private organization or entity.

*Rulemaking*—the process by which the board exercises its authority under the laws of the state of Louisiana, including the Public Accountancy Law, R.S. 37:71-92, and the Administrative Procedure Act, R.S. 49:950-999, to formulate, propose and adopt, amend or repeal and promulgate administrative rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1126 (September 1997).

### §3105. Authorization

An interested person, individually or jointly with other interested persons, may, in accordance with the provisions of this Chapter, petition the board for the adoption, amendment or repeal of administrative rules and regulations within the rulemaking authority of the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

### §3107. Petitions for Rulemaking

A. General Form. A petition for rulemaking must be made and submitted to the board in writing, legibly printed or typed in ink.

B. Title and Signature. A petition for rulemaking shall be plainly and prominently titled and styled as such and shall be manually signed by an individual petitioner, by an authorized officer or representative of the petitioner, or by an attorney at law representing the petitioner. The full name, title or office, if any, address and telephone number of a person signing a petition for rulemaking shall be printed or typed under the person's signature. Where a person signs a petition for rulemaking in a representative capacity, the petitioner or petitioners represented by the signature must be clearly identified.

C. Required Contents. A petition for rulemaking shall:

1. clearly identify each petitioner by name and address of residence or principal place of business;

2. describe the legal status or nature of the petitioner to establish that the petitioner is an interested person, within the meaning of §3103 of this Chapter;

3. in the case of a petition for adoption of a new rule, set forth a concise statement of the substance, nature, purpose and intended effect of the rule which the petitioner requests that the board adopt and citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

4. in the case of a petition for amendment of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board amend, together with a concise statement of the manner in which it is proposed that the rule or rules be amended, the purpose and intended effect of the requested amendment, and

citation to the statutory authority for the board's exercise or rulemaking authority in the manner and on the subject requested;

5. in the case of a petition for repeal of an existing rule, specify, by citation to the *Louisiana Administrative Code*, the rule or rules which the petitioner requests that the board repeal, together with a concise statement of the purpose and intended effect of such repeal;

6.a. provide an estimate of the fiscal and economic impact of the requested rulemaking on:

i. the revenues and expenses of the board and other state and local governmental units;

ii. costs and/or benefits to directly affected persons;

iii. competition and employment in the public and private sectors; or

b. provide a statement that the petitioner has insufficient information or is otherwise unable to provide a reasonable estimate of such fiscal and economic impact;

7. set forth a concise statement of the facts, circumstances, and reasons which warrant exercise of the board's rulemaking authority in the manner requested; and

8. in the case of a petition for exercise of the board's emergency rulemaking authority under R.S. 49:953(B), a statement of the facts and circumstances supporting a finding by the board that an imminent peril to the public justifies the adoption, amendment or repeal of a rule upon shorter notice than that provided by R.S. 49:953(A).

D. Permissible Contents. In support of petitions for the adoption of a new rule or amendment of an existing rule, the board encourages, but does not require, the submission of a verbatim text of the rule proposed for adoption or amendment, prepared in the form prescribed by Title 1 of the *Louisiana Administrative Code* and as otherwise prescribed by the Office of the State Register. A petition for rulemaking may also be accompanied by such other information and data, in written or graphic form, as the petitioner may deem relevant in support of the petition for rulemaking.

E. Submission and Filing. Two copies of a petition for rulemaking, together with all supporting exhibits, if any, shall be filed with the board by delivery or mailing thereof to the board's executive director at the offices of the board.

F. Nonconforming Petitions. The board may refuse to accept for filing, or may defer consideration of, any petition for rulemaking which does not conform to the requirements of this Section.

G. Public Record. A petition for rulemaking shall be deemed a public record.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

### §3109. Board Consideration

A. Consideration by the Board. A petition for rulemaking may be considered and acted on by the board at any regular or special meeting of the board. Within the time prescribed by §3111 for disposition of a petition for rehearing, the board may request additional information from the petitioners or interested persons other than the petitioners as it may deem relevant to its consideration of the petition.

B. Oral Presentations. Within the time prescribed by §3111 for disposition of a petition for rehearing, the board may, on its own initiative or at the request of the petitioner or any other interested person, permit petitioners and other interested persons to appear before the board to make an oral presentation of information, data, views, comments and arguments, in support of or opposition to the rulemaking requested by petitioners.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1127 (September 1997).

### §3111. Disposition of Petitions for Rulemaking

A. Form of Determination. The board may grant or deny a petition for rulemaking in whole or in part. The board's determination with respect to a petition for rulemaking shall be stated in writing and served on the person signing the petition. If the board denies a petition for rulemaking, in whole or in part, its determination shall state the reasons for the board's denial of the petition. If the board grants a petition for rulemaking, in whole or in part, it shall promptly thereafter initiate rulemaking proceedings in accordance with R.S. 49:953. Nothing herein shall be construed to require that the board, in granting a petition for the adoption or amendment of a rule, adopt or employ the specific form or language requested by the petitioner, provided that the rule or amendment proposed by the board gives effect to the substance and intent of the rule or amendment requested by the petitioner.

B. Time for Determination. The board will render its determination with respect to a petition for rulemaking:

1. within 90 days of the date on which a complete petition for rulemaking conforming to the requirements of §3107 hereof is filed with the board; or

2. within 60 days of the date on which, at the request of the petitioner, the board entertains an oral presentation by the petitioner, whichever is later.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997).

### §3113. Construction and Effect

A. Board Discretion in Rulemaking. The provisions of this Chapter are intended to provide an orderly and reasonable means for interested persons to petition the board to exercise its rulemaking authority under law and to provide for board consideration of such petitions. Petitions for rulemaking are addressed to the board's discretion as to the necessity or appropriateness of the adoption, amendment or repeal or a rule in the discharge of its licensing and regulatory responsibilities under the Public Accountancy Law. Nothing in the rules of this Chapter, accordingly, shall be deemed to create any right or entitlement in any person to require the board to exercise its rulemaking authority.

B. Nature and Effect of Determination. The board's disposition of a petition for rulemaking by a determination made under §3111.A does not constitute, and shall not be deemed to constitute, a "decision" or "order" within the

meaning of R.S. 49:951(A)(3) or a declaratory order or ruling within the meaning of R.S. 49:962, and the procedures prescribed by this Chapter do not constitute an adjudication within the meaning of R.S. 49:951(A)(1). A determination by the board with respect to a petition for rulemaking, accordingly, is final and not subject to judicial review or other appeal.

AUTHORITY NOTE: Promulgated in accordance with R.S. 49:952(2), 953(C), R.S. 37:75(A)(3), (B)(2).

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Board of Certified Public Accountants, LR 23:1128 (September 1997).

Michael A. Henderson  
Executive Director

9709#052

## RULE

### Department of Economic Development Office of Financial Institutions

#### Capital Companies Tax Credit Program (LAC 10:XV.301-321)

In accordance with the authority granted by the Administrative Procedure Act, R.S. 49:950 et seq., and under the authority granted by R.S. 51:1929, the commissioner of the Office of Financial Institutions amends LAC 10:XV.301-321 entitled Capital Companies Tax Credit Program, to provide for administration of the program, definitions and guidelines for participation in the program by licensed Certified Louisiana Capital Companies.

#### Title 10

### FINANCIAL INSTITUTIONS, CONSUMER CREDIT, INVESTMENT SECURITIES, AND UCC

#### Part XV. Other Regulated Entities

### Chapter 3. Capital Companies Tax Credit Program

#### §301. Description of Program

These rules implement the Capital Companies (CAPCOs) Tax Credit Program pursuant to R.S. 51:1921 et seq. and R.S. 22:1068(E). This program was created by Act 642 of the 1983 Legislature, amended by Act 891 in 1984, Acts 695 and 915 in 1986, Act 496 in 1989, Acts 279 and 724 of 1993, and Act 21 of 1996.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997).

#### §303. Definitions Provided by Rule

The following terms shall have the meanings provided herein, unless the context clearly indicates otherwise:

*Affiliate and/or Affiliated Company—*

a. solely for purposes of the transfer or sale of income or premium tax credits pursuant to R.S. 51:1924(F),

R.S. 22:1068(E)(4), and LAC 10:XV.305(B), *affiliate* is defined as follows:

i. any person that controls, is controlled by or under common control with another person (including any person that would become an affiliate as a result of a business combination); or

ii. members, partners, or shareholders and any family members thereof, of a legal entity that invests in a CAPCO;

b. for all other purposes, the term *affiliate* is defined as follows:

i. when used with respect to a specified person or legal entity, *affiliate* means a person or legal entity controlling, controlled by or under common control with, another person or legal entity, directly or indirectly through one or more intermediaries;

ii. when used with respect to a qualified Louisiana business, *affiliate* means a legal entity that directly or indirectly, through one or more intermediaries, controls or is controlled by a qualified Louisiana business;

c. for purposes of R.S. 22:1068(E)(2)(c), a *group of affiliates* shall mean a person and not less than all affiliates of such person.

*Allowable Organization Costs*—those direct costs incurred to incorporate and charter an entity; however, such costs are limited to 25 percent of capitalization, before any reduction for disallowed organization costs.

a. Direct organization costs include, but are not limited to legal, accounting, consulting fees and printing costs directly related to the chartering or incorporation process, pre-opening and development stage enterprise costs that may be capitalized under Generally Accepted Accounting Principles (GAAP) and filing fees paid to chartering authorities. Allowable organization costs may be capitalized and amortized over a period not to exceed five years.

b. Pre-opening and development stage enterprise costs that generally are not capitalized under GAAP, such as salaries and employment benefits, rent, depreciation, supplies, directors' fees, training, travel, expenses associated with the establishment of business relationships, postage and telephone fees are examples of costs that shall be expensed and not capitalized. Similarly, direct costs associated with the offering and issuance of capital stock are not considered to be organization costs and shall not be capitalized; these costs shall be deducted from the proceeds in recording initial capitalization.

*Application*—a completed application as determined by the commissioner.

*Associate of a CAPCO*—

a. any of the following:

i. a person serving a CAPCO, or an entity that directly or indirectly controls a CAPCO, as any of the following: officer, director (including advisory, regional directors and directors emeritus), employee (provided such employee has significant management and policy responsibilities and powers, or is highly compensated in comparison with the other people employed with the employee), agent, investment or other advisor, manager (in the case of a manager-managed limited liability company),

managing member (in the case of a member-managed limited liability company), accountant, or general/special counsel;

ii. a person directly or indirectly owning, controlling or holding with the power to vote 10 percent or more of the outstanding voting securities or other ownership interests of the CAPCO;

iii. a current or former spouse, parent, child, sibling, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law of any person described in §303.A. *Associate of a CAPCO*.a.i or ii;

iv. a person individually or collectively controlled by or under common control, directly or indirectly, with any person described in §303.A. *Associate of a CAPCO*.a.i, ii or iii;

v. a person that invests in the CAPCO and has received an income tax credit or premium tax reduction under the CAPCO Program;

vi. an affiliate of any person described in §303.A. *Associate of a CAPCO*.a.v; or

vii.(a) a person that, within six months before or at any time after the date that a CAPCO invests in the person, is controlled by a CAPCO or any of its affiliates. A CAPCO's primary purpose is to provide venture capital to qualified Louisiana businesses in need of capital; not to invest in subsidiaries of the CAPCO or its affiliates, or companies that a CAPCO or its affiliates intend to control. Such investments will result in an associate determination and will not be considered "qualified investments" in assessing a CAPCO's compliance with its continuing certification requirements.

(b). Section 303.A. *Associate of a CAPCO*.a.vii.(a) does not apply to an investment made by a CAPCO in a qualified Louisiana business if, within six months before or at any time after the date of the investment, the qualified Louisiana business is not controlled by the CAPCO or its affiliates. However, even though a CAPCO may not intend to control a business in which it invests, it may obtain control over the qualified Louisiana business after its initial investment. If control is acquired after the initial investment as a result of the following circumstances, such control will not create an associate relationship under §303.A. *Associate of a CAPCO*.a.vii.(a):

(i). persons controlled by the CAPCO as a means of protecting the CAPCO's investment or resulting from a material breach of any financing agreement; or

(ii). instances involving transitory or short-term control of a person by a CAPCO (or an affiliate of the CAPCO) solely to remedy actions by the person that may cause the CAPCO's investment in such person to fail to be treated as a qualified investment, on the good faith belief that such operation of the person is necessary to ensure that the investment in the person will be treated as a qualified investment.

b. For the purposes of this definition, if any associate relationship described in §303.A. *Associate of a CAPCO*.a.i-vi exists between a person and the CAPCO at any time within six months before or at any time after the date that the CAPCO makes its initial investment in such person, that associate relationship is considered to exist on the date of the financing.

**BIDCO**—a Business and Industrial Development Corporation licensed pursuant to the Louisiana Business and Industrial Development Corporation Act, R.S. 51:2386 et seq.

**Business**—for the purposes of determining if a qualified Louisiana business operates primarily in Louisiana or performs substantially all of its production in Louisiana means an entity, together with all of that entity's affiliates that would directly or indirectly receive an economic benefit from a financing by a CAPCO. For purposes of this definition, an affiliate of the entity includes any entity which will become an affiliate of the entity as a result of a financing from a CAPCO.

**CAPCO**—a Certified Louisiana Capital Company certified pursuant to the Louisiana Capital Companies Tax Credit Program, R.S. 51:1921 et seq.

**Capitalization**—for purposes of initial certification, pursuant to R.S. 51:1925(B):

a. Generally Accepted Accounting Principles (GAAP) Capital: common stock, preferred stock, general partnership interests, limited partnership interests, surplus and any other equivalent ownership interest, all of which shall be exchanged for cash; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs;

b. LESS: the following, when any preferred or common stock, partnership interests, or other equivalent ownership interests are subject to redemption or repurchase by the CAPCO: preferred stock, common stock, partnership interests, limited partnership interests, and other equivalent ownership interests shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20 percent
Within 4 years from redemption or repurchase	40 percent
Within 3 years from redemption or repurchase	60 percent
Within 2 years from redemption or repurchase	80 percent
Within 1 year from redemption or repurchase	100 percent

c. Notwithstanding the foregoing, there will be no reduction for a withdrawal within five years after certification, provided the withdrawal is contemplated by all governing documents and disclosed to all prospective investors and any such withdrawal is concurrently replaced by an equal amount of cash GAAP capital. Moreover, the amount contemplated to be withdrawn shall not be the basis for any income tax credit or premium tax reduction.

**Commissioner**—the commissioner of the Office of Financial Institutions.

**Control**—

a. Solely for purposes of determining control of or by a qualified Louisiana business or if a person is an associate of a CAPCO, control means:

i. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

ii. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies with

discretionary authority to vote, 50 percent or more of the then outstanding voting securities issued by a legal entity, when such control is used with respect to a specified person or legal entity.

b. For all other purposes, *control* means:

i. the power or authority, whether exercised directly or indirectly, to direct or cause the direction of management and/or policies of a legal entity by contract or otherwise; or

ii. to directly or indirectly own of record or beneficially hold with the power to vote, or hold proxies with discretionary authority to vote 25 percent or more of the then outstanding voting securities issued by a legal entity.

**Date Certified, Newly Certified or Designated as a Certified Louisiana Capital Company**—the date that the Department notifies a CAPCO of its certification.

**Date on Which an Investment Pool Transaction Closes**—Date that a CAPCO designates, and notifies the department of such designated date, that it has received an investment of certified capital in an investment pool. For purposes of this definition, an investment pool transaction may not close prior to:

a. execution of all legal documents and elimination of all material contingencies associated with the consummation of the transaction; and

b. the date that the CAPCO receives a cash investment of certified capital that is available for investment in qualified Louisiana businesses.

**Equity Features**—includes [pursuant to R.S. 51:1923(4) and (5)] the following:

a. **Royalty Rights**—rights to receive a percent of gross or net revenues, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon revenues in excess of a base amount.

b. **Net Profit Interests**—rights to receive a percent of operating or net profits, may be either fixed or variable, may provide for a minimum or maximum dollar amount per year or in total, may be for an indefinite or fixed period of time, and may be based upon operating or net profits in excess of a base amount.

c. **Warrants for Future Ownership**—options on the stock of the qualified Louisiana business. The qualified Louisiana business may repurchase a warrant (a "call") or the qualified Louisiana business may be required to repurchase a warrant (a "put") at some fixed amount or an amount based on a pre-agreed upon formula.

d. **Equity Sale Participation Rights**—conversion options of debt, to convert all or a portion of the debt to the qualified Louisiana business's stock, then to participate in the sale of the stock of the qualified Louisiana business.

e. **Equity Rights**—the receipt or creation of a significant equity interest in a qualified Louisiana business.

f. And such other conceptually similar rights and elements as the OFI may approve.

**Family Member**—spouse, parent, child, sibling, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law.

*Financing Assistance Provided in Cash and The Investment of Cash*—a transaction, which in substance and in form, results in a disbursement of cash.

Examples of transactions excluded from this definition are: circular transactions as determined by the commissioner; capitalization of accrued principal, interest, royalty or other income; letters of credit; loan guarantees; loan collection expenses or legal fees incurred by a CAPCO in protecting its collateral interest in an investment.

*Investment*—

a. for purposes of earning tax credits or reductions under R.S. 51:1923(1) and (2), R.S. 51:1924(A) and (B), or R.S. 22:1068(E), means a transaction that, in substance and in form, is the investment of cash in exchange for:

i. common stock, preferred stock, or an equivalent ownership interest in a CAPCO; or

ii. a loan receivable or note receivable from a CAPCO which has a stated final maturity date of not less than five years from the origination date of the loan or note;

iii. notwithstanding the above, an investment shall also include debt instruments which are obligations of the investing insurance company to a certified Louisiana capital company. Such debt instruments shall be converted into cash at a rate of not less than 10 percent per year from the date of the investment;

iv. however, at all times, in order to perfect the tax credits earned as a result of an investment described in Subparagraphs a-c of this Paragraph, the CAPCO shall have at least 50 percent of the certified capital of each investment pool that is received in cash:

(a). available to be invested in qualified investments in qualified Louisiana businesses;

(b). invested in qualified investments in qualified Louisiana businesses, provided that the only investments in qualified Louisiana businesses that will comply with this Subparagraph are those qualified investments made subsequent to the investment date of the investment pool; or

(c). a combination of §303.A.*Investment.d.i* and ii.

b. an *Investment* furthers economic development within Louisiana. If the proceeds from an investment are used in a manner consistent with representations contained in the affidavit required to be obtained from the qualified Louisiana business prior to an investment in the business and the documented use of such proceeds promote Louisiana economic development. Proceeds shall be determined to promote Louisiana economic development if more than 50 percent of the proceeds derived from the investment are used by the qualified Louisiana business for two or more of the following purposes:

i. to hire significantly more Louisiana employees;

ii. to directly purchase or lease furniture, fixtures, land or equipment that will be used in the Louisiana operations of the business or to construct or expand production or operating facilities located in Louisiana;

iii. to purchase inventory for resale from Louisiana-based operations or outlets;

iv. to capitalize a business in order for the business to secure future debt financing to support the Louisiana operations of the business;

v. to increase or preserve working capital and/or cash flows for Louisiana operations of the business;

vi. to preserve or expand Louisiana corporate headquarters operations;

vii. to support research and development or technological development within Louisiana;

viii. to fund start-up businesses that will operate primarily in Louisiana; or

ix. to provide for an additional economic benefit not otherwise described above. However, before this purpose may be used as a basis for a determination that the investment furthers economic development within Louisiana, the CAPCO shall request in writing and the commissioner shall issue a written response to the CAPCO that, based upon relevant facts and circumstances, the proposed investment will further Louisiana economic purposes and result in a significant net benefit to the state. The commissioner's letter opinion shall be issued within 30 days of the request by the CAPCO, and shall be part of the annual review required to be performed by the department and billed according to provisions contained in §307.D of this Section. However, upon written notification to the CAPCO, the 30-day period can be extended by the commissioner if he determines that the initial information submitted is insufficient or incomplete for such determination.

*Louisiana Employees*—

a. Full-time and part-time employees and officers, converted to a full-time equivalent basis, that perform services in Louisiana for a qualified Louisiana business in exchange for salaries, wages and/or other compensation, which is included in Louisiana withholding tax returns filed by the qualified Louisiana business.

b. The term *Louisiana employees* shall not include:

i. attorneys, accountants or advisors providing consulting or professional services to a qualified Louisiana business on a contract basis; or

ii. employees of any business that perform services (contractor) for a qualified Louisiana business.

For example: a contractor may enter into an agreement to perform services for a qualified Louisiana business. The contractor's employees that perform services under that agreement would not be Louisiana employees under this definition.

*Net Income*—net income as defined under or consistent with Generally Accepted Accounting Principles.

*Net Worth*—net worth as defined under or consistent with Generally Accepted Accounting Principles.

*Office*—the Office of Financial Institutions (OFI).

*Operates Primarily in Louisiana*—a business operates primarily in Louisiana if, at the time of the initial investment, the business is in good standing with the Louisiana Secretary of State, if applicable, and meets one or more of the following:

a. the business has more than 50 percent of its total assets located in Louisiana;

b. more than 50 percent of the business' net income is allocable or apportionable to Louisiana in accordance with Louisiana income tax law, but disregarding whether the business is taxable or tax-exempt for Louisiana income tax purposes;

c. more than 50 percent of the total salaries, wages and/or other compensation of the business are paid to Louisiana employees; or

d. the CAPCO has, prior to investing in the business, received a written opinion from the commissioner that, based upon relevant facts and circumstances, the business has demonstrated it operates primarily in Louisiana and will continue to operate primarily in Louisiana for at least one year from the date of any financing by a CAPCO. The commissioner's letter opinion shall be issued within 30 days of the request by the CAPCO, and shall be part of the annual review required to be performed by the department and billed according to provisions contained in §307.D. However, upon written notification to the CAPCO, the 30-day period can be extended by the commissioner if he determines that the initial information submitted is insufficient or incomplete for such determination.

*Participation Between CAPCOs*—are loans or other investments in which one or more CAPCOs have an ownership interest. If a loan or investment is determined to meet the definition of a qualified investment, a CAPCO may only include its participation (ownership interest) as a qualified investment.

*Performs Substantially All of Its Production in Louisiana*—a business performs substantially all of its production in Louisiana if:

a. the business derives more than 50 percent of its gross receipts from the sale of manufactured, produced or processed goods; and

b. more than 50 percent of the total value added to the business' finished product is added within Louisiana.

*Permissible Investments*—for purposes of R.S. 51:1926(B), cash deposited with a federally-insured financial institution; certificates of deposit in federally-insured financial institutions; investment securities that are obligations of the United States, its agencies or instrumentalities, or obligations that are guaranteed fully as to principal and interest by the United States; investment-grade instruments (rated in the top four rating categories by a nationally recognized rating organization); obligations of any state, municipality or of any political subdivision thereof; or any other investments approved in advance and in writing by the commissioner.

*Person*—a natural person or juridical entity. If used with respect to acquiring control of or controlling a specified person, *person* includes a combination of two or more persons acting in concert.

*Primary Business Activity of a CAPCO*—the investment of a CAPCO's certified capital primarily in qualified investments in qualified Louisiana businesses. Primary business activity is demonstrated by having at all times, a minimum of 50 percent of total certified capital of each investment pool, which has been collected in cash, available for investment in or having been invested as qualified investments in qualified Louisiana businesses.

*Sophisticated Investor*—any of the following:

a. an institutional investor such as a bank, savings and loan association or other depository institution insured by the Federal Deposit Insurance Corporation, registered investment company or insurance company;

b. a corporation with total assets in excess of \$5,000,000;

c. a natural person whose individual net worth, or joint net worth with that person's spouse at the time of his purchase, exceeds \$1,000,000; or

d. a natural person with an individual income in excess of \$200,000 in each of two most recent years or joint income with that person's spouse in excess of \$300,000 in each of those years and has a reasonable expectation of reaching the same income level in the current year.

*Total Certified Capital Under Management*—for purposes of investment limits, pursuant to R.S. 51:1926(B):

a. GAAP Capital: common stock, preferred stock, general partnership interests, limited partnership interests and other equivalent ownership interests, all of which shall be exchanged for cash; surplus; undivided profits or loss which shall be reduced by a fully-funded loan loss reserve; contingency or other capital reserves and minority interests; reduced by disallowed organization costs.

b. PLUS: Qualified Non-GAAP Capital: the portion of debentures, notes or any other quasi-equity/debt instruments with a maturity of not less than five years which is available for investment in qualified investments.

c. LESS: the following, when any GAAP capital or Qualified Non-GAAP capital is subject to redemption or repurchase by the CAPCO:

The GAAP Capital and Qualified Non-GAAP Capital subject to redemption or repurchase shall be multiplied by the following percentage reductions and deducted from capital:

Within 5 years from redemption or repurchase	20 percent
Within 4 years from redemption or repurchase	40 percent
Within 3 years from redemption or repurchase	60 percent
Within 2 years from redemption or repurchase	80 percent
Within 1 year from redemption or repurchase	100 percent

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1921-1933.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1128 (September 1997).

### §305. Income and Premium Tax Credits

A. In order to be eligible for any income or premium tax credits, debentures, notes or any other quasi-equity/debt instruments shall have an original maturity date of not less than five years from the date of issuance. If an investment is in the form of stock, partnership interest, or any other equivalent ownership interest, such investment shall not be subject to redemption or repurchase within five years from the date of issuance. Except in the case where a CAPCO voluntarily decertifies and preserves all income and premium tax credits, if debentures, notes or any other quasi-equity/debt instruments or stock, partnership interests, or other equivalent ownership interests are redeemed or repurchased within five years from issuance, any income or premium tax credits previously taken, to the extent applicable to the investment redeemed or repurchased, shall be repaid to the Department of

Insurance or the Department of Revenue and Taxation at the time of redemption, and any remaining tax credits shall be forfeited, pursuant to R.S. 51:1927 and R.S. 51:1928. Amortization of a note over its stated maturity does not constitute a redemption or repurchase under this Subpart.

B. Income or premium tax credits may be sold or transferred, subject to the following conditions.

1. The transfer or sale of income or premium tax credits, pursuant to R.S. 51:1924(F) or R.S. 22:1068(E)(4), will be restricted to transfers or sales between affiliates and sophisticated investors, collectively referred to as acquirors. Furthermore, even though a transfer or sale of credits, known as an election under this Section, may involve several entities, only one election may be made during any calendar year. Therefore, an investor in a CAPCO may only transfer or sell credits once during a calendar year and the entity that purchases the credit may not transfer credits obtained during the year of purchase. In any subsequent calendar year, the purchaser of the credits may make one election per year, if needed.

2. Companies and/or individuals shall submit to the Department of Insurance or the Department of Revenue and Taxation in writing, a notification of any transfer or sale of income or premium tax credits within 30 days of the transfer or sale of such credits. The notification shall include the original investor's income or premium tax credit balance prior to transfer, the remaining balance after transfer, all tax identification numbers for both transferor and acquiror, the date of transfer, and the amount transferred.

3. If an insurance company transfers premium tax credits between affiliates or sophisticated investors, the notification submitted to the Department of Insurance shall be provided on forms prescribed by the Department of Insurance.

4. If income tax credits are transferred between affiliates or sophisticated investors (acquirors), the notification submitted to the Department of Revenue and Taxation must include a worksheet, which the transferor and each acquiror shall also attach to their Louisiana corporate and/or individual income tax returns, which shall contain the following information for each corporation or individual involved:

- a. name of transferor and each acquiror;
- b. the gross Louisiana corporation or individual income tax liability of the transferor and each acquiror; and
- c. credits taken by the transferor and each acquiror under R.S. 51:1924(A) and (B).

5. Failure to comply with this rule will jeopardize the income or premium tax credit transferred.

6. The transfer or sale of income or premium tax credits, pursuant to R.S. 51:1924(F) or R.S. 22:1068(E)(4), shall not affect the time schedule for taking such tax credits, as provided in R.S. 51:1924(A) and (E) or R.S. 22:1068(E)(3), respectively. Any income or premium tax credits transferred or sold pursuant to R.S. 51:1924(F) or R.S. 22:1068(E)(4), which credits are subject to recapture pursuant to R.S. 51:1927(C), 51:1928(A) or R.S. 22:1068(E)(4), shall be the liability of the taxpayer that actually claimed the credit.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1924, 1927, 1928 and 1929, and R.S. 22:1068(E).

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 16:762 (September 1990), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1132 (September 1997).

### **§307. Application Fees, Other Fees**

A. An advance notification of intent to seek certification shall be filed by a company or entity, the applicant, prior to filing an application. An advance notification fee of \$100 shall be submitted with the advance notification form.

B. An application fee shall be submitted with the application based on 0.2 percent of the estimated total amount of taxes to be exempted. In no case shall an application fee be smaller than \$200 and in no case shall a fee exceed \$5,000. If 0.2 percent of the total taxes to be exempted exceeds the amount of the application fee originally submitted, the CAPCO shall submit the difference, up to the \$5,000 maximum, to the office. Checks should be payable to the Office of Financial Institutions.

C. The office reserves the right to return the advance notification or application to the applicant if the estimated exemption or the fee submitted is incorrect. The document may be resubmitted with the correct fee. The document will not be considered officially received and accepted until the appropriate fee is submitted. Processing fees for advance notifications and applications which have been accepted will not be refundable.

D. The commissioner shall conduct an annual review of each CAPCO to determine the company's compliance with the rules and statutes. Examiner time shall be billed at a rate not less than \$50 per hour, per examiner, or \$500 per review, whichever is greater.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925, 1927 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997).

### **§309. Application Process**

A. A company organized and existing under the laws of Louisiana, created for the purpose of making qualified equity investments, or financing assistance as a licensed BIDCO, as required in R.S. 51:1921 et seq., shall make written application for certification to the commissioner on application forms provided by the office.

B. The form for applying to become a CAPCO may be obtained from the Office of Financial Institutions, Box 94095, Baton Rouge, LA 70804-9095, and shall be filed at the same address. The time and date of filings shall be recorded at the time of filing in the office and shall not be construed to be the date of mailing.

C. Said application and all submissions of additional information reported to the office, shall be forwarded via United States mail or private or commercial interstate carrier, properly addressed and postmarked and signed by a duly

authorized officer, manager, member or partner and shall be made pursuant to procedures established by the commissioner.

D. The commissioner shall cause all applications to be reviewed by the office and designate those he determines to be complete. In the event that an application is deemed to be incomplete in any respect, the applicants will be notified within 30 days of receipt. An incomplete application shall be resubmitted, either in a partial manner or totally, as deemed necessary by the commissioner. A previously incomplete application may be resubmitted, which will establish a new time and date received for that application.

E. The submission of any false or misleading information in the application documents will be grounds for rejection of the application and denial of further consideration, as well as decertification, if such information discovered at a subsequent date would have resulted in the denial of such license. Whoever knowingly submits a false or misleading statement to a CAPCO and/or the department may be subject to civil and criminal sanctions.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended LR 12:664 (October 1986), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1133 (September 1997).

### §311. Conditions of Certification

A. All CAPCOs, through an act under private signature executed by the business, duly acknowledged pursuant to Louisiana law, shall certify and acknowledge all of the following conditions for certification as a certified Louisiana capital company and shall certify and acknowledge that the act statement is true and correct:

1. The CAPCO has an initial capitalization of not less than \$200,000. If any capitalization is repurchased or contemplated to be repurchased by the CAPCO within five years after certification, the CAPCO will concurrently replace any repurchased capital with cash capital, as defined under Generally Accepted Accounting Principles. Furthermore, any contemplated repurchases shall be disclosed in all governing documents to all prospective investors. The amount repurchased shall not be the basis for any income tax credits or premium tax reductions.

2. At least 30 days prior to the sale or redemption of stock, partnership interests, other equivalent ownership interests or debentures constituting 10 percent or more of the then outstanding shares, partnership interests, other equivalent ownership interests or debentures, the CAPCO will provide a written notification to the office.

3. The board of directors will not elect new or replace existing board members or declare dividends without prior written consent of the office for the first two years of business.

4. The CAPCO will immediately notify the office when its total certified capital under management is not sufficient to enable the CAPCO to operate as a viable going concern.

5. The CAPCO will not engage in any activity which represents a material difference from the business activity described in its application without first obtaining prior written approval by the office.

6. The CAPCO will comply with the CAPCO Act and all applicable rules, regulations and policies that are currently in effect or enacted after the date of certification.

7. The CAPCO will adopt OFI's valuation guidelines and record retention policies.

8. Any other conditions deemed relevant to the commissioner.

B. If a CAPCO contemplates any public or private securities offerings, prior to the certification of any tax benefits resulting from the certified capital raised through such offerings, the CAPCO shall have a securities attorney provide a written opinion that the company is in compliance with Louisiana securities laws, federal securities laws, and the securities laws of any other states where the offerings have closed. Copies of all offering materials to be used in investor solicitations must be submitted to the office prior to investor solicitation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 51:1925 and 1929.

HISTORICAL NOTE: Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1134 (September 1997).

### §313. Requirements for Continuance of Certification and Decertification

A. In calculating the percentage requirements for continued certification of an investment pool under Subsection A of R.S. 51:1926, decertification of an investment pool under R.S. 51:1927 and voluntary decertification of an investment pool under R.S. 51:1928:

1. The numerator for the investment pool shall be:

a. 100 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are held or intended to be held for a minimum of one year; and

b. 50 percent of the sum of all qualified investments made on or after the investment date of the investment pool that are intended to be held less than one year.

2. For purposes of the calculation of the numerator, no qualified investment may be counted more than once.

3. If a CAPCO invests a portion of its total certified capital in a majority-owned BIDCO, the qualified investments made by the majority-owned BIDCO shall be added to the numerator under §311.A.1.a and b.

4. The denominator shall be total certified capital of the investment pool.

B. Compliance with requirements for continuance of certification and voluntary or involuntary decertification (collectively referred to as compliance) of each investment pool will be determined on a first-in, first-out basis: a CAPCO's first investment pool will be evaluated for compliance before any succeeding pools. Only those qualified investments made after the investment date of each investment pool are considered in determining compliance for that particular investment pool. No qualified investments made prior to an investment pool's investment date may be used in determining that particular investment pool's compliance.

However, if more than one investment pool operates simultaneously, a CAPCO may allocate its qualified investments to all open investment pools, provided such allocations are reasonable.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1926, 1929 and 1933.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1134 (September 1997).

**§315. Information Required from Qualified Louisiana Businesses**

Prior to making an investment in a business, a CAPCO shall obtain, from an authorized representative of the business, a signed affidavit, the original of which shall be maintained by the CAPCO in its files. The affidavit shall contain all of the following:

1. full and conclusive legal proof of the representative's authority to act on behalf of the business.

For example: a board resolution;

2. a binding waiver of rights and consent agreement sufficient to allow the CAPCO, upon request to the business, full access to all information and documentation of the business which is in any way related to the investment of the CAPCO in the business;

3. completed forms, certifications, powers of attorney, and any other documentation, as determined by the commissioner, sufficient to allow acquisition by the CAPCO of any of the information and/or records of the business in the possession of any other business or entity, including but not limited to, financial institutions and state and federal governmental entities;

4. a statement certifying the intended use of proceeds, and that the business will provide to the CAPCO, documentation of the use of proceeds; and

5. an act under private signature executed by the business, duly acknowledged pursuant to Louisiana law, certifying all of the above and foregoing as being true and correct.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1926, 1927, 1928 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1350 (September 1997).

**§317. CAPCO Report and Record Requirements**

**A. Reporting Requirements.** Pursuant to R.S. 51:1926(F)(2), CAPCOs are required to submit to the department reports of selected information for each qualified investment made in the previous calendar year. Senate Concurrent Resolution Number 40 of the 1996 Regular Session also requires that the department determine the economic development impact of the CAPCO Program on the state. In order to provide such a report to the Senate, economic information for each company in which a CAPCO has invested shall be obtained and reported to the department by each CAPCO. Such reports shall be submitted on forms provided or approved by OFI.

**B. Record Requirements.** In order for the commissioner to properly review and analyze a CAPCO's compliance with this rule and all relevant statutes, each CAPCO shall obtain from each business in which the CAPCO has invested, and maintain in its possession for review, any and all records deemed necessary by the commissioner.

**AUTHORITY NOTE:** Promulgated in accordance with R.S. 51:1926 and 1929.

**HISTORICAL NOTE:** Promulgated by the Department of Commerce, Office of Commerce and Industry, Finance Division, LR 10:872 (November 1984), amended by the Department of Economic Development, Office of Commerce and Industry, Finance Division, LR 15:1050 (December 1989), LR 18:251 (March 1992), amended by the Department of Economic Development, Office of Financial Institutions, LR 20:154 (February 1994), LR 23:1135 (September 1997).

**§319. Premium Tax Reductions for Insurance Companies**

**A. The Allowable Annual Premium Tax Credit (AAPTC) that may be taken during any year shall be the lesser of:**

1. 10 percent of premium tax reduction allowable; or
2. 25 percent of the gross premium tax liability for the base year of investment. Furthermore, the credit taken in any year shall not exceed the net premium tax liability for that year.

**B. The Premium Tax Reduction Allowable (PTRA) is 120 percent of the investment in a CAPCO.**

**C. The Gross Premium Tax Liability in the Base year of Investment (GPTLB) is the gross premium tax liability in the year of investment, before any credits.**

**D. The Gross Premium Tax Liability (GPTL) is the gross premium tax liability during any year for which the CAPCO credit may be taken, before any credits.**

**E. The Net Premium Tax (NPT) is the GPTL, reduced by credits provided in R.S. 22:1068(A), (B), (C) and (D), and credits for Louisiana Insurance Guaranty Association (LIGA) and Louisiana Life and Health Insurance Guaranty Association (LHIGA) assessments. If the AAPTC ever exceeds the NPT in any year, the excess may be carried forward until utilized.**

**Example**

Base (taxable) years of investment, assuming multiple investments of \$2,000,000 and \$1,000,000, respectively, by an insurer in CAPCOs.

	1993	1994
Investment by Insurer *	2,000,000	1,000,000
Premium Tax Reduction Allowable PTRA (120 percent of Investment)	2,400,000	1,200,000
Gross Premium Tax Liability GPTL of Insurer	1,000,000	1,100,000
Credits from R.S. 22:1068 (A), (B), (C), (D), LIGA or LHIGA	(600,000)	(540,000)
Net Premium Tax Before CAPCO Credits NPT	400,000	560,000
Allowable Annual Premium Tax Credit AAPTC for the Base Year of Investment is the Lesser of:		
(1) 10 percent of PTRA	240,000	120,000